

FEDERAL TRADE COMMISSION
ANNUAL REPORT 2008:
FAIR DEBT COLLECTION
PRACTICES ACT



INTRODUCTION

The Federal Trade Commission (“Commission” or “FTC”) is pleased to submit to Congress this annual report summarizing the administrative and enforcement actions it has taken under the Fair Debt Collection Practices Act (“FDCPA” or “Act”), 15 U.S.C. §§ 1692-1692p, during the past year.¹ These actions are part of the Commission’s ongoing effort to curtail deceptive, unfair, and abusive debt collection practices in the marketplace. Such practices cause substantial consumer injury, including payment of amounts not owed, unintended waivers of rights, invasions of privacy, and emotional distress. In some circumstances, illegal collection practices can place consumers deeper in debt.

The FDCPA prohibits deceptive, unfair, and abusive practices by third-party collectors. For the most part, creditors are exempt when they are collecting their own debts. The FDCPA permits reasonable collection efforts that promote repayment of legitimate debts, and the Commission’s goal is to ensure compliance with the Act without unreasonably impeding the collection process. The FTC recognizes that the timely payment of debts is important to creditors and that the debt collection industry offers useful assistance toward that end. The Commission also appreciates the need to protect consumers from those debt collectors who engage in abusive and unfair collection practices.

The Commission is vested with primary enforcement responsibility under the FDCPA. However, it shares overall enforcement responsibility with other federal agencies.² In addition, consumers who believe they have been victims of statutory violations may seek relief in state or federal court.

¹ Section 815 of the FDCPA, 15 U.S.C. § 1692m, provides for the Commission to report to Congress annually concerning the administration of its functions under the Act.

² Section 814 of the FDCPA, 15 U.S.C. § 1692l, places enforcement obligations upon seven other federal agencies for the organizations they regulate. These agencies are the Office of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, the Department of Transportation, and the Department of Agriculture. Almost all of the organizations these agencies regulate are creditors and, as such, largely fall outside the Act’s coverage. If these agencies receive complaints about debt collection firms that are not under their jurisdiction, they generally forward the complaints to the Commission or suggest that the consumer contact the Commission directly.

As in past years, the Commission took significant steps in 2007 to curtail illegal debt collection practices. This report presents an overview of the types of consumer complaints the FTC received in 2007, a summary of recent developments in Commission law enforcement related to debt collection, and a summary of the FTC's 2007 consumer and industry education initiatives.

Last year, the Commission also commenced a comprehensive assessment of the debt collection industry and its practices. The debt collection industry has grown and changed significantly since the FDCPA was enacted 30 years ago. The Commission staff held a two-day public workshop in October 2007 to examine the industry and a number of current issues. The staff invited consumer advocates, industry representatives, state and federal regulators, and other experts to provide information and their views on the collection industry and related policy issues. The Commission is evaluating the information submitted in connection with the workshop, and it expects to issue a report detailing the workshop discussions.

CONSUMER COMPLAINTS

BACKGROUND

The Commission receives much of its information about the conduct of debt collectors directly from consumers through complaints they file with the FTC³ and through its enforcement work.⁴ The Commission uses complaints for general monitoring of the industry, target selection, and preliminary information which might, with further factual development, reveal or help prove a law violation.

³ The Commission receives both consumer inquiries and complaints about debt collectors; the FTC's Consumer Response Center makes every effort to distinguish the two categories. The data presented herein, therefore, refers to consumer contacts that the Consumer Response Center has identified as complaints.

⁴ Consumers file complaints with the Commission via our toll-free hotline (1-877-FTC-HELP), online complaint forms, or physical mail. State attorneys general and other sources also refer complaints to the Commission and, occasionally, the Commission hears from debt collectors who are concerned that competitors' allegedly violative practices may cause them to lose business. When this report refers to "complaints," the term refers solely to complaints that consumers have filed directly with the Commission.

The FDCPA mandates that the Commission report on the level of industry compliance with the law. Based on our experience, we know that many consumers never file a complaint with any organization other than the debt collector itself. Others complain only to the underlying creditor or to other enforcement agencies. Some consumers may not be aware that the conduct they have experienced violates the FDCPA or that the Commission enforces the Act. The total number of consumer complaints the FTC receives therefore may understate the extent to which consumers have concerns about the practices of debt collectors.

On the other hand, the Commission acknowledges that not all of the debt collection practices about which consumers complain are law violations. Certainly, many consumers do complain of conduct that, if accurately described, violates the Act.⁵ The FTC, however, does not verify that the information consumers provide is accurate unless it undertakes such an inquiry in connection with its law enforcement activities.

Moreover, even if accurately described, some conduct about which consumers complain does not violate the Act. For example, consumers sometimes complain that a debt collector will not accept partial payments on the same installment terms that the original lender provided when the account was current. Although a collector's demand for accelerated payment or larger installments may be frustrating to the consumer, such a demand is not a violation of the FDCPA. Also, for example, if a consumer complains that a debt collector has threatened to file a civil lawsuit to collect a debt, the Commission cannot determine whether such conduct violates the FDCPA without investigating the consumer's complaint to determine whether the debt collector had the requisite intention to file suit.⁶

Despite their limitations, the Commission believes that consumer complaint numbers provide useful insight into the acts and practices of debt collectors. The FTC describes below the trends it has observed in overall number of debt collection complaints as well as the types of practices about which consumers most frequently complain.

⁵ Much of the conduct, as alleged, also would violate Section 5 of the FTC Act as an unfair or deceptive practice in or affecting commerce.

⁶ Section 807(5) prohibits debt collectors from threatening "to take any action that cannot legally be taken or that is not intended to be taken," a prohibition that includes false threats of suit. 15 U.S.C. § 1692e(5).

TOTAL NUMBER OF COMPLAINTS

Last year, consumer complaints to the FTC about third-party debt collectors (“FDCPA complaints”) increased both in absolute terms and as a percentage of all complaints that consumers filed directly with the Commission during the course of the year.⁷ The FTC received 70,951 FDCPA complaints in 2007.⁸ The FDCPA complaints represented 20.8% of the complaints the Commission received directly from consumers in 2007. By comparison, in 2006,⁹ the FTC received 69,249 FDCPA complaints, representing 19.9% of the complaints received directly from consumers that year.

The Commission recognizes that third-party collectors contact millions of consumers each year. The number of consumer complaints the FTC receives about such collectors is therefore but a small percentage of the overall number of consumer contacts. Nevertheless, the Commission receives more complaints about the debt collection industry¹⁰ than any other specific industry.¹¹

⁷ Hundreds of thousands of consumers contact the Commission every year, reflecting, in part, the FTC’s ongoing consumer outreach and education initiatives, and its efforts to promote the FTC website and toll-free consumer complaint number. Last year, the Commission received 341,080 complaints directly from consumers about all industries, down slightly from the 348,180 complaints received in 2006. These numbers do not include complaints about identity theft or violations of the Commission’s Do Not Call Registry. Because absolute numbers of complaints fluctuate from year to year, this report analyzes collection industry trends by comparing the number of complaints that the Commission’s Consumer Response Center has coded under each of fourteen debt collection “violation codes” to the number of all FDCPA complaints the Commission has received. Each code corresponds to a specific collection practice prohibited by the FDCPA. The percentage figures this analysis produces portray industry trends more accurately than would reliance on absolute numbers of complaints.

⁸ Note that because consumers frequently complain about more than one debt collection practice, the CRC assigns many complaints more than one code. Thus, if one adds together all the complaints for each of the fourteen debt collection codes, the total exceeds the number of FDCPA complaints the FTC actually received.

⁹ The 2006 complaint numbers identified in this year’s report differ slightly from those identified in last year’s report because, in connection with a continuous quality assurance review, the Commission staff re-coded some complaints after the Commission issued the 2007 report.

¹⁰ The FTC does not count identity theft and Do Not Call Registry complaints in determining the total number of debt collection complaints. However, based on the staff’s law enforcement

Last year, the number of complaints the Commission received about creditors' in-house collectors decreased somewhat, both in absolute terms and as a percentage of total complaints. In 2007, we received 20,068 complaints about in-house collectors, representing 5.9% of all complaints the Commission received. In 2006, we received 21,457 complaints about in-house collectors, representing 6.2% of all complaints received.

Combined, complaints about third-party debt collectors and in-house collectors in 2007 totaled 91,019 complaints and represented 26.7% of all complaints the Commission received. This was a slight increase from the 2006 figures: 90,706 complaints, representing 26.1% of all complaints to the Commission.

COMPLAINTS BY CATEGORY

DEMANDING A LARGER PAYMENT THAN IS PERMITTED BY LAW: The FDCPA prohibits debt collectors from misrepresenting the character, amount, or legal status of a debt.¹² The types of complaints that fall in this category include, for example, allegations that a collector is attempting to collect either a debt the consumer does not owe at all or a debt larger than what the consumer actually owes. Other complaints in this category allege demands for debts that have been discharged in bankruptcy. In 2007, far more FDCPA complaints – 38.6%, representing 27,393 consumers – described this conduct than any other. In 2006, 40.3% of FDCPA complaints reported that collectors engaged in these practices.

experience, some identity theft and Do Not Call Registry complaints arise out of deceptive, unfair, or abusive debt collection practices. For example, a consumer may complain about identity theft when a debt collector is contacting her about a debt she does not owe. To that extent, the FDCPA complaint data may under-report possible deceptive, unfair, or abusive debt collection practices.

¹¹ The FTC does not consider identity theft complaints and Do Not Call Registry complaints to be reports about any specific industry. Identity theft complaints are excluded because such complaints relate to a variety of actors, rather than a single industry. Do Not Call Registry complaints similarly are excluded because the complaints capture the actions of a variety of industries that use telemarketing as a tool to contact consumers.

¹² Section 807(2), 15 U.S.C. § 1692e(2).

The FDCPA also prohibits debt collectors from collecting any amount unless it is “expressly authorized by the agreement creating the debt or permitted by law.”¹³ In 2007, 2.3% of the FDCPA complaints, or 1,637 consumers, alleged that collectors demanded interest, fees, or expenses that were not owed (such as collection fees, late fees, and court costs) down from 3.4% in 2006.

HARASSING THE ALLEGED DEBTOR OR OTHERS: Under the FDCPA, debt collectors may not harass consumers to try to collect on a debt.¹⁴ In 2007, 19.7% of FDCPA complaints the Commission received, or 13,989 consumers, alleged that collectors harassed them by calling repeatedly or continuously. Six thousand five hundred and thirty-six consumers, or 9.2% of FDCPA complaints, claimed that a collector had used obscene, profane or otherwise abusive language. One thousand four hundred and two consumers, or 2% of FDCPA complaints, alleged that collectors called them before 8:00 a.m., after 9:00 p.m., or at other times that the collectors knew or should have known were inconvenient to the consumer. Two hundred nineteen consumers, or 0.3% of FDCPA complaints, alleged that collectors used or threatened to use violence if consumers failed to pay. As a proportion of total FDCPA complaints, the complaint levels declined slightly from 2006 levels for repeated or continuous calling, obscene, profane or otherwise abusive language; and calling before 8:00 a.m. or after 9:00 p.m. Threatening the use of violence for failure to pay stayed at the same level as 2006.

THREATENING DIRE CONSEQUENCES IF CONSUMER FAILS TO PAY: The FDCPA bars debt collectors from making threats as to what might happen unless the collector has the legal authority and the intent to take the threatened action.¹⁵ Among other things, collectors threaten to initiate civil suit or criminal prosecution, garnish salaries, seize property, cause job loss, have a consumer jailed, or damage or ruin a consumer’s credit rating. In 2007, 6.5% of FDCPA complaints, or 4,592 consumers, alleged that third-party collectors falsely threatened a lawsuit or some other action that they could not or did not intend to take, down from the 8.4% of complaints that alleged the same conduct in 2006. In 2007, 2.6% of FDCPA complaints, or 1,876 consumers, alleged that such collectors falsely threatened arrest or seizure of property, which was down slightly from 3% of FDCPA complaints in 2006.

¹³ Section 808(1), 15 U.S.C. § 1692f(1).

¹⁴ Section 806, 15 U.S.C. § 1692d.

¹⁵ Sections 807(4)-(5), 15 U.S.C. §§ 1692e(4)-(5).

IMPERMISSIBLE CALLS TO CONSUMER’S PLACE OF EMPLOYMENT: Under the FDCPA, a debt collector may not contact a consumer at work if the collector knows or has reason to know that the consumer’s employer prohibits such contacts.¹⁶ By continuing to contact consumers at work under these circumstances, debt collectors may put the consumers in jeopardy of losing their jobs. In 2007, 5.9% of FDCPA complaints, or 4,162 consumers, related to calls to consumers at work, virtually unchanged from 5.8% of FDCPA complaints in 2006.

REVEALING ALLEGED DEBT TO THIRD PARTIES: The FDCPA generally prohibits third-party contacts for any purpose other than obtaining information about the consumer’s location. Collectors calling to obtain location information also are prohibited from revealing that a consumer allegedly owes a debt.¹⁷

Improper third-party contacts typically embarrass or intimidate the consumer who allegedly owes the debt and are a continuing aggravation to the third parties. Contacts with consumers’ employers and co-workers about consumers’ alleged debts also jeopardize continued employment or prospects for promotion. Relationships between consumers and their families, friends, or neighbors also may suffer from improper third-party contacts. In some cases, collectors reportedly have used misrepresentations as well as harassing and abusive tactics in their communications with third parties, or even attempted to collect from the third party.

In 2007, 3.8% of FDCPA complaints, or 2,672 consumers, alleged that debt collectors illegally disclosed a purported debt to a third party, down somewhat from 4.3% in 2006. The third parties contacted include employers, relatives, children, neighbors, and friends. This past year, 13.2% of complaints, or 9,361 consumers, alleged that collectors called a third party repeatedly to obtain location information about the consumer, up from 12% in 2006.¹⁸

¹⁶ Section 805(a)(3), 15 U.S.C. § 1692c(a)(3).

¹⁷ Section 804(2), 15 U.S.C. § 1692b(2).

¹⁸ Section 804(3) prohibits a debt collector contacting a third party for location information from communicating with the person more than once, unless the person requests it or the collector reasonably believes the person’s earlier response was erroneous or incomplete and that the person now has correct or complete location information.

FAILING TO SEND REQUIRED CONSUMER NOTICE: The FDCPA requires that debt collectors send consumers a written notice that includes, among other things, the amount of the debt, the name of the creditor to whom the debt is owed, and a statement that, if within thirty days of receiving the notice the consumer disputes the debt in writing, the collector will obtain verification of the debt and mail it to the consumer.¹⁹ Many consumers who do not receive the notice are unaware that they must send their dispute in writing if they wish to obtain verification of the debt. Last year, 3.1% of the FDCPA complaints to the Commission, or 2,182 consumers, alleged that collectors did not provide the required notice, down somewhat from 3.9% in 2006.

FAILING TO VERIFY DISPUTED DEBTS: The FDCPA also mandates that, if a consumer submits a dispute in writing, the collector must cease collection efforts until it has provided written verification of the debt.²⁰ Many consumers complained that collectors ignored their written disputes, sent no verification, and continued their collection efforts. Other consumers reported that some collectors continued to contact them about the debts between the date the consumers submitted their dispute and the date the collectors provided the verification. Last year, 2.6% of all FDCPA complaints, or 1,848 consumers, alleged that collectors failed to verify disputed debts, nearly identical to the figure of 2.5% in 2006.

CONTINUING TO CONTACT CONSUMER AFTER RECEIVING “CEASE COMMUNICATION” NOTICE: The FDCPA requires debt collectors to cease all communications with a consumer about an alleged debt if the consumer communicates in writing that he or she wants all such communications to stop or that he or she refuses to pay the alleged debt.²¹ This “cease communication” notice does not prevent collectors or creditors from filing suit against the consumer, but it does stop collectors from calling the consumer or sending dunning notices. In 2007, 4.9% of FDCPA complaints, or 3,466 consumers, alleged that collectors ignored consumers’ “cease communication” notices and continued their collection attempts, up from 2.9% in 2006.

¹⁹ Section 809(a), 15 U.S.C. § 1692g(a).

²⁰ Section 809(b), 15 U.S.C. § 1692g(b).

²¹ Section 805(c), 15 U.S.C. § 1692c(c).

ENFORCEMENT

The first prong of the Commission's FDCPA program is vigorous law enforcement. The FTC's FDCPA enforcement actions begin with investigations of debt collectors identified through complaints and other sources. If an investigation reveals FDCPA violations, the Commission proceeds in one of two ways. Through its own attorneys, the FTC can file suit in federal court seeking preliminary and permanent injunctive relief, restitution for consumers, disgorgement of ill-gotten gains, and other ancillary relief under Section 13(b) of the FTC Act.²² Alternatively, the Commission may request that the Department of Justice file suit in federal court on behalf of the FTC, seeking a civil penalty, monetary relief, and injunctive relief that would prohibit the collector from continuing to violate the Act.

The Commission currently is conducting a number of non-public investigations of debt collectors to determine whether they have engaged in violations of the FDCPA or the FTC Act. In addition, between March 2007 and March 2008, the Commission filed two new law enforcement actions alleging FDCPA violations, and announced a settlement in a previously filed case. The FTC also negotiated a modified consent decree from a prior FTC Act and FDCPA action to enhance its consumer protections. The Commission further received a favorable ruling, affirming a \$10.2 million judgment, from a federal appellate court in an enforcement action against yet another debt collector.

In a recent settlement, the Commission obtained the largest amount of civil penalties ever in an FDCPA case. In November 2007, LTD Financial Services, L.P. ("LTD") agreed to pay \$1.375 million in civil penalties to settle FTC charges that it misled, threatened, and harassed consumers, in violation of the FDCPA and Section 5 of the FTC Act.²³ The federal district court complaint, filed by the Department of Justice on the FTC's behalf, alleged that LTD and its owners and top managers, among other things, (1) falsely threatened or implied that the company would garnish consumers' wages, seize or attach their property, or initiate lawsuits or criminal actions against the consumers if

²² Section 13(b), 15 U.S.C. § 53(b), authorizes the Commission to sue in federal district court to obtain a preliminary injunction against entities that the Commission has reason to believe are violating any law enforced by the Commission. The court may grant the preliminary injunction or a temporary restraining order if the Commission shows that, weighing the equities and considering the Commission's likelihood of ultimate success, the action would be in the public interest. Section 13(b) also permits federal district courts to issue a permanent injunction if the Commission seeks that remedy. Section 13(b)(2), 15 U.S.C. § 53(b)(2).

²³ *United States v. LTD Financial Services*, Civ. No. H-07-3741 (S.D. Tex. Nov. 5, 2007).

they failed to pay; and (2) disclosed the existence of debts to family members, employers, co-workers, and neighbors. In addition to requiring LTD to pay the civil penalty, the consent decree enjoins LTD and the named individuals from violating the FDCPA in the future.

In June 2007, at the Commission's request, a federal court stopped an operation that allegedly victimized Spanish-speaking consumers nationwide by posing as debt collectors seeking payments consumers did not owe.²⁴ The complaint alleged that Tono Records and several related companies violated the FTC Act and, because the companies were pretending to be third-party debt collectors, the FDCPA. The defendants were charged with violating the FTC Act and the FDCPA by falsely claiming that a debt is owed; by falsely claiming to be, or to represent, an attorney; and by falsely threatening legal action, arrest, imprisonment, property seizure, or garnishment of wages. Other FDCPA violations included attempting to collect an amount of debt not authorized by contract or permitted by law; harassing consumers; and failing to inform consumers, within five days of their initial communication with them, of their right to dispute and obtain verification of their debt and the name of the original creditor. The court issued a restraining order freezing the companies' assets. In the ongoing litigation, the Commission is asking the court to permanently ban the companies from further violations and make them forfeit their ill-gotten gains.

In August 2007, the Commission announced the modification of a prior settlement with a major subprime mortgage servicing company, Select Portfolio Servicing, Inc. ("SPS"), formerly called Fairbanks Capital Corp. ("Fairbanks"), which collects mortgage debt. In the initial action, Fairbanks was charged with violating the FDCPA and Section 5 of the FTC Act for its unfair and deceptive practices in the collection of mortgage debt. These charges included false representation of the character, amount, or legal status of consumers' debt and collecting amounts not authorized by the mortgage contract or by law, including substantial attorney fees. The mortgage contracts stated that if consumers failed to make their mortgage payments, Fairbanks could charge them reasonable and appropriate collection fees, but consumers allegedly were charged much more. In 2003, to resolve these and other allegations, Fairbanks entered into a settlement agreement under which, among other things, it was prohibited from charging consumers attorney fees for collection unless the fees were for services actually performed in collecting on their debt.²⁵

²⁴ *Federal Trade Commission v. Tono Records*, CV-07-3786 (C.D. Calif. June 12, 2007).

²⁵ *United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. 2003).

The FTC's subsequent review of the company's practices raised concerns that, in many instances during the collection process, SPS told consumers they owed the outstanding amount of their mortgage debt, as well as the attorney fees that would be incurred subsequently during the collection process. In 2007, the FTC and SPS agreed to several modifications to the 2003 settlement agreement to address this practice. The modified order required the company to reimburse consumers in foreclosure from whom it had collected attorney debt collection fees for services that were not actually performed. Also, the modified order revises limitations on charging attorney fees in a foreclosure or bankruptcy action to ensure that consumers receive full disclosures of any estimated fees, including the actual amount due and the amount SPS or the collection law firm estimates will be due at a later date.

In January 2008, the Commission settled an action it had filed in February 2007 against a contingency agency known as Rawlins & Rivera, Inc., its principals, and its attorney. As reported in last year's Annual Report, the FTC action alleged that their collection practices violated the FDCPA and the FTC Act.²⁶ The FTC's complaint alleged that the enterprise used misleading dunning letters and abusive telephone calls to falsely threaten that consumers would be sued, their property seized, and their wages garnished if they did not pay the money that the defendants said they owed. The complaint alleged that the collectors often shouted and used profanity and other abusive language in dealing with consumers. The consent decree permanently enjoins the company from violating the FDCPA and the FTC Act and requires the principals to disgorge their ill-gotten gains.

Also during this past year, the Commission was successful in obtaining a favorable decision on appeal upholding the largest judgment ever obtained by the FTC for illegal debt collection practices. In September 2007, the United States Court of Appeals for the Third Circuit affirmed a lower court decision imposing injunctive relief and a \$10.2 million judgment against Check Investors, Inc., two predecessor entities, a corporate principal, and the corporate counsel.²⁷ The district court concluded that the defendants, who operated nationwide as National Check Control, engaged in numerous violations of the FDCPA and the FTC Act by, among other things, falsely threatening consumers with arrest and criminal and civil prosecution to extract money in excess of any debts the consumers may have owed. Check Investors ceased its operations in August 2003, shortly after the district court imposed a preliminary injunction in the case.

²⁶ *Federal Trade Commission v. Rawlins & Rivera, Inc.*, No. 6:07-cv-146-Orl-18-KRS (M.D. Fla. Jan. 14, 2008).

²⁷ *Federal Trade Commission v. Check Investors, Inc.*, 502 F.3d 159 (3rd Cir. 2007).

CONSUMER AND INDUSTRY EDUCATION

The Commission's consumer and industry education initiatives form the second prong of the FDCPA program. The consumer education initiative informs consumers nationwide of their rights under the FDCPA and the requirements that the Act places on debt collectors. With this knowledge, consumers can identify if collectors are violating the FDCPA and exercise their rights under the statute. An informed public that enforces its rights under the FDCPA operates as a powerful, informal enforcement mechanism. The industry education initiative informs collectors on various FDCPA issues. With this knowledge, industry members can take all necessary steps to comply with the Act.

TOOL FOR BOTH CONSUMERS AND INDUSTRY: A key educational tool – the Staff Commentary on the FDCPA – is useful in both the consumer and industry education initiatives. The Commentary, issued in 1988, provides the staff's detailed analysis of every section of the Act and serves as valuable guidance for consumers, their attorneys, courts, and members of the collection industry.²⁸ The Commentary is available on the Commission's FDCPA web page, located at www.ftc.gov/os/statutes/fdcpajump.shtm. Members of the public accessed the web page 67,357 times in 2007.

TOOLS SPECIFICALLY FOR CONSUMERS: The Commission informs consumers about their rights and responsibilities under the FDCPA by means of written materials, one-to-one guidance, as well as through speeches and presentations. First, the FTC provides written materials, including a "Facts for Consumers" brochure entitled "Fair Debt Collection," which explains the FDCPA in plain language.²⁹ In 2007, the Commission distributed 121,300 paper copies of the brochure to consumers through consumer groups, state consumer protection agencies, Better Business Bureaus, and other sources of consumer assistance, including copies sent directly to consumers in response to inquiries to the FTC. In addition, online users accessed the brochure on the Commission's website 390,974 times in 2007.

The Commission also publishes Spanish-language versions of the "Fair Debt Collection" brochure and several related consumer brochures, including "Credit and Your

²⁸ 53 Fed. Reg. 50,097 (1988).

²⁹ The Commission's "Fair Debt Collection" brochure is accessible at <http://www.ftc.gov/bcp/online/pubs/credit/fdc.shtm>.

Consumer Rights” and “Knee Deep in Debt.”³⁰ The Commission distributed 14,400 paper copies of the Spanish version of “Fair Debt Collection” in 2007. Online users accessed the brochure in Spanish 12,151 times in 2007.

In June 2007, the FTC issued a consumer education publication entitled, “Mortgage Payments Sending You Reeling?”³¹ The brochure provides consumers with important information about taking proactive steps when their mortgage payments increase, or when they have fallen or anticipate falling behind on payments. In 2007, 9,800 English language copies were distributed to consumers. Online users accessed the brochure, either in English or in Spanish, 23,605 times in 2007.

In addition, in 2007 online users accessed the Commission’s consumer alert entitled “Time-Barred Debts” 31,490 times in either English or Spanish.³² The alert focuses on a consumer’s rights and responsibilities with respect to debts so old that creditors and debt collectors may no longer sue to collect them. The Commission issued the alert in 2004 in response to consumer inquiries, many of which arose in the wake of the FTC’s case against Capital Acquisition & Management Company.³³

Second, the Commission provides consumer education through its Consumer Response Center (“CRC”), whose highly trained contact representatives respond to telephone calls and correspondence (in both paper and electronic form) each weekday from consumers. A toll-free number, 1-877-FTC-HELP, makes it very easy for

³⁰ The Spanish-language version of “Fair Debt Collection” (“Cobranza Imparcial de Deudas”) is accessible at <http://www.ftc.gov/bcp/online/spanish/credit/s-fdc.shtm>; “Credit and Your Consumer Rights” (“El Crédito y Sus Derechos como Consumidor”) is accessible at <http://www.ftc.gov/bcp/online/spanish/credit/s-crdright.shtm>; and “Knee Deep in Debt” (“Endeudado Hasta el Cuello”) is accessible at <http://www.ftc.gov/bcp/online/spanish/credit/s-kneedeep.shtm>.

³¹ The brochure is accessible in English at <http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea04.shtm> and is available in Spanish at <http://www.ftc.gov/bcp/edu/pubs/consumer/homes/srea04.shtm>.

³² The Commission’s “Time-Barred Debts” alert is accessible in English at <http://www.ftc.gov/bcp/online/pubs/alerts/timebaralrt.shtm> and in Spanish (“Duedas Prescriptas”) at <http://ftc.gov/bcp/online/spanish/alerts/s-timebaralrt.shtm>.

³³ *Federal Trade Commission v. Capital Acquisitions & Mgmt. Corp.*, No. 04-C-7781 (N.D. Ill. Nov. 30, 2006).

consumers to contact the CRC. As noted above, a large percentage of consumer contacts with the Commission relate to debt collection. For those consumers who complain about the actions of third-party collectors, the CRC contact representatives provide essential information about the FDCPA's self-help remedies, such as the right to obtain written verification of the debt and the right to demand that the collector cease all communications about the debt.³⁴

Third, the Commission extends the reach of its consumer education initiative through public speaking engagements to groups across the country. From local talk shows, to military bases, high school and college campuses, and consumer fairs, the FTC informs consumers of their rights under the FDCPA and other consumer finance statutes, and responds to a wide range of questions and concerns.

TOOLS SPECIFICALLY FOR THE COLLECTION INDUSTRY: The Commission, where appropriate, responds to requests for formal advisory opinions regarding the application or interpretation of the FDCPA.³⁵ In October 2007, the FTC issued an advisory opinion regarding whether debt collectors would violate the Act if they notified consumers who had disputed a debt in writing that they have ceased their collection efforts.³⁶ The FTC's advisory opinion concluded that debt collectors providing such a notice would not violate the FDCPA. This advisory opinion supported a proposed new rule set forth in the code of ethics of ACA International, an industry trade association.

The Commission also delivers speeches and participates in panel discussions at industry conferences throughout the year. In addition to the presentations at industry conferences, the FTC staff maintains an informal communications network with the leading debt collection trade associations, which permits staff members to exchange

³⁴ For those consumers who contact the CRC seeking only information about the FDCPA, the contact representatives answer any urgent questions and then either mail out the "Fair Debt Collection" brochure, and any other responsive consumer education materials, or refer the consumer to the appropriate web pages within the Commission's website, located at <http://www.ftc.gov>. The CRC representatives also record information about debt collectors, both third-party and in-house, who are the subjects of complaints, enabling the Commission to track patterns of complaints for use in its enforcement initiative.

³⁵ The FTC issues advisory opinions pursuant to Sections 1.1-1.4 of the Commission's Rules of Practice, 16 C.F.R. §§ 1.1-1.4.

³⁶ The text of the advisory opinion can be accessed at <http://www.ftc.gov/os/closings/staff/P064803fairdebt.pdf>.

information and ideas and discuss problems as they arise. The Commission also provides interviews to general media and trade publications. These interviews serve as yet another vehicle to make positions known to the nation's debt collectors.

CONCLUSION

Through its FDCPA program of enforcement and education, the Commission encourages collectors who comply with the law to continue to do so, and provides strong incentives for those who are not complying to conform their future practices with the dictates of the law. Vigorous federal and state law enforcement in this area is essential to stop those debt collectors who fail to follow the FDCPA.