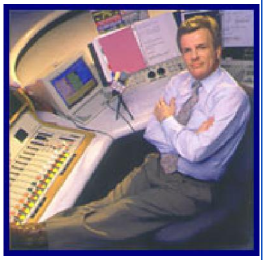
About Bud Hibbs

Se Habla Español



America's Consumer Credit Expert

Bud's helped millions with their credit & financial problems. He can help with:

- **Debt Collectors**
- **Arbitration Claims**
- **Alternative to Bankruptcy Program**

Your most difficult financial problems.

Expert assistance on consumer debt and related services.

Contact Bud for **Consumer Help Email**

Consumer News

Buffalo News Story on Lenahans Validates Web Site

Buffalo News, by Fred O. Williams -10/15/2005

The legal profession's ethics cops watched for two years while a local law firm rented its name to debt collectors, some of whom threatened to jail people or seize their homes, court records say.

Using the name "Lenahan Law Office," the collection outfit had 100 to 200 workers in offices around Buffalo. It reaped tens of millions of dollars from people around the country on the basis of poorly documented debts, court investigators

Attorneys:
NACA wants you!
For information on the National Association of Consumer Advocates visit www.naca.net

found.

The collections continued while an arm of the court that is supposed to protect the public from rogue lawyers investigated a flood of complaints about the firm.

Read the story here
http://www.buffalonews.com/editorial/20061015/1004586.asp

For years Bud Hibbs has warned consumers about the Buffalo, NY crime wave masquerading as The Lenahan Law office and FINALLY the authorities have taken actions. What we want to know is why it took so long and what are you doing about those who replaced the Lenahans.

When are you going to take actions against these RENT-A-LAWYERS?

Attorney Terrance D. McKelvey? Attorney Rodney A. Giove?
Attorney Douglas R. Burgess? Attorney Sherree Meadows? Attorney Timothy R. Collins?
Attorney Christopher Raneri?
What about their ringleader Douglas J. MacKinnon, Sr and Mark S. Bohn?

What about their accomplices: Jack Sortino, Greg MacKinnon, Harvey Denis, Account Management Services, First American Investment Company and all the scammers involved with them?

They have ripped off millions from consumers under the names above just like they did with the Lenahans; it's time to start holding those who are responsible accountable for their crimes.

Consumers who stopped paying the Lenahans should also STOP all payments o these criminals, they are doing the same thing!

5 Ways to Destroy Your Credit
Snapping up department store credit cards or skipping out on that parking ticket could send your credit score tumbling.
By David Ellis, CNNMoney.com staff writer
NEW YORK (CNNMoney.com) -- Taking a wrecking ball to your credit rating is probably best likened to striking a match and burning all of the cash in your wallet.

The concept is simple: a bad credit rating means higher interest rates and ultimately less savings for you.

Your credit score, or your FICO score, ranges from the worst possible score of a 300 to a perfect 850, and is determined by such factors as paying your bills on-time, the amount of money you owe as well as the length of your credit history, according to the company Fair Isaac, which runs the scoring system.

Poor credit can cost you

As shown below, a lower score could leave you with a higher mortgage rate.

FICO Score	30-year fixed mortgage rate
720-850	6.78%
700-719	6.91%
675-699	7.44%
620-674	8.59%
560-619	8.53%
500-559	9.29%

Source: MYFICO.COM AS OF 7/10/06

But even if you are one of those individuals who is diligent about maintaining your good credit standing, it is still possible that with a few simple missteps you could send your credit score into a tailspin faster than you can say delinquency.

So while closing out those credit card accounts you don't use or rolling over all your outstanding debt to one card may seem like sensible moves, you might actually be killing your credit rating.

Late Payments

The easiest way to lower your credit score is through delinquent payments or by skipping out on a bill altogether.

Since your payment history makes up 35 percent of your credit score, failing to make the minimum payment within 30 days of the due date could send your score plummeting, says Craig Watts, a spokesperson for Fair Isaac.

Say for example you've never missed a payment and have a credit score in the high 700s or low 800s. If you were to miss the 30-day grace period, your score could drop by 100 points or more.

"That first delinquency puts you in a different class of consumers," says Watts. "You can make up that 100 points but it will take a lot longer than it took for that score to fall."

High card balances, low FICO score

Maxing out your credit cards or pushing your account to its limit is another surefire way to bring down that FICO score, says Watts.

Experts say that consumers should aim to keep the balance on their credit card accounts no higher than 35 percent of their credit line. That means if you have $1000 credit limit on your card, try to keep the balance no higher than $350.

"The lower your debt compared to your credit limit, statistics show you are a better credit risk and that you have more self-control," says Watts.

That also means you might want to reconsider consolidating all of your credit card debt onto one account, especially if that means the new balance is close to your credit limit.

Closing Credit Cards

Ok, ok, we know what you're thinking: 'I've got an unhealthy number of credit cards in my wallet, I think I'll start closing those out to help my credit score.' Not so fast, warns Steven Katz, a spokesperson for TransUnion, one of the country's three major credit reporting agencies.

Since part of your score is based on the length of time certain lines of credit have been open, closing out that 10-year old credit card could take a bite out of your credit score.

"It's negative because it's taking away a reference to a positive credit history," says Katz.

And if you are trying to trim down your debt by hopping from one low-interest rate offer to the next, closing cards along the way, Katz warns that kind of behavior could send a message to future potential lenders that you might be a credit risk.

Too many in-store cards

It's always a temptation at the checkout line, but signing up for a Home Depot, Macy's or any in-store credit card just to get a 10 percent or 15 percent discount may work against your FICO score.

Even if you vow to promptly pay them off, opening up several of these accounts in succession could spell trouble for your score because opening multiple lines of credit in short period of time is considered abnormal behavior by credit agencies, according to Fair Isaac, and it suggests that you might be more of a credit risk.

Fines that add up

A $30 library fine or a $75 parking ticket. Who cares, right? Well, that could be changing, says Watts.

More often nowadays, municipal governments are turning outstanding fines over to collection agencies, who have the ability to trash your credit rating if you don't pay up. Watts says that if a collection agency reports you were not able to pay that overdue library fees or parking ticket, that could drop your credit rating by 100 points or more.

"That will hammer your score," says Watts. "Make good on that bill because you don't know who is or who is not reporting to collection agencies."

And while you may think you can't be bothered with those petty fines now, just imagine how much more they'll end up costing you if the collection agency mangles your credit score and you end up with a higher interest rate on that 30-year mortgage.

Vegas Business Makes Fat Money from Fine Print David Lazarus Friday, July 7, 2006

South San Francisco resident Michael Wisper was shocked when he opened his mail the other day. He'd received a pre-approved, no-interest credit card from something called CCA in Las Vegas.

"I don't know who these people are and never requested this card," Wisper told me, and he asked if I knew anything about the issuer.

I didn't. But after some digging, I now know that CCA has ties to a former Nevada state senator who currently serves on the board of regents of the Nevada System of Higher Education, which oversees the University of Nevada.

I also know that CCA has had run-ins with the Federal Trade Commission and has a steady track record of consumer complaints.

"We've got stacks and stacks of complaints about this company," said Sylvia Campbell, president of the Better Business Bureau of Southern Nevada. "They're one of the top contenders on our list of companies that we wish would go someplace else."

Campbell said no fewer than 720 complaints about CCA, otherwise known as Capital Credit Alliance, have been received since 2003. Twenty complaints were submitted by consumers nationwide last month alone.

In May, the New York Consumer Protection Board issued a warning about CCA, which it said also goes by the name CCS, as in Consumer Credit Services.

"These cards appear to be no-interest credit cards, offering consumers a credit limit between $6,500 and $8,000," said Teresa Santiago, the board's executive director. "But you learn the truth in the fine print."

And that print is indeed fine.

Wisper's CCA mailing, which he shared with me, includes six pages of dense, virtually unreadable legalese that few consumers would want or be able to wade through.

But if you do, you discover that CCA's First National card isn't in fact a normal credit card in the sense that you can use it to make purchases anywhere you please.

Rather, the card can be used only to buy things from CCA's own catalog of merchandise, which the Better Business Bureau's Campbell said is similar to a Sears or JC Penney catalog but with more-expensive goods.

The card comes with a $199.99 activation fee, which will be deducted from your checking account if you don't cancel the card within two weeks of calling to activate it via an automated process.

There's also an annual fee of $198 the first year and $99 for all subsequent years, and what the contract says are "2 great annual benefits" costing $99.99 each.

One great annual benefit allows cardholders to defer payments for up to six months if they lose their jobs or are permanently disabled. The other allows payments to be waived for items that are stolen within 30 days of purchase.

These benefits are so great that CCA says it will automatically bill you for them unless you notify the company in writing that you don't want them.

"People get into this and don't realize the costs involved," Campbell said.

And it gets worse. The contract stipulates that any dispute must be resolved by binding arbitration or in small claims court. Cardholders waive the right to a jury trial and can't be part of any class action lawsuits.

The contract specifies that CCA's First National card "is not a credit card but is instead a membership card allowing you to shop directly with us without financing your purchases."

Cardholders are required to make a 30 percent down payment for all purchases and to pay shipping and handling charges. Outstanding balances that aren't paid will be reported to credit bureaus and collection agencies.

On top of everything else, CCA's privacy policy says the company "may disclose all of the information that we collect" -- including your name, address and Social Security Number -- to "nonfinancial companies such as retailers, direct marketers and publishers."

So who are these guys?

I reached Stuart Honig, CCA's chief financial officer, at the company's Las Vegas office and identified myself as a writer for this newspaper.

"We don't do interviews," he said.

I asked why this was, and Honig said the press can't be trusted to get the facts straight. And then he hung up.

According to Nevada public records, CCA is run by W. Shane Kelly, who is listed as the company's president, secretary, treasurer and director.

In 2000, William Shane Kelly agreed to pay $150,000 to settle charges from the FTC that he'd engaged in deceptive business practices.

The FTC said Kelly was part of a Las Vegas operation that led consumers to believe they were receiving a line of credit but in reality were being required to buy goods from a catalog. Between 1996 and 1999, more than $12 million in fees reportedly were collected from 80,000 consumers.

"These credit cons are especially contemptible," an FTC official said at the time. "The FTC will not tolerate such blatant illegal activity by any lender."

One of the companies involved in the operation was identified by the FTC as Continental Direct Services, or CDS. According to Nevada records, the president of CDS at this time was Jack Lund Schofield, who served as a Nevada state assemblyman from 1970 to 1974 and as a state senator from 1974 to 1978.

Schofield ran unsuccessfully for governor in 1978 and subsequently became an educator, including a stint as science teacher at Southern Nevada Vocational Technical Center, also known as Vo-Tech High School. He has served on the Nevada System of Higher Education's Board of Regents since 2002.

Reached by phone, Schofield, 83, told me that Kelly had been his student at Vo-Tech. "He was one of the finest young men I ever met," Schofield recalled.

In 1999, he said, Kelly was having business troubles. "He asked me if I would come in and help them correct a situation," Schofield said. "They were having issues with the FTC."

He said he agreed to become president of Kelly's company, CDS, but stressed that Kelly "was the actual owner."

Schofield said the FTC misrepresented CDS' activities in its settlement with the company. He said many customers' complaints about CDS were exaggerated.

"I saw that the company had great potential," Schofield said. "They're very successful today, thanks to some of my suggestions about what they should do. I take credit for guiding them along so they can do the right thing."

CDS changed its name to CCA in 2001, according to public records. Schofield declined to discuss the reason for the switch.

He described Kelly's business troubles as "an evolution of circumstances that he had no control over. As he got deeper into the concept, I explained to him that he has to give customers what he says he'll give customers."

Schofield declined to elaborate, observing only that "right now they're not having any FTC problems."

He said he stepped down as CCA's president in 2002. Kelly subsequently took over as president, records show.

Kelly couldn't be reached for comment at CCA's office.

The Better Business Bureau says it has received complaints about CCA from pretty much every state in the nation -- except the company's home state of Nevada. That's the one place CCA doesn't hawk its First National cards.

"It's so that they don't come to grief with the Nevada attorney general," the bureau's Campbell said.

She said complaints about CCA are received directly from consumers who know the company's Las Vegas address and also are passed along by other bureau offices throughout the country.

Aaron Carruthers, a spokesman for California Attorney General Bill Lockyer, said no complaints have been received to date about CCA.

"It sounds like these guys skate on a thin line of legality," he said. "If anyone has a problem, they should contact us, and we'll take a look."

Buyers' Give Old Debts New Life

Scott Barancik Business Reporter St. Petersburg Times

Used to be, banks didn't waste much time chasing credit card deadbeats.

Their staffs would hound debtors by phone for six or seven months, then invite outside collection agencies to take a crack. Few debtors were sued. Those who hunkered down long enough could escape without paying.

Not anymore. In the brave new world of debt, unpaid bills never die. Today speculators are buying thousands of these aging accounts at a time and extracting payments the original lenders could not.

Some debt buyers are hauling consumers into court and getting permission to garnishee their wages, empty their bank accounts or even seize their cars. Others are convincing debtors to pay down old bills that are no longer legally enforceable.

The amount of written-off credit card debt sold to debt buyers in 2004 - $63-billion worth, according to the Nilson Report - was 100 times the amount sold in 1993. This year, a Las Vegas convention hosted by the Debt Buyers' Association trade group drew 1,400 debt buyers, sellers, brokers, resellers and lawyers.

Other credit issuers are selling their unpaid bills, too, including such retailers as Radio Shack, Wal-Mart and Bally Total Fitness, and hospitals, auto lenders and utilities.

Asset Acceptance, one of five publicly traded debt buyers, operates a 52,000-square-foot collections center in Riverview. In 2000, the Michigan company sued 25 debtors across Pinellas, Hillsborough, Pasco, Hernando and Citrus counties. Last year, it sued 3,855.

Over the same period, the types of lawsuits debt buyers usually file - small-claims breach of contract, monies due or accounts suits - rose 56 percent across Pinellas, Hillsborough and Pasco counties.

A morning cattle call at the Tampa courthouse shows why.

Courtroom 306

Hillsborough County Judge Charlotte Anderson reviews small-claims lawsuits every Wednesday. This morning's docket allots 150 minutes for 165 pretrial hearings, more than half involving debt buyers.

In every case, the debt buyer has a lawyer. Not a single accused debtor does. Only two put up a fight.

Sandra A. Thompson, accused of stopping payment on a $2,003 credit card debt in 2001, tells the judge the debt was erased in bankruptcy court. The plaintiff agrees to dismiss Thompson's case on the spot.

Michael A. Johnson says he has "no recollection" of a 2001 credit card debt totaling $2,118. The answer earns him a trip to mediation.

Everyone else goes down without a punch. Each admits owing all or some of his alleged debt. Dozens more automatically lose because they didn't bother coming.

Debt buyers say landslides like this January morning's prove their account records are accurate. But critics like Bud Hibbs, a consumer advocate in Texas who calls debt buyers "scavengers," says more than 90 percent of all defendants would prevail if they could afford to hire a competent lawyer. Tampa lawyer Don Golden says many accused debtors would be better off filing for bankruptcy anyway, which can slay multiple debts at once for a fraction of the legal fees.

The consequences of losing in court are steep. A successful plaintiff in Florida is entitled to tap a debtor's wages and assets for up to 20 years, with interest.

Athena Funding Group, a Tampa debt buyer, successfully sued Allen Pankow in 2004 over a $924 credit card debt. When Pankow, then a 51-year-old Largo resident, ignored several court orders to disclose his income sources and assets, Athena asked that he be jailed for contempt, court records show.

He was. After his $500 bail was posted, Athena obtained the court's permission to snag it.

"Some people are only motivated by the stick," said Carol Freeland, who chairs the Asset Buyers Division at ACA International, a collections industry trade group.

Filing suit isn't for everybody.

Freeland, a partner at PRM Financial Services in Texas, says her company primarily buys accounts that are near or beyond the statute of limitations (three to 15 years, depending on the state). PRM offers to discount the amount owed and transfer the balance to a new credit card.

With regular payments, the debtor can improve his credit rating and eventually use the card for limited new purchases. Despite the 18.9 percent interest rate, Freeland says, many debtors are grateful.

What most debtors don't realize is that a person is not legally obligated to repay a debt whose statute of limitations has expired. But transferring the balance to a new credit card resets the clock to zero.

Debt buying: the science

Companies pay just pennies on the dollar for unpaid debts. Last year, for example, Asset Acceptance paid $102-million for $4.2-billion of consumer debt, about 2.5 cents per $1.

The discount is steep because the debts are difficult to collect. Half the accounts Asset bought in 2005 stymied at least three prior collectors. Even after spending several cents more per $1 on legal fees or other collection costs, most buyers would be happy to recover 20 or 25 cents per $1.

"The vast majority of what they buy never gets collected," says Charles Trafton, an industry analyst with America's Growth Capital in Boston. "It's old, they haven't had payments in a long time, (and) oftentimes you don't get great addresses, known places of employment."

"We're buying somebody else's discarded accounts," said Jeffrey Bovarnick, a principal at Asset Recovery Management in Needham, Mass. "We take huge risks, and we're entitled to make a return on our investment if we abide by the law."

That's why there's a science to buying bad debt.

Debt buyers kick a portfolio's tires before bidding on it. They obtain partial account data from the seller and dump the stats into a software program designed to assess value.

Key variables include the average account balance, length of delinquency, number of years remaining under the statute of limitations, number of previous collection attempts, whether Social Security numbers are available, and debtor characteristics such as ZIP code and credit score, according to ACA International's Buying Receivables.

Historical patterns show that middle-aged people and those living in more affluent ZIP codes are more likely to repay a debt.

A buyer who has had success collecting on auto loans may pay more for them at auction than someone skilled at medical collections. A buyer who expects to file many lawsuits may pay more for a portfolio that offers original account documentation.

After submitting the winning bid, a buyer typically scrubs his new portfolio of debtors who have died or otherwise are not worth chasing, such as those whose debts were erased in bankruptcy. The buyer informs the remaining debtors by mail that their accounts have been purchased and that they have certain legal rights, such as to end routine collection calls and letters. Most debt buyers piggyback a settlement offer onto the notice.

The next step is to assign each account a collection strategy. Every buyer handles this differently.

At Asset Recovery Management, the first priority is to quickly sue any debtor whose statute of limitations is nearly up. Others are given roughly six months to respond to the company's initial letter and make a deal, most likely a monthly repayment plan. Those who don't may be sued, too, though cost is an issue.

"That's not my preferred course of action," Bovarnick says.

It's what they do

What makes debt buyers better collectors?

A gentle touch, says Barbara Sinsley, legal compliance chief at Asset Acceptance, where debtors are called "customers" and 36 percent of all collections come via the courts.

"Our mantra is 'Just be nice,' " says Sinsley, who works at Asset's Riverview office. "I mean, frankly, if you're not working with a customer, they're less likely to pay."

Debt buyers can afford to be patient. Unlike creditors, most aren't subject to accounting rules that require them to quickly write off defaulted loans as a loss. Some are willing to wait as long as 10 years for a debtor to recover from the drug habit, gambling problem, illness, divorce, job loss or jail sentence that knocked him off his financial feet.

Because of their anonymity, debt buyers are freer to customize repayment plans.

"Citibank doesn't want to be known for settling with debtors for 10 cents on the dollar, because then everybody would try to settle with them for 10 cents on the dollar," says Gobind Sahney, chairman of Receivables Acquisition & Management Corp. in New York.

Debt buyers also are freer to turn the screws. A creditor, such as a retail chain, might soften its tactics for fear that an angry debtor will cease shopping at its stores and bad-mouth it. But the debt buyer's primary constraint is the law, including the federal Fair Debt Collection Practices Act and Fair Credit Reporting Act.

In short, the lender's core business is to lend. The debt buyer's is to collect.

Who's the bad guy?

Debt buyers don't appreciate being portrayed as heartless corporations sucking the marrow of innocents, whose only crime was getting sick, fired or divorced.

Freeland is still steaming over a recent episode of the television show Boston Legal in which a law firm employee complains she owes her credit card lender $50,000. After shattering the bank's window in frustration, the employee whines about the card's high fees and interest rate. Her boss, a lawyer, responds with a blowy tirade that scares the bank's attorney into erasing the debt. Never addressed is the fact that no one held a gun to the employee's head when she ran up her bill.

"Everyone's against the idea that we would have the gall to ask someone to pay their bills," says Michael Weinard, president of Tampa company Athena Funding.

Debt buyers are in business to make money, of course, but they say the debtor benefits as well - with flexible repayment terms, an improved credit rating, even relief from a guilty conscience. The debtor may be able to borrow money more cheaply in the future, too.

But forgive a debt? Out of the question.

"This business isn't for sissies," Freeland says. "We can't become so sympathetic that we just say, 'Oh, this is so awful, we can't collect this.' "

She harks back to the era of her grandfather, a banker, when "people jumped off roofs or shot themselves" rather than live with the shame of financial ruin.

"Now, people go to a cocktail party and they say, 'By the way, who's your bankruptcy attorney? I need one.' "

Consumer advocates aren't buying it. Mark Tischhauser, a Tampa lawyer who has sued several debt buyers for allegedly violating debtor-protection laws, says such companies naturally resort to abusive tactics because their old, overworked accounts are so hard to crack.

Tischhauser worries about the unlevel playing field in court, where few debtors can afford an attorney and most are unaware of their rights. How many debtors know there is a statutory time limit on most debts - as little as four years in Florida? How many know that the only way to stop a buyer from getting a judgment on a time-expired debt is to raise the issue themselves in court?

Of the 90 people called to face a debt buyer in Courtroom 306 that January morning, only two apparently understood the value of a good legal defense. And one of them, Michael Johnson, couldn't get a lawyer to return his calls.

Left to his own devices, Johnson sought legal advice on the Internet, where the "I don't recall" defense strategy is often recommended.

Debt-buyer attorneys decry such tactics, which they consider disingenuous. That Johnson purchased a $112,500 Tampa home in 2003, two years after he allegedly stopped paying off a credit card debt, would only stoke their ire.

Johnson says he suspects that a former acquaintance or his ex-wife may have run up the charges on his credit card. He makes no apologies for being skeptical about lawsuits.

"I had a paternity suit when I was 18 years old," Johnson says. "At that time I was very religious and still a virgin. I'd never even kissed a girl. They just subpoenaed every Michael Johnson they had."

Times staff writer Matthew Waite and staff researcher Angie Drobnic Holan contributed to this report. Scott Barancik can be reached at barancik@sptimes.com or (727) 893-8751.Lawsuits suit them

LAWSUITS SUIT THEM

Debt buyers say they are no more likely than lenders to sue a borrower. But in three Tampa Bay area counties* between 2000 and 2005, the types of small-claims lawsuits debt buyers and other collectors typically file - breach of contract, monies due and accounts suits - have gone up sharply.

Small-claims debt collection suits

County 2000 2005 Increase

Hillsborough 5,098 8,570 68 percent

Pasco 2,597 3,496 35 percent

Pinellas 4,676 7,244 55 percent

Total 12,371 19,310 56 percent

*** Numbers not available in Hernando and Citrus counties**

Source: County clerks of court, Times research

WHEN A DEBT BUYER CONTACTS YOU

If a debt buyer purchases your unpaid bills, it usually will notify you by mail. There are several ways to respond.

Dispute it

Do you really owe the money? Consumer advocates recommend you write back within 30 days and ask for proof.

There are four reasons why you might not owe the money: identity theft, identity confusion, clerical error or the passage of time. In Florida, a debt is not legally enforceable if it has been more than five years (sometimes four) since the debt became delinquent, your last payment was made or you promised in writing to repay it.

Be careful not to restart an expired debt. The statute-of-limitations clock resets if you make a payment, transfer a debt balance to a new credit card or declare in writing that you will repay the debt.

Settle it

Many debt buyers will offer a discount if you agree to settle right away. If you can pay off a debt within five years, request a long-term payment plan. If you can pay it all at once, your discount may be higher.

Ignore it

A collector might let you get away with ignoring your debt if it appears you have no money or property that can be legally seized. But ignoring a debt won't keep it off your credit report or guarantee you won't be sued.

FILE FOR BANKRUPTCY

If you have multiple overdue bills and can't repay them within five years, consider filing for bankruptcy court protection. Doing so can eliminate or reduce most of your credit card, medical or other unsecured debts. A bankruptcy lawyer costs about $1,000.

WHEN A DEBT BUYER SUES YOU

If you owe the money, contact the collector and try to settle (see above). As long as you stick with the payments, the lawsuit will be mothballed.

If the debt is inaccurate or not yours, consider hiring a lawyer. Note: In debt cases, most lawyers will want their legal fee up front.

Whatever you do, don't ignore a lawsuit. You automatically lose if you don't respond or show up at your hearing. That may entitle the debt buyer to garnish your pay, seize your bank accounts or even take your car.

Wounded Soldiers Fight Off Bill Collectors at Home

Congressman Calls It 'Financial Friendly Fire'; Military Blames Payroll Errors
Army demands $2K from soldier who lost his in Iraqi bomb attack.

Financial Friendly Fire Brian Ross - ABC News

April 26, 2006 — Hundreds of soldiers wounded in battle in Iraq have found themselves fighting off bill collectors on the home front, according to a report to be released tomorrow. The draft report by the Government Accountability Office, which ABC News obtained, said that hundreds of wounded soldiers had military debts incurred through no fault of their own turned over to collection agencies.

"Financial friendly fire," said Rep. Tom Davis, R-Va., chairman of the House Committee on Government Reform. "Because their financial records are so bad, this is a friendly fire where we are hurting and wounding our own."

Army specialist Tyson Johnson of Mobile, Ala., had just been promoted in a field ceremony in Iraq when a mortar round exploded outside his tent, almost killing him.

"It took my kidney, my left kidney, shrapnel came in through my head, back of my head," he recounted.

His injuries forced him out of the military, and the Army demanded he repay an enlistment bonus of $2,700 because he'd only served two-thirds of his three-year tour.

When he couldn't pay, Johnson's account was turned over to bill collectors. He ended up living out of his car when the Army reported him to credit agencies as having bad debts, making it impossible for him to rent an apartment.

"Oh, man, I felt betrayed," Johnson said. "I felt like, oh, my heart dropped."

Payroll Errors, Says Military

And there are many more like Johnson. Staff Sgt. Ryan Kelly lost his leg in a roadside bomb attack in Iraq.

He didn't realize it, but the Army continued to mistakenly pay him combat bonus pay, about $2,000, while he was in the hospital rehabilitating, and then demanded that he pay it back.

He, too, was threatened by the Army with debt collectors and a negative credit report.

"By law, he's not entitled to the money, so he must pay it back," said Col. Richard Shrank, the commander of the United States Army Finance Command.

The Army said it moved wounded soldiers out of the battlefield so quickly its accounting office could not keep up, resulting in numerous payroll errors.

"This is no way to win a war, I can tell you that," said Davis. "You'd think after four years after fighting a war in Iraq, the government would have its act together."

But the Army said it is now trying to correct the problem. Since ABC News first reported on the plight of soldiers, featuring Johnson and Kelly in a "Primetime" investigation in October 2004, the Army has forgiven most of their debts.

But Davis said there may be thousands more whose thanks for putting their lives on the line has been a knock on the door from a Pentagon debt collector.

ABC News' Maddy Sauer contributed to this report.

Banks See Consumers Paying Off More Credit-card Debt
By David Enrich Apr 19, 2006

NEW YORK (MarketWatch) -- In a development that could erode credit-card industry profits, U.S. consumers are paying down more of their monthly bills, according to two of the country's biggest issuers. JPMorgan Chase & Co. (JPM) and Citigroup Inc. (C) reported this week that their total outstanding card loans declined during the first quarter. At JPMorgan, card loans fell $8 billion, or 6%, to $134.3 billion at the end of March. The decline at Citigroup was $5.7 billion, or 4%, leaving its outstanding balance at almost $136 billion.

Executives at both banks attributed the declining balances to rising payment rates by consumers, a problem because issuers earn more money when balances are higher. The trend has been developing for several months, with a number of banks last quarter reporting a similar phenomenon. But the magnitude of the first-quarter dropoff surprised bankers, analysts and other experts, who have grown accustomed to consumers racking up credit-card and other debt.

John McDonald, a Banc of America Securities analyst, described the lower first-quarter loan balance at JPMorgan as "an alarming drop." JPMorgan Chief Executive James Dimon warned that the trend could could make it harder

for the company's card unit to reach its profit targets. And Citigroup Chief Financial Officer Sallie Krawcheck said that the rising payment rate "makes it a little bit tougher in terms of the revenue perspective."

Americans have become notorious for their free-spending ways. The U.S. saving rate last year slipped into negative territory for the first time since 1933, indicating that consumers were spending more than they earned. That has helped the credit-card industry rake in huge profits. Card companies rely largely on the hefty fees and interest rates they charge consumers who run up big balances. Rising payment rates therefore could crimp profits.

The causes of the banks' declining credit-card balances aren't entirely clear. One likely factor is that credit-card balances tend to balloon around the holiday shopping season in the fourth quarter and then taper off. Another contributor is the higher minimum monthly payments that card companies began phasing in last year to comply with new regulatory guidelines.

But bank executives say those factors don't fully explain the recent trend, and they're stumped about the root causes.

"It's more than that in this period," said Michael Cavanagh, JPMorgan's chief financial officer, referring to a post-Christmas slowdown and the new minimum-payment rules. "There are broader factors that seem to be affecting us and our competitors here."
Cavanagh predicted that the higher payment rates, which he described as an industrywide phenomenon, would persist at least through the second quarter.
Curtis Arnold, a consumer advocate and founder of CardRatings.com, said the higher payments reported by Citigroup and JPMorgan are a good sign. He said consumers apparently are learning about the dangers of excessive debt.

"I do think some consumers have heeded the warnings," Arnold said. "I think that message is starting to get out there."

The actual impact on card companies' profits remains to be seen. Already, many big banks have cautioned that their results will be pinched by rising payment rates caused by new minimum-payment requirements - but those effects aren't expected to kick in until the second half of the year. Those losses could swamp the gains banks are currently enjoying as a result of a steep decline in bankruptcy filings following a new law making it harder for people wipe away their debts.
On the other hand, the card companies may be able to make up for that lost income by hiking other fees. Arnold said some issuers already have boosted the fees they assess when customers transfer card balances between different accounts.
One key question mark is whether other major card companies also are seeing consumers paying off more of their bills. Bank of America Corp. (BAC), the nation's biggest card issuer thanks to its recent acquisition of MBNA Corp., reports its first-quarter earnings Thursday morning. Capital One (COF), another major issuer, also reports earnings Thursday.

Debt Collectors Seek To Auto-Dial Cellphones

By Caroline E. Mayer Washington Post Staff Writer
Wednesday, April 19, 2006

Debt collectors are asking the Federal Communications Commission for permission to use automated dialers to call a debtor's cellphone about overdue bills.

ACA International, the trade association that represents collectors, said federal rules formerly permitted collection agencies to call cellphones using a computerized system that stores and dials numbers. But a change in FCC rules in 2003 barred collectors from using such technology to call cellphones. They may use dialers to call land lines, but they must dial cellphones manually.

Earlier this month, the FCC said it would review the request and sought public comments which are due next month. Its review comes as complaints about debt collectors continue to mount.

The Federal Trade Commission last week issued its annual report on the collection industry, showing consumer complaints rising to a high of 66,627 in 2005, up 13.5 percent from 58,698 in 2004. More complaints were filed about debt collection than any other industry. They accounted for 19.1 percent of all complaints filed with the FTC in 2005, up from 17 percent of all complaints in 2004.

The FTC said that, given the millions of collection calls made to consumers each year, the number of complaints it received is a "small percentage of the overall number of consumer contacts." However, it said it thought the number of consumers who complain is only a "relatively small percentage of the total number of consumers who actually encounter problems with debt

collectors."

The debt-collection association argues that the FCC ban on cellphone calls was inadvertent, part of the commission's attempt to curtail abusive telemarketing calls by auto-dialers that randomly or sequentially called cellphones.

The ACA says collectors don't dial randomly, but rather selectively call consumers who owe money. "We're not buying lists of consumers just to call them for the fun of it; we're not looking for cellphone numbers we don't have," said Rozanne M. Andersen, the ACA's general counsel. Andersen added that creditors and collectors have the cellphone numbers because consumers provided them when they applied for credit.

Not being able to call cellphones with auto-dialers will be "extremely detrimental to the industry and consumers," she said. According to the FCC, 6 percent of U.S. households now rely exclusively on wireless service, up from 1.2 percent in 2001. "We have generations of people moving exclusively to cellphones, and there is no practical way for creditors and debt collectors to communicate with them," she said. The ACA says creditors could lose billions of dollars annually if the rule is not changed.

The National Consumer Law Center, a public-interest consumer advocacy group, has already filed an objection to the ACA's petition, saying consumers will be "hard pressed to see the benefit" because the automatically placed calls will use up high-cost daytime minutes. The NCLC added that a consumer giving a cellphone number when applying for credit shouldn't be considered as giving permission to a debt collector to call that number later.

Major Credit Agencies Adopt Uniform Scoring System
Tuesday, March 14, 2006

NEW YORK — The three major consumer credit reporting agencies announced Tuesday that they have created a new credit scoring system aimed at simplifying the loan process for both lenders and borrowers.

The announcement by Equifax, Experian and TransUnion said the new "VantageScore" was "a direct result of market demand for a more consistent and objective approach to credit scoring."

The agencies in the past each used their own proprietary formulas to create their own scores, meaning that a lender dealing with a consumer's application for a credit card or a mortgage might have to reconcile three widely different scores.

With the new system, a single methodology will be used to create the scores.

"Under the new scoring system, credit score variance between credit reporting companies will be attributed to data differences within each of the three consumer credit files and not to the structure of the scoring model or data interpretation," the agencies said in a joint statement.

It added that VantageScore "will provide consumers and businesses with a highly predictive, consistent score that is easy to understand and apply."

Credit scores are important because they measure how much debt a consumer is carrying and how well the consumer keeps up with bills.

The higher the score, the more creditworthy the consumer is considered and the lower the interest rate the consumer is likely to be charged.

The three credit agencies termed the move to a unified score as "unprecedented."

The scores will range from 501 to 990. The top end is slightly higher than scores currently in use.

In a separate statement, Experian said the new scores will be grouped on "the familiar academic scale." Experian gave these groupings:

A — 901-990
B — 801-900
C — 701-800
D — 601-700
F — 501-600

Experian said it was hoped that "as consumers increase their awareness of the importance of credit scores and credit reporting, the consistency of VantageScore will provide the type of information they need to evaluate their credit standing and make sound financial decisions."

Kerry Williams, group president of Experian's Credit Services, said in the statement that the new approach "is a further progression of our efforts to satisfy client and consumer needs."

VantageScore is being independently marketed and sold separately through each of the three national credit reporting companies via licensing agreements with VantageScore Solutions LLC, the joint announcement said.

It said the new scores would be available immediately.

The credit reporting agencies are operated by Equifax Inc. of Atlanta, Experian Information Solutions Inc. of Costa Mesa, Calif., and TransUnion LLC of Chicago.

January 30, 2006

NCO Group, Inc., a leading provider of business process outsourcing services, announced today that it entered into an Assurance of Voluntary Compliance with the Commonwealth of Pennsylvania. Under the terms of the Agreement, NCO specifically denies that it has engaged in unlawful or inappropriate business practices, and has agreed to pay the Commonwealth $300,000 to be used towards the costs of the investigation and/or future public protection purposes. The Agreement also requires NCO to comply with consumer protection laws and to maintain certain policies and procedures designed to facilitate and monitor its ongoing compliance.

Commenting on the Agreement Michael J. Barrist, NCO Chairman and CEO stated; "It has always been our policy to work with regulators to assure that we are promptly and effectively responding to consumer issues. As the largest provider of Accounts Receivable Collection services in the world, NCO contacts consumers approximately 400 million times per year. Although we provide our services on a national basis, a disproportionate number of consumers look to the Commonwealth for assistance because we are headquartered in Pennsylvania. I am very pleased we were able to reach this Agreement with the Commonwealth since it resolves all issues to date and, more importantly, provides for a positive working relationship in the future."

PUBLIC REPRIMAND

Attorney General Charles M. Condon and Senior Assistant Attorney General James G. Bogle, Jr., both of Columbia, for the Office of Disciplinary Counsel.
S. Jahue Moore, of Wilson, Moore, Taylor & Thomas, P.A., of West Columbia, for respondent.

PER CURIAM: In this attorney disciplinary matter, the Commission on Lawyer Conduct filed formal charges against respondent. Respondent filed a response and later agreed to a stipulation of facts. After a hearing, the Panel recommended respondent be given a public reprimand.

FACTUAL BACKGROUND

The charges against respondent stem from his involvement with a collection agency, the Collect America Network. U.S. Collections, a franchise of Collect America, and the Zenner Law Firm entered into a contract on February 16, 2000.

Refinance America, a wholly owned subsidiary of Collect America, purchased uncollected debt from, for example, credit card companies and forwarded it to Collect America, who then forwarded it to respondent's firm. Collect America would send batches of these accounts in contract form. According to the accounts contract, a placement of the amount with respondent's firm was made for a limited period of 120 days for a contingency fee of twenty-five percent (25%) of any recovered funds.

Collect America operated with two types of franchise agreements, including one in which a private corporation, for example U.S. Collections, bought the franchise and the license to use a particular software (STARS) to collect the debt. As a franchise, U.S. Collections was required to retain an attorney, such as respondent, to collect the debt.

U.S. Collections employed collectors and paid them through respondent's payroll account.(1) Further, U.S. Collections owned the computers and telephones, and provided respondent with an office for his private practice, adjacent to the property leased by U.S. Collections. All collectors made telephone calls to debtors, identifying themselves as "Zenner Law Firm," in the adjacent building.(2)

Each collector was required to generate collections of $30,000 each month. They were paid a base salary and received a bonus of a percentage of any excess collected over $30,000.

Respondent's first contract with U.S. Collections allowed him ten percent of the total amounts collected and paid his costs, except for payroll. Under his last contract, which was imposed on respondent and not reduced to writing, he received a flat $3,000 per month. U.S. Collections then paid the collectors through respondent's account.

There were no client files in the traditional sense, with all materials relating to the debtors stored on computers owned by Collect America. For example, in the Violet Pfaff Matter, her "file" in the computer was owned by Collect America. This electronic file was respondent's firm's file to the extent that he was representing Collect America and was the attorney collecting debt from Violet Pfaff. Respondent had limited access to the file, and this access ceased when he terminated his relationship with Collect America.

Collectors reported to Jim Wooley and Craig Howard, who were partners/owners of the U.S. Collections franchise. Craig

Howard's salary was paid by U.S. Collections through respondent's payroll account.

Respondent did not have the authority to hire and fire collectors without first going through a supervisor employed directly by U.S. Collections. As a result of these disciplinary complaints, respondent attempted to fire a collector, Joyl LaRoy, for violating the Fair Debt Collections Act,(3) but was told by U.S. Collections that he could not. Respondent represented that he had fired the collector, Billy Melton, for similar conduct, but there was no written document in Melton's personnel file reflecting that he had been fired or discharged.

The collectors, LaRoy and Melton, committed misconduct when contacting debtors. The following matters are based on that conduct.

Izola Wilson Matter

During a telephone call Wilson received from Melton on June 28, 1999, Melton engaged in the following: (1) offered legal advice; (2) threatened criminal prosecution;(4) (3) referred to the creditor as "my client;" (4) gave a legal opinion that jurisdiction was vested in Richland County; (5) used abusive language by describing Wilson's situation as the same as if she used a gun and robbed the creditor and "ripped them off;" and (6) referred to Wilson's owing of an unpaid debt as equivalent to welfare.

Violet C. Pfaff Matter

Pfaff, a Michigan resident, was told by one of respondent's employees that, "We don't deal with lawyers or law firms. Tell your lawyer that!" During two separate telephone calls, Pfaff was called a "bloodsucker," a "liar," a "swindler," and a "leech."

Greg Leaf Matter

Respondent, in January 1999, mailed a letter to Ilene Chase, a New Mexico attorney, regarding an attempt to collect a debt on behalf of Wells Fargo in the amount of $5,471.98. The letter was sent to Chase's business address. Thereafter, Chase and/or her husband, Greg Leaf, received a number of telephone calls from respondent's employee. During these conversations, the employee was belligerent, profane, and accused Leaf of making promises to pay and not keeping those promises.

Telephone calls ceased after Leaf wrote a letter to respondent requesting the telephone contact cease pursuant to the Federal Consumer Protection Act.

Peggie Kay Ungerer Matter

Ungerer, a Pennsylvania resident, received telephone calls from Melton regarding the collection of a debt. Calls were made to her employer's office twice on July 14, 1999, once on July 15, twice on July 16, twice on July 22, twice on July 23, twice on July 29, twice on July 30, and once on November 18. Calls were also made to her home on July 24 and July 31. During an August 4th telephone call, Melton referred to Ungerer as a "liar." When she returned a call to respondent's firm she spoke with Melton, who again called her "a liar" and hung up on her.

During the July 14th call, Melton threatened criminal prosecution and offered a legal opinion that Ungerer's wages would be garnished, without determining whether garnishment was lawful under Pennsylvania or South Carolina law. During this conversation, Melton also used profane language and called Ungerer back five minutes later.

During a July 16th call, an employee of respondent called Ungerer at her employment and her employer directed him not to call the office again. Respondent's employee began cursing at Ungerer's employer.

Ungerer was also called at home on July 14th. In this call, respondent's employee called her while she was still asleep and directed the person answering the phone to "wake her . . . up and put her on the phone." (Expletive deleted).

Shirley Benson Matter

Benson, a Texas resident, received a telephone call from one of respondent's employees regarding the collection of a debt. This employee screamed and yelled at Benson, used profanity, called her "very low names," and referred to her as a "worthless deadbeat." Four days later, the employee called Benson at her office while she was on another line. Benson's employer answered the phone and asked respondent's employee if he would like to leave a message. The employee yelled at Benson's employer not to hang up on him. When she did, the employee called back immediately and asked to speak to the manager. When told he was speaking with the manager, the employee began yelling. Benson's employer hung up the telephone. A few minutes later, when Benson's employer picked up the phone to make an outgoing call, respondent's employee was still on the line laughing at her.

Linda McClain Matter

McClain, a Nevada resident, received a letter from respondent which advised that his firm had been authorized to offer her a settlement of $1,410.00, a discount from her original debt of $2,851.21. The letter offered to accept six equal payments per month, and concluded that upon receipt, respondent would take the steps necessary to update her credit report. McClain made the payments and they were accepted by respondent's firm.

Thereafter, McClain attempted to receive a response from respondent's law firm to no avail. She wrote a letter of complaint to the North Carolina State Bar which was subsequently forwarded to the Commission on Lawyer Conduct. At his Notice to Appear, respondent testified McClain's case had been marked closed as a result of her making the payments.

Special Investigator Matters

A special investigator interviewed a few debtors who had been contacted by Joel LaRoy. Eight debtors reported early morning calls, profanity, and/or threats of criminal prosecution.

Panel's Findings

The Panel found the following violations of Rule 7(a) of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR: (1) violating the Rules of Professional Conduct, Rule 7(a)(1); and (2) engaging in conduct tending to pollute the administration of justice or to bring the courts or the legal profession into disrepute, Rule 7(a)(5).

The Panel further found respondent, through the actions of the collectors, violated certain rules from the Rules of Professional Conduct, Rule 407, SCACR. The Panel found violations of Rule 4.4, respect for rights of third persons (using means that have no purpose other than to embarrass, delay, or burden a third person); Rule 4.5, threatening criminal prosecution; Rule 5.3, responsibilities regarding non-lawyer assistants (lawyer shall make reasonable efforts to ensure that his firm has in effect measures giving reasonable assurance that non-lawyer employee's conduct is compatible with lawyer's professional obligations, and shall make reasonable efforts to ensure that person's conduct is compatible with those obligations, and shall be responsible for that person's conduct if lawyer has direct supervisory authority over the person, and knows of conduct at time when its consequences can be avoided, but fails to take reasonable remedial action).

The Panel also found respondent had violated Rule 5.4 (professional independence of a lawyer), Rule 5.5(b) (unauthorized practice of law), and Rule 8.4 (violation of a rule of professional conduct), of the Rules of Professional Conduct, Rule 407, SCACR.

The Panel found the following mitigating factors: (1) respondent's inexperience; (2) respondent's full cooperation; and (3) respondent's lack of a disciplinary history. The Panel recommended respondent be given a public reprimand, and that he be directed to pay the costs of the proceedings against him.

DISCUSSION

The authority to discipline attorneys and the manner in which discipline is given rests entirely with the Supreme Court. In re Long, 346 S.C. 110, 551 S.E.2d 586 (2001). The Court may make its own findings of fact and conclusions of law, and is not bound by the Panel's recommendation. In re Larkin, 336 S.C. 366, 520 S.E.2d 804 (1999). The Court must administer the sanction it deems appropriate after a thorough review of the record. Id.

The Panel's recommendation that respondent be publicly reprimanded is appropriate. In the past, we have imposed this sanction for similar conduct. See, e.g., In re Edens, 344 S.C. 394, 544 S.E.2d 627 (2001) (attorney publicly reprimanded for failing to properly supervise real estate transactions involving refinancing of client's property without client's knowledge or consent); In re Cromartie, 340 S.C. 54, 530 S.E.2d 382 (2000) (attorney publicly reprimanded for, among other things, failing to supervise non-lawyer employees who were responsible for giving correct wiring instructions to lenders for funds to be wired to real estate trust account); In re Davis, 338 S.C. 459, 527 S.E.2d 358 (2000) (same); In re Reeve, 335 S.C. 169, 516 S.E.2d 200 (1999) (attorney publicly reprimanded for failing to properly supervise non-lawyer employees and assisting person in unauthorized practice of law).

Further, we agree with the Panel's finding that respondent violated Rule 5.5(b), of Rule 407, of the Rules of Professional Conduct. Respondent assisted the collection agency in performing activities that constituted the unauthorized practice of law. Pursuant to S.C. Code Ann. § 40-5-320(A) (2001), it is unlawful for a corporation or voluntary association to:

(3) hold itself out to the public as being entitled to practice law, render or furnish legal services, advise or to furnish attorneys or counsel, or render legal services in actions or proceedings;

(4) assume to be entitled to practice law or to assume, use, or advertise the title of lawyer, attorney, attorney at law, or equivalent terms in any language as to convey the impression that it is entitled to practice law or to furnish legal advice, services, or counsel.

See generally A.L. Schwartz, Annotation, Operations of Collection Agency as Unauthorized Practice of Law, 27 A.L.R. 3d 1152 (1969).

U.S. Collections, through its collectors, who were respondent's employees, held themselves out to debtors as being the "Zenner Law Firm." In the Izola Wilson Matter, a collector offered Wilson legal advice, referred to the creditor as "my client," and gave a legal opinion that jurisdiction was vested in Richland County. In the Peggie Kay Ungerer Matter, a collector offered the legal opinion that Ungerer's wages would be garnished, without determining whether such garnishment was in fact lawful. Therefore, by these actions, U.S. Collections held "itself out to the public as being entitled to practice law." Further, respondent's lack of control over the files and over the hiring and firing of employees lends support to the finding that he assisted in the unauthorized practice of law because the collection agency controlled his actions.

We agree with the Panel and find respondent's conduct warrants a public reprimand.

PUBLIC REPRIMAND.

s/Jean H. Toal C.J.

s/James E. Moore J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

1. Respondent testified the collectors were employees of his law firm and that they each received a W-2 from his law firm.

2. One collector testified that when respondent visited the area where collection calls were made, his supervisors told the collectors to "behave," and to watch their "P's and Q's because he was an attorney."

3. Two statutes govern debt collectors' conduct when contacting debtors. S.C. Code Ann. § 37-5-108 (Supp. 2000) prohibits a debt collector from:

(1) threatening to use criminal prosecution against the consumer;

(2) communicating with the consumer at frequent intervals during a twenty-four hour period or at unusual hours so that it is a reasonable inference the primary purpose of the communication was to harass the consumer;

(3) communicating with a consumer at any unusual time or place known or which should be known to be inconvenient to the consumer, with convenient time being between 8 a.m. and 9 p.m.;

(4) contacting a consumer at his place of employment after the consumer or his employer has requested in writing that no contacts be made;

(5) using obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

The Federal Consumer Protection Act, 15 U.S.C. §§ 1671, et. seq., also prohibits the debt collector from engaging in the conduct listed above.

4. Melton admitted at the hearing that he would sometimes threaten criminal

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Minimum Credit Card Payments Going Up

A change in banking regulations will mean higher minimum credit card payments for millions of consumers beginning in January. At the urging of federal banking regulators, credit card companies are boosting the minimum payment on balances from two percent to four percent.

The idea is to help consumers. By increasing the minimum payment, the feds reason, consumers will pay down their balances faster, with a greater percentage of their payment going to principal instead of interest. But many cash-strapped consumers may find themselves overwhelmed.

"I have certain funds allocated for certain expenses and if that nearly doubled I would definitely have to realign my budget," Chicago consumer
Cetrina Williams told WBBM-TV.

But Justin McHenry, Research Director for IndexCreditCards.com, says the new rules will probably be less burdensome to consumers than they fear. He's seen the media reports of "double credit card payments" and thinks it's overblown.

"While the government is requiring credit card companies to increase monthly minimum payments, the goal is to help credit card customers pay off balances without undue hardship," McHenry said.

Specifically, where most credit card issuers previously required customers to pay off 2% of their outstanding balances each month, most will now require customers to pay all monthly interest and fees, plus 1% of the outstanding balance.

What does that mean for monthly payments? McHenry said significant monthly increases will occur in only the most extreme cases, those in which very large credit card debt is combined with very high interest rates. Even then, he says the result is not as scary as you may think.

For example, he says, imagine a person with a $10,000 credit card debt and a 19 percent annual interest rate, both higher than the average consumer is carrying.

Using the two percent minimum balance calculation, this person would have a required monthly payment of approximately $203.16. Under new requirements, the monthly payment would be $258.33 ($158.33 in interest, plus $100 of the outstanding balance). This is a difference of roughly $55 – on a balance and interest rate that exceeds what the average consumer is carrying. Most credit card customers will have much smaller minimum payment increases, if any, he said.

"Unless a credit card company has specifically announced raising their minimum payment from two to four percent, it's almost impossible to think of a realistic scenario in which payments will double," says McHenry.

The upcoming change in minimum payments is a result of guidance from the government's Office of the Comptroller of the Currency, which told banks they must require minimum payments that allow customers to pay off their debts in a reasonable amount of time.

Under the current industry-standard two percent minimum payment, customers with high balances can conceivably "meet the minimum" without even paying off a full month’s interest, much less taking a chunk out of the principal balance.

"While 'this is for your own good' generally should be met with skepticism," says McHenry, "in this case it's true."

Bankruptcy law backfires on credit card issuers

The industry muscled through tough changes that were supposed to make more filers repay some of what they owe. But that isn’t happening.

By Liz Pulliam Weston

Credit card issuers and other lenders spent a small fortune to get bankruptcy reform legislation passed. Now the new law is costing them even more.

An unprecedented spike in filings before reform took effect in fall 2005 is chewing into lenders' bottom lines, and the subsequent lull is showing signs of being short-lived. Bankruptcy attorneys say their caseloads are starting to pick up, and credit counseling agencies -- which provide now-mandatory sessions for consumers who want to file -- say they're seeing significantly more people than they initially predicted.

All this is raising questions about whether lenders will profit as much from the new bill as they hoped.

It wasn't supposed to be this way. The new law contains a “means test” that was supposed to steer higher-income filers toward repayment plans. Lenders expected a rush of consumers trying to beat the bankruptcy deadline, but nothing like the surge that actually occurred. More than 500,000 bankruptcy cases were filed in the two weeks before the law took effect, compared with a normal weekly volume of 30,000 to 35,000. So far this year more than 2 million cases have been filed, 49% more than the same period last year and eclipsing all previous records.

"I think the actual magnitude really surprised some people," said Cynthia Ullrich, a director in the Fitch Ratings credit card group. "The feedback we received (from credit card issuers) is that it was larger than anticipated."

The hurting begins
Once a consumer files bankruptcy, lenders have 60 days by federal law to "charge off" the filer's accounts -- essentially recognizing that the debt is uncollectible and taking the loss. Fitch predicted the charge-off rate for major issuers could rise more than 30% to 7.5% in the next few months, compared with 5.7% of accounts currently.

Some issuers have already admitted their pain:

- J.P. Morgan Chase & Co., the nation's largest credit card issuer, said its charge-off volume would rise 44% in the fourth quarter to $2.3 billion from $1.6 billion for the same period a year ago.
- Capital One warned its charge-off rate could rise up to 1 percentage point from the year's previous range of 4.05% to 4.14%.
- Discover said it expected the bankruptcy surge to add $250 million to its costs.

Lenders initially said that the rush of filers merely accelerated losses that would have happened anyway -- that people essentially decided to file sooner, to beat the deadline, rather than a little later.

Indeed, filings dropped sharply to 9,447 the week following reform, according to Lundquist Consulting.

But the following week, filings rose to 14,291. Some of those cases appear to be backlog -- filings under the old law that courts are just getting around to reporting -- but the numbers are expected to climb as weeks pass. How far is the question.

Counselors see lots of traffic
Sam Gerdano, head of the nonpartisan American Bankruptcy Institute, said he wouldn't be surprised if filings remain extremely low at least through the first half of the year.

"We could be seeing records in the other direction," Gerdano said, "with filing numbers we haven't seen since the 1980s."

But some believe the respite will be shorter than lenders hope.

"There was a real lull for awhile, but we're starting to pick up again," said Los Angeles bankruptcy attorney Leon Bayer. "We're getting back to normal now."

Credit counselors report a similar uptick. Demand for pre-bankruptcy counseling, which is now required before consumers can file, has been unexpectedly strong at the 71 agencies affiliated with the National Foundation for Credit Counseling that have been approved by the Department of Justice to provide such services, said foundation President Susan Keating.

"The volume is significantly higher than their original projections," Keating said. "We originally expected our client volume of 1 million to double in 2006 (because of the new requirement). Now we're thinking we may be looking at even more."

Few able to repay
Bankruptcy attorneys and many consumer advocates worry the counseling requirement will allow agencies to divert potential filers into debt repayment plans that the debtors can ill afford. But Keating said her agencies, which currently represent 80% of the counselors approved by the Justice Department, aren't seeing many clients who have the ability to repay their debts.

"The conversion rate of customers who are eligible to go into an alternative, a debt-management plan, has been very, very low," Keating said. "These customers are really in serious financial trouble and have no alternative other than filing for bankruptcy."

That's certainly been true at Riverside, Calif.-based Springboard, which counseled 2,200 pre-bankrupts between Oct. 17 and Nov. 28, said President Dianne Wilkman. Wilkman said her counselors, who mostly talk with customers by phone, sometimes have to strain to average the 90 minutes the Justice Department requires of pre-bankruptcy counseling sessions because their clients' situations are so cut and dried.

"After 45 minutes you're left with saying, 'So, what about those Dodgers?'," Wilkman said. "But then with other clients with more complex situations, you use much more than 90 minutes."

The bottom line?
Even if filings don't return to previous levels, the reform law may not contribute much to lenders' bottom lines. Fitch and Barclay Capital have predicted charge-off rates will "normalize" to usual levels, but won't drop.

"If a consumer can't pay their bills, they might not file for bankruptcy" but their accounts will still be charged off, Fitch's Ullrich said.

Lenders may recoup some money from filers who are forced into Chapter 13 repayment plans rather than being allowed to erase their debt in Chapter 7 bankruptcy. But the dollar amount recovered may not be significant, given the small number of bankrupts that will be diverted to Chapter 13 -- less than 3%, by Gerdano's estimate -- and the high number of Chapter 13 plans that fail. Under the old law, about two-thirds of Chapter 13 cases never completed their repayment plans; that percentage isn't expected to change much under the new law, Gerdano said.

"The official word is that (lenders are) still confident the law will have its desired impact" of reducing bankruptcy filings and increasing repayments, Gerdano said. "But it may take a year before you know who really won and who really lost."

KRG Capital purchases Collect America

The leveraged-buyout firm pays $350 million for the debt-collection franchiser, founded by a Denver lawyer.
By Will Shanley Denver Post Staff Writer

Denver's KRG Capital Partners, one of Colorado's largest leveraged-buyout firms, has purchased Collect America for $350 million.

Collect America, a Denver-based company that pioneered a unique lawyer-franchise system to become one of the nation's largest

debt-collection companies, buys debt at below face value from mostly banks, credit-card issuers, auto-financing companies and hospitals.

As of 2004, Collect America employed 105 workers at its headquarters at 370 17th St., and counted at least 32 franchisee debt-collection law firms throughout the U.S.

It is unknown how the deal will affect Collect America's workforce locally. Neither KRG nor Collect America returned phone calls Monday.

Denver lawyer Scott Lowery, son of Denver lawyer Phil Lowery, founded Collect America in 1994.

The company hands off the debt it purchases to one of its many law-firm franchises throughout the country. The franchisee then contacts the debtor to collect at least a portion of the money owed. The collected money is then split between the franchisee and Collect America. KRG owns about a dozen companies, mostly in North America, including Longmont's Case Logic, a manufacturer of storage cases.

According to KRG's website, Collect America was an attractive acquisition target because "broader trends of increasing consumer credit" (debt) will drive growth.

Leveraged-buyout firms, including KRG, use borrowed money to acquire companies, often using the acquired company's assets as collateral.

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citi
scam

How Citibank scams you on credit card offers:

In a junk mail solicitation recently received from Citibank, on *American Airlines AAdvantage®* miles, I discovered the following:

THE DEFAULT APR is now 30.49% on Citibank cards (up from 28.9%)

There is a 3% fee to transfer balances from other cards, (with a $75.00 maximum)

There is a 3% fee for cash advances. (With a $75.00 maximum charge)

LATE FEES: $39 on balances of $1,000 and over.

ANNUAL MEMBERSHIP FEE: $50.

RETURNED PAYMENT FEE: $29.

RETURNED CONVENIENCE CHECK FEE: $29.

STOP PAYMENT ON CONVENIENCE CHECK FEE: $29.

RATES, TERMS AND FEES MAY CHANGE: We may change the rates, fees, and terms of your account at any time for any reason. These reasons may be based on information in your credit report, such as your failure to make payments to another creditor when due, amounts owed to other creditors when due, the number of credit accounts outstanding, or the number of credit inquiries. These reasons may also include competitive or market-related factors. If we make a change for any of these reasons, you will receive advance notice and a right to opt out in accordance with applicable law.

PERCENTAGE RATE: on standard purchases is 16.49% *(Prime rate is currently at 7%)*

EFFECT OF APR INCREASES: If an APR increases, periodic finance charges increase and your minimum payment may increase.

ARBITRATION: The card agreement that you will receive with your card if you are approved for credit provides that disputes are subject to binding arbitration. Arbitration replaces the right to go to court, including the right to a jury and the right to participate in a class action or similar proceeding.

KICKBACK TO AMERICAN AIRLINES: The fee (commission?) paid to American Airlines for access to their customer list of *AADVANTAGE®* miles was not disclosed.

Their commercials state that *"At Citibank… Money Isn't Everything"* however Citibank DOES sue if you default on their cards, they WILL garnish your wages, LIEN your home, SEIZE your bank account, even illegally monitor your personal checking accounts, just ask the thousands who are victims of Citibank….'where money isn't everything!'

Portfolio Recovery Associates Reports Increased Earnings for Q3 October 26, 2005

Portfolio Recovery Associates, Inc. (NasdaqNM: PRAA), a company that purchases and manages portfolios of defaulted consumer receivables and provides a broad range of accounts receivable management services, today reported net income of $9.3 million, or $0.58 per diluted share, for the quarter ended September 30, 2005.

The Company's third-quarter 2005 earnings represent growth of 34% from net income of $7.0 million, or $0.44 per diluted share, in the same period a year earlier.

Total revenue increased 33% to $37.5 million in the third quarter of 2005 from $28.3 million in the year-earlier period. Total revenue consists of cash collections reduced by amounts applied to the Company's owned debt portfolios plus commissions from its fee-for-service businesses. During the third quarter of 2005, the Company applied 28.4% of cash collections to reduce the carrying basis of its owned debt portfolios. This ratio was 30.3% for the quarter ended September 30, 2004.

"Portfolio Recovery Associates performed well in the third quarter with solid results across the board. Debt purchases totaled $16.5 million, despite a market that continues to be quite competitive from a pricing perspective. Collector-force productivity approached record levels. New marketing efforts by our IGS and Anchor fee-for-service businesses began to yield results, and the integration of newly acquired Alatax proceeded even more smoothly than expected. At PRA, we remain focused, as always, on producing steady, disciplined growth regardless of market conditions. The third quarter of 2005 demonstrates once again our ability to execute on this strategy," said Steven D. Fredrickson, Chairman, President and Chief Executive Officer.

The Company's earnings through the first nine months of 2005 totaled $27.3 million, or $1.69 per diluted share, compared with $19.7 million, or $1.25 per diluted share, for the first nine months of 2004. Nine month 2005 revenue was $109.2 million, compared with $81.7 million in the first nine months of 2004. For the year to date, the Company has applied 30.6% of its cash collections to reduce the carrying value of its owned debt portfolios, compared with a ratio of 30.9% for the same period in 2004.

Financial and Operating Highlights

Cash collections rose 22% to $47.5 million in the third quarter of 2005, up from $38.8 million in the year-ago period.

Productivity, as measured by cash collections per hour paid, the Company's key measure of collector performance, stands at $136.18 for the first nine months of 2005, compared with $117.59 for all of 2004.

The Company purchased $445 million of face-value debt during the third quarter of 2005 for $16.5 million. This debt was acquired in 29 pools from 13 different sellers. The Company purchased $2.47 billion of face value debt for $57.3 million during the first nine months of 2005, and bought $3.14 billion of face value debt for $79.8 million during the trailing 12 months ended September 30, 2005.

The Company's fee-for-service businesses generated revenue of $3.5 million, up from $1.2 million in the same period a year ago.

The Company's cash balances were $67.4 million as of September 30, 2005, down slightly from $68.5 million as of June 30, 2005. During the quarter, the Company used $32.6 million of cash, both to fund the acquisition of Alatax and purchase new debt portfolios. Portfolio Recovery Associates continues to have no debt outstanding under its $25 million revolving line of credit.
"In the third quarter, Portfolio Recovery Associates displayed once again our ability to generate significant amounts of cash, deploy that cash intelligently, and exploit our competitive strengths in both debt buying and collection by opportunistic diversification through acquisition and organic growth. We enter the final quarter of 2005 with plenty of cash, ample bank lines, strong cash flow, and solid levels of raw material resulting from our strong debt purchases over the past 12 months. From this position, we look forward to continued success in the fourth quarter and into 2006," said Kevin P. Stevenson, Chief Financial Officer.

Zombie debt collectors dig up your old mistakes

There's a hot new growth industry: companies that buy bad debts for pennies and squeeze you to pay in flagrant violation of federal law. Here's how to get them off your back.

By Liz Pulliam Weston

Debbie made a mistake when she was in college.

As a student in Fort Worth, Texas, she maxed out a Citibank credit card with a $300 limit and never paid the bill. Debbie said Citibank charged off the debt sometime between 1987 and 1989, and the liability has long since disappeared from her credit report.

Besides that, the statute of limitations -- the amount of time a creditor can sue over an old debt -- expired in the early 1990s. Both her old home state of Texas and her current state of California generally prohibit creditors from suing once a debt is more than four years old.

That's why she was stunned when a collection agency called her last summer, demanding she pay the 17-year-old bill. The calls have continued off and on since then, along with monthly bills listing varying amounts that the collection agency wants her to pay.

"The last time [they called], I told them the statute of limitations had run out on the debt and to stop harassing me," Debbie said. "They said it hadn't. I finally had to hang up on the man."

There's money in old debt

A decade ago, most people who reneged on debts could rest easy after several years passed, since few creditors tried to collect on old bills, particularly for small amounts.

Today, however, collecting on old debts is a rapidly expanding industry. Aggressive companies can buy charged-off credit card accounts from the original lenders for pennies on the dollar. Then, they use credit scoring and other new technologies to identify which debtors are most likely to pay. The players in this "junk debt" market range from fly-by-night outfits to well-established companies funded by Wall Street investors.

It's a business that barely existed 10 years ago. In the last three years, it's been growing at a 30% annual rate, according to credit industry analyst Sean McVity of Keefe, Bruyette & Woods. Among the signs of the industry's maturity:

- Four debt-buying companies have gone public in recent years, including Asset Acceptance of Warren, Mich., which had its $150 million IPO in February.
- Some buyers have attracted major funding from investment banks such as Bear Stearns and Goldman Sachs.
- Last year, more than $75 billion in old debts were sold.

The biggest debt buyers

Debt buyer	Headquarters	2002 revenue	Debt purchased*
Sherman Financial Group	New York	$325 million	$7 billion
Risk Management Alternatives	Duluth, Ga.	$295 million	Not available
Arrow Financial Services	Niles, Ill.	$156 million	$2.9 billion
Asset Acceptance	Warren, Mich.	$101 million	$5.2 billion
OSI Portfolio Services	Duluth, Ga.	$100 million	$3 billion

Figures are self-reported for 2002.

*"Debt purchased" is the face value of the accounts bought in 2002. Source: Credit & Collections World.

The amount that companies pay for bad debt depends on the type of account and its age. In general, McVity said:

- Debts that have recently been charged off: 6 to 7 cents on the dollar.
- Accounts that are slightly older and on which a collection agency or two has already taken a whack: 1.5 cents to 2 cents on the dollar.
- Years-old, out-of-statute debts: A penny or less.

A growing number of companies are discovering that these very old accounts, once thought to be uncollectible, are just the opposite. Squeezing even a small payment from these debtors can make collection activities worthwhile.

"The economics are pretty simple. For $100 of (old debt), you pay 25 basis points -- a shiny quarter," said McVity, whose investment banking firm tracks debt-buying trends. "If you get (the debtor) to pay you $1, you got your money and covered your costs."

Opportunity frequently turns into abuse

Where some are finding profits, though, others are spotting abuses. Consumer attorneys say the explosive growth of this industry has led to widespread violations of the federal Fair Credit Reporting Act and the Fair Debt Collection Practices Act.

"I don't advocate people not paying their bills," said Shreveport, La., lawyer David Szwak, who specializes in consumer law. "But there's an element of the debt collections field that is rabid." Some collectors, he said, "will go to any lengths to harass people and defraud them."

Among the worst practices attorneys have seen:

- Suing or threatening to sue over debts even though the statute of limitations has long expired.

- Illegally "re-aging" debts on credit reports. The collectors tell credit bureaus that an old debt is, in fact, a new one. The goal: To extend the seven-year limit on reporting negative items and put more pressure on the consumer.
- Promising to delete a negative mark from the consumer's credit report in exchange for a token payment. Not only does the collector fail to follow through, but the payment can revive the statute of limitations and lead to a lawsuit. Even if the collector does back off, the unpaid debt could be sold to another company that might renew collection activity.
- Bait-and-switch credit cards. Some credit card companies have offered borrowers low-rate credit cards and then tacked old, charged-off debts -- often purchased from other lenders -- onto the balance. The card issuers typically insist they disclosed that the old debts would come with the cards, Szwak said, but the borrowers say no such disclosure was made.
- Verbally abusing and harassing consumers. My readers have reported being cursed, berated and called repeatedly despite requests to stop -- all violations of federal laws.

Mickey, a Virginia resident, said he was the target of "colorful words" when he told a collection agency to cease bothering him about an old debt. Mickey stopped paying on his $4,000 Discover card balance in 1994; the account no longer appears on his credit report and the statute of limitations ended years ago.

"They would usually start out with a normal tone. . . . It went downhill fast," Mickey said. "They were calling a couple of times a day for awhile."

Sometimes, it's smarter just to hang up

Consumer advocates say this is exactly the kind of behavior Congress and state lawmakers were trying to prevent when they put curbs on collection behaviors such as statutes of limitations, the seven-year credit reporting limit and prohibitions against abusive collection practices.

"We don't have debtors' prisons," Szwak said. "We have laws to protect people from being harassed by debt collectors for the rest of their lives."

In fact, paying these old debts -- or even talking to the collection agency about them -- can make a bad situation worse.

As mentioned above, the smallest payment can revive the statute of limitations in some states, leading to more aggressive collections and lawsuits. Even acknowledging that the debt is yours can restart the clock in some jurisdictions.

That's why Robin Leonard, author of the "Money Troubles: Legal Strategies to Cope with Your Debts," advises consumers simply to put the phone down and walk away if collectors call about an out-of-statute debt. (This chart at Bankrate.com summarizes state statutes of limitations, but details can vary by state.)

Paying off can hurt your credit score

What's more, paying an old debt potentially can wreak havoc on a consumer's credit score, as I discussed in "When paying bills can hurt your credit." Such a payment can update a delinquency so that it looks more recent and takes a heavier toll on a credit score.

Paying the debt is also no guarantee that the nightmare will stop. The collector may decide that if you're willing to pay at all, you could be made to pay more. Settling a debt for a smaller amount than the collectors says you owe could result in another agency trying to collect the unpaid portion. Or the collector might inform the Internal Revenue Service (IRS) that you've received "income" in the form of forgiven debt. (Yes, there are tax consequences to forgiven debt. See my colleague Jeff Schnepper's article "5 truly nasty tax surprises.")

Even if you manage to wrangle written promises from the collector that none of the above will happen, you would have to be willing to go to court if the agency reneged -- and possibly face an unsympathetic judge or one who doesn't know much about collections law.

If you're being contacted about an old debt, here's what consumer attorneys advise:

> **Know the statute of limitations.** If you racked up a debt in another state, you might want to check the statute of limitations there as well. But generally, it's the statute of your current state that applies. If the statute has expired, the collection agencies' legal remedies are limited.

Know your rights. Credit and debt collections can be an extremely complicated area of the law. Consider arming yourself with a book such as Leonard's "Money Troubles" and -- if the amounts at stake are considerable or the level of harassment unbearable -- consider contacting an attorney. The National Association of Consumer Advocates can provide referrals.

Consider ignoring the call. If the statute of limitations has expired, Szwak said, put the phone down and walk away. There's little to gain and a lot to lose if you keep talking. You could inadvertently extend the statute of limitations or find yourself roped into a repayment agreement that might not be in your best interest. "The debt collector is a lot smarter than (consumers) are, a lot more savvy," he said. "They don't have any obligation to tell you your rights."

Write them. If ignoring them isn't working, consider writing a letter demanding the agency stop contacting you. Send it certified mail, return receipt requested. Federal law requires them to comply with your request. Make sure in the letter you specifically say that you aren't acknowledging you owe the debt.

Negotiate carefully. If the statute of limitations hasn't expired, you may want to negotiate a settlement rather than risk a lawsuit. (Again, a lawyer's advice could come in handy here.) Read "12 tips for negotiating with debt collectors."

Keep an eye on your credit report. If a collection agency tries to repost an old debt or lie about the date it went delinquent, you'll need to fight back vigorously. Dispute the entry with the credit bureaus and with the collection agency.

If the collector persists in its deception, you can demand that the collector produce a copy of the documentation that created the debt, such as the credit card agreement you originally signed, along with an account history, said consumer attorney Daniel Edelman of Chicago. Chances are the collector won't have this documentation, and continuing to report the account without providing proof that you owe the money is a violation of the Fair Debt Collection Practices Act, Edelman said.

Again, an attorney experienced in debt collection law might prove helpful in particularly difficult cases.

Did credit-card companies collude to force arbitration?

Thursday, September 01, 2005   By Carrick Mollenkamp, The Wall Street Journal

Many of the largest U.S. credit-card companies require customers to sign away their ability to take disputes to court and instead settle disagreements in arbitration.

Now that practice itself is under attack in court. A lawsuit filed recently in federal court in New York City alleges the credit-card companies held secret meetings where they colluded to promote arbitration, in violation of federal antitrust laws.

The complaint alleges that eight of the nation's biggest card issuers -- Bank of America Corp., Capital One Financial Corp., J.P. Morgan Chase & Co., Morgan Stanley's Discover unit, Citigroup Inc., MBNA Corp., Providian Financial Corp. and HSBC Holdings PLC of the United Kingdom -- "combined, conspired and agreed to implement and/or maintain mandatory arbitration."

Some of the banks named allegedly convened a group in 1999 called the "Arbitration Coalition" or "Arbitration Group," the complaint says.

The suit, which was filed last month and is seeking class-action status, claims that bank representatives spoke or met at least 20 times from 1999 to 2003 to share experiences from arbitration as well as advice on how to set up arbitration agreements with consumers that would withstand challenges in court.

In general, it is illegal under federal antitrust law for competitors in any industry to secretly collude to restrict trade or commerce.

A spokeswoman for Capital One said in a statement that the company doesn't comment on pending litigation but added that its "arbitration clause allows either party involved in a dispute to have the case considered by an impartial arbitrator to determine a final and binding resolution to the problem."

Representatives of the other banks either declined to comment or couldn't be reached. The financial firms named in the case have yet to respond to the substance of the allegations in court.

The case, filed on behalf of seven plaintiffs who live in California, Pennsylvania, New York, Illinois and New Jersey, comes as mandatory arbitration clauses are becoming increasingly common in industries ranging from cable television to Wall Street brokerage firms.

Companies have argued that arbitration provides a speedy and fair alternative to litigation and prevents disputes from escalating into class-action complaints that can cost them and their shareholders dearly.

Consumer-rights advocates claim the practice unfairly removes consumers' right to pursue a class-action complaint or a jury trial over such things as late-payment penalties while also allowing companies to settle claims with little publicity.

A recent study by Ernst & Young, citing criticism of arbitration, reported that while consumers often can opt out of mandatory arbitration clauses, they rarely know such an option exists and that it can be buried in a card agreement's fine print. The study found consumers prevailed more often than businesses in an arbitration. Ernst & Young said it was engaged by the law firm Wilmer Cutler Pickering Hale and Dorr, which has worked with card companies.

The case against the credit-card companies also gives details on the practices of a Minneapolis-based group called National Arbitration Forum, one of several national arbitration panels that hear disputes between companies and customers across a wide range of industries.

According to the complaint, NAF billed itself in one solicitation as "the alternative to the million-dollar lawsuit." The complaint doesn't specify who the solicitation was aimed at, but says: "The clear implication of this appeal to corporate clients is that arbitration through NAF will effectively eliminate any significant remedy in a consumer dispute, whatever the underlying merits."

The complaint also alleges the group said that its rules provided for "very little, if any, discovery" -- the legal term for fact-finding once a case has been filed. NAF isn't named as a defendant in the suit.

Curtis Brown, the general counsel for NAF, said in an emailed response to questions: "Since we are not a party to the lawsuit, I would direct you to the parties and their lawyers for a comment." He said NAF provides unbiased arbitrators and he cited past court decisions establishing that the NAF treated consumers fairly.

The central allegation in the case concerning arbitration clauses is that the defendant banks worked together to create or maintain mandatory arbitration clauses as a way to thwart class-action lawsuits brought by consumers. The plaintiffs, represented by Berger & Montague of Philadelphia and other firms, are seeking to have the mandatory arbitration provisions in the complaint declared void.

According to the complaint, two prominent law firms advised the banks in creating the arbitration group or attended meetings where strategies for discussing arbitration were discussed. Those firms, not named as defendants in the suit, are Wilmer Cutler, of Boston and Washington, D.C., and Ballard Spahr Andrews & Ingersoll of Philadelphia.

Representatives of Wilmer Cutler were unavailable for comment. Ballard Spahr declined to comment.

The complaint alleges that the banks began discussing the issue of mandatory arbitration clauses in the late 1990s, the same time that the clauses were introduced in the industry. The agenda for the first Arbitration Coalition meeting, held in the summer of 1999, outlined how the group could work together on promoting mandatory arbitration, the complaint alleges.

Among the proposed steps were "sharing best practices" and drafting "enforceable arbitration clauses," the complaint alleges. Two additional groups were formed: the "Consumer Class Action Working Group" and the "In-House Counsel Working Group," the complaint says.

For a conference call in the summer of 2001, bank representatives were given the access-code word, "arbitration," the complaint alleges. The agenda, according to the complaint, included seeking ways to protect the banks from plaintiff lawyers and ways to create an informal " 'information please' email network."

Overdue Credit Card Bills Hit Record High
Sep 28 By JEANNINE AVERSA AP Economics Writer

WASHINGTON

Charge it! That familiar refrain is producing an unwanted response for more Americans: Your bill is overdue! Surging energy prices, low personal savings and the higher cost of borrowing have combined to produce a record level of overdue credit card bills.

The American Bankers Association reported Wednesday that the percentage of credit card accounts 30 or more days past due climbed to an all-time high of 4.81 percent in the April-to-June period. It could grow in the months ahead, experts said.

The previous high of 4.76 percent came during the first three months of the year, in keeping with a generally steady rise over the past several years.

"The last two quarters have not been pretty," said Jim Chessen, the association's chief economist.

Chessen and other analysts mostly blamed high prices for gasoline and other energy products, but said that low savings and higher borrowing costs also played a role.

"The rise in gas prices is really stretching budgets to the breaking point for some people," Chessen said. "Gas prices are taking huge chunks out of wallets, leaving some individuals with little left to meet their financial obligations."

Pump prices were high before hurricanes Katrina and Rita hit the Gulf Coast. After Katrina, prices jumped past $3 a gallon. Prices have moderated since but remain high.

The personal savings rate dipped to a record low of negative 0.6 percent in July. The negative percentage means that people did not have enough left over after paying their taxes to cover all of their spending in July. As a result, they dipped into savings to cover the shortfall.

When people have less money available money to pay for energy costs or emergencies such as a big car repair, many resort to credit. That option is getting more expensive, too.

The Federal Reserve has been tightening credit since June 2004. That has caused commercial banks' prime lending rate to rise to 6.75 percent, the highest in four years. These rates are used for many short-term consumer loans, including credit cards and popular home equity lines of credit.

Late payments may be bad news for consumers, but credit card companies do not necessarily mind them because late fees are a source of revenue.

"Credit card companies are increasingly addicted to their fees," said Daniel Ray, editor-in-chief at Bankrate.com, an online financial service. "Six years ago, all fees _ including late fees _ contributed only a minor portion to overall revenue. Today it accounts for more than 30 percent."

About half of all credit problems stem from poor money management. Credit problems due to the loss of a job, sickness or divorce play less of a role, said personal finance expert Susan Tiffany, director of consumer publishing at the Credit Union National Association.

"That tells us people have some ability to do a better job. They are not completely helpless in the situation, and that's good," said Tiffany, whose trade group also is involved in efforts to improve people's financial literacy.

Getting back on the road to financial health takes discipline and hard choices about what can be cut back or eliminated. If credit card problems are plaguing a family, all the members should work together to come up with a plan and pare down spending.

From an economic perspective, the current rise in delinquent credit card payments is not overly worrisome. But if the trend were to continue for a sustained period, it could spell trouble for the overall economy, said Lynn Reaser, chief economist at Bank of America's Investment Strategies Group.

"It's a flashing yellow light that we need to watch," she said.

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On the Net: American Bankers Association: http://www.aba.com/

Bankruptcy law will hurt victims
September 14, 2005 Molly Ivins

HERE'S a good idea: Consumer groups and progressive congressfolks have joined in an effort to stop hundreds of thousands of victims of Hurricane Katrina from being further harmed by the new Bankruptcy Act, scheduled to take effect Oct. 17. This law was notoriously written of, by and for the consumer credit industry, and is particularly onerous for the poor.

The bill was passed with massive support from the Republican leadership in Congress and from a disgusting number of sellout Democrats. While it was being considered in committee earlier this year, Texas Rep. Sheila Jackson Lee offered an amendment to protect victims of natural disasters. It was defeated, without debate, on a party-line vote.

Now, Congress has a chance to rethink some of the most punitive parts of the bill. Katrina victims who were planning to file before the new law goes into effect are S.O.L. — where they gonna find a lawyer, let alone an open courthouse?

Under the new law, anyone whose income is over the state median must file under Chapter 13, a more restrictive category that requires some repayment of debt. The new law grants no exemption for natural disaster, even though it's going to be a little tough for some citizen sitting in the Astrodome who no longer has a home to come up with tax statements, pay stubs, and six months of income and expense data. Let's see if Congress can manage to open its marble heart on this issue.

Debt Lawyer Could Face 25 Years
September 9, 2005 By Joe Swickard, Free Press Staff Writer

One of Michigan's largest debt-collection lawyers could face more than 25 years behind bars and fines of $77,000 for filing allegedly fraudulent court documents and affidavits, a Lincoln Park district judge ruled Thursday, drawing nodding approval from a portion of the courtroom gallery.

Judge David Bajorek rejected defense arguments in a pretrial hearing, saying that attorney Howard Alan Katz could be sentenced up to 30 days in jail and fined $250 for each of the 308 counts of criminal contempt if he is convicted.

Katz faces a jury trial Sept. 29 before Bajorek.

Defense attorney David DuMouchel said it was improper to stack the sentences: "This is not how things are done."

But special prosecutor John Gillooly said Katz, 60, is engaged in "a continuing practice. ... It's got to stop."

Bajorek agreed, saying serving all the sentences at the same time would not match the scope of the alleged actions.

Bajorek brought the contempt charges in July after finding what be believed were numerous fraudulent documents in collection cases.

The documents were filed to support the collection of overdue bills, garnishment of salaries and the seizure of other property to pay off interest, costs and fees that could double or triple the debts.

Since the contempt charges were brought, dozens of people have come forward claiming that their wages were garnisheed without notification or chance to fight the assessment.

Others said that Katz -- who brings about 2,000 debt collection cases a year-- levied excessive fees, costs and interest with little or no explanation.

Attending the hearing were three people sued by Katz whose cases now are on hold. "I hope we get some justice," said Richard Stewart of Lincoln Park.

Mary McLaughlin said she had tried to tell Bajorek she was never notified by Katz. "Obviously, he didn't believe me then," said McLaughlin, also of Lincoln Park.
The Michigan Court Administrative office had all the state's district and circuit courts review their records for cases brought by Katz.

Suit Alleges Credit Card Companies Colluded
- WSJ Thu Sep 1, 2005 NEW YORK, Sept 1 (Reuters) –

A lawsuit filed in New York federal court alleges eight leading credit card companies violated U.S. antitrust laws by colluding to promote arbitration of customer disputes, the Wall Street Journal reported on Thursday.

It said the complaint alleges Bank of America Corp., Capital One Financial Corp. J.P. Morgan Chase & Co, Morgan Stanley's Discover unit, Citigroup Inc., MBNA Corp., Providian Financial Corp and Britain's HSBC Holdings plc "combined, conspired and agreed to implement and/or maintain mandatory arbitration."

Many of the largest U.S. credit-card companies require customers to sign away their ability to take disputes to court and instead settle disagreements in arbitration, the newspaper said. Now that practice itself is under attack in court.

The suit was filed on behalf of seven plaintiffs who live in California, Pennsylvania, New York, Illinois and New Jersey.

Some of the banks named allegedly convened a group in 1999 called the "Arbitration Coalition" or "Arbitration Group," the complaint says, according to the Journal.

The suit, which was filed last month and is seeking class-action status, claims that bank representatives spoke or met at least 20 times from 1999 to 2003 to share experiences from arbitration as well as advise on how to set up arbitration agreements with consumers that would withstand challenges in court.

In general, it is illegal under federal antitrust law for competitors in any industry to secretly collude to restrict trade or commerce, the Journal said.

A spokeswoman for Capital One said in a statement to the newspaper that the company does not comment on pending litigation. But she added that its "arbitration clause allows either party involved in a dispute to have the case considered by an impartial arbitrator to determine a final and binding resolution to the problem."

There was no immediate comment from any of the other banks named in the suit. The firms named in the case have yet to respond to the substance of the allegations in court, the newspaper said.

For Release: August 16, 2005

Marketer of "Free Credit Reports" Settles FTC Charges

"**Free" Reports Tied to Purchase of Other Products; Company to Provide Refunds to Consumers**

Consumerinfo.com, Inc., doing business as Experian Consumer Direct, has settled Federal Trade Commission charges that it deceptively marketed "free credit reports" by not adequately disclosing that consumers automatically would be signed up for a credit report monitoring service and charged $79.95
if they didn't cancel within 30 days, in violation of federal law. The settlement requires Consumerinfo to pay redress to deceived consumers, bars deceptive and misleading claims about "free" offers, requires disclosure of terms and conditions of any "free" offers, and requires the defendant to give up $950,000 in ill-gotten gains.

According to the FTC complaint, the defendant drove consumers to their www.freecreditreport.com and www.consumerinfo.com Web sites with radio, television, e-mail and Internet ads that promised free credit reports and a bonus - free trials of a credit-monitoring service. Ads made claims such as:

Payday Loan Scams

Being in the position I am, I have the advantage of talking to many people across the nation with regard to credit and debt issues. Something that is beginning to really concern me is the growing trend of consumers falling into the trap of the "Paycheck Advance" trap. If you are not aware of these places, they advance you a loan prior to getting your regular paycheck. The problem is they charge you an exorbitant amount of interest which could put you in a worse situation the following month trying to pay it back.

No one knows more than I that there are a lot of consumers out there that live paycheck to paycheck and sometimes your back is against the wall and this option might seem like the light at the end of the tunnel...it's not...just behind that bright light is a cliff that will take you deeper in debt than you were before.

The other major problem with these agencies is the measures they take if we default. They utilize the services of lower-than-dirt collectors to hunt you down for what they say you owe, which only adds to the already mounting stress on you, not to mention the hit to your credit score. It is not worth it, please, please think really hard and exhaust all other options before being ruined by these places.

- Bud Hibbs

top

MBNA Turns Up the Heat

http://www.consumeraffairs.com/news04/2005/mbna_interest.html

April 26, 2005
MBNA's surging profits may make it popular with investors but its propensity for self-surging interest rates isn't going over so well with its cardholders.

Consumers writing to ConsumerAffairs.Com complain that their MBNA interest rates have jumped from a reasonable 5.99% fixed rate to a 15.99% variable rate, from 18.99% to 26.99% and even from 7.99% to 26.99%. That unlucky customer, Kevin M. from Hamden, CT, was outraged.

"It's just plain robbery. I went from being able to comfortably pay my bills to an overnight crisis situation," he said.

MBNA claims to offer written advance notice any time an interest rate changes for any reason, yet consumers repeatedly claim they received no notice about their rate changes. It's only upon opening their monthly statement that they learn of the increase.

In July 2004, Jason M. of Ridgecrest, California opened his MBNA bill to find his rate had increased from 7.9% to 17.98%, "claiming that the increase was the result of information gained from my credit report and was unrelated to my payment history with their company."

When Jason contacted MBNA's customer service department, he was told that written notification had been sent out to consumers, advising them of the potential rate increase.

"I was told that the notification was mailed with my July statement. As luck would have it, my July statement was still unopened in the kitchen as I recently moved and paid my bill online. When I opened the statement there was no notification in it," he said.

Asked to comment, MBNA representatives did not return calls and e-mails.

Dale B. of Minneapolis, Minnesota received MBNA's Gold Option account, a personal installment loan with a fixed rate of five years, and a fixed payment amount. Although MBNA's Gold Option website states that "Your APR is not guaranteed for any period of time and may be changed by MBNA," Dale was nonetheless surprised to find his loan rate had jumped from 18.99% to 27.98% after applying for an auto loan.

"MBNA now sees me as a risk and has drastically increased my APR and extended the term of the loan," he stated. "I have never been late with a payment, and have not defaulted in any way with this or any other credit account that I have ... MBNA claims I received a mailing telling me about the rate increase, and that it was due to me taking on additional credit. I do not recall such a mailing."

The MBNA representative offered Dale the chance to pay the loan off in full and close the account, which he was unable to do, leaving him saddled with a 72-month installment loan at a much higher rate.

Customer Service
MBNA is generally considered the leading credit card issuer. Most other companies follow its lead. But MBNA's reputation for customer service appears to be in steep decline, judging by the complaints received by ConsumerAffairs.Com.

Dutch B., from Marana, Arizona, missed a payment on his MBNA card when he moved circa October 2004. He was shocked to find that his interest rate had jumped to 25 percent, and that he owed MBNA another $112. He tried to dispute this charge but to no avail.

"In the meantime, they are phoning me all hours of the day and night, not showing up on the caller ID, then [when I call], I'm asked to wait for the next operator. The operators are very nasty, threatening, overbearing and extremely rude," he said.

Other consumers have complained of continual calls at their workplace, MBNA representatives asking co-workers for customers' cell phone numbers, and of offering deliberately false terms of rates and loans.

Jeff Stroman, of Norridgewock, Maine, a former MBNA call center employee, describes an atmosphere of constant pressure to push cards and "encouraging representatives to 'bend' the rules in order to make a sale."

"You are competing against your peers, constantly trying to outsell them. If your stats fall below a certain measure -- and they will when representatives don't (bend the truth to make a sale) -- you will be placed on probation and lose your incentive for a time no matter what your performance," he said. "If you don't improve your statistics, you will be let go."

"When the management 'team' at MBNA in Farmington was comfortable around you they joked about targeting the elderly and young adults," Stroman said in an interview.

Stroman noted the willingness of other employees to be less than truthful about interest rates in order to clear a sale and earn their incentive pay.

"It is amazing to me that I lasted there for nearly two years. I can only wonder how many hundreds of customers opened a credit card from MBNA believing the rate was 9.99%, because that's what they were told, but in reality were stuck with 19.99% or higher."

Universal Default

Even in a sluggish economy and amid reports of losses by other credit and financial companies, MBNA continues to turn a healthy profit. The company reported a gain of $432.5 million, or 33 cents per share, as its first quarter earnings this year. This was an increase from $369.9 million, or 28 cents per share, for the same period last year.

One analyst credited this to MBNA attracting "a higher class of consumer than the rest of the market," and company spokespeople said that the average MBNA customer earned over $70,000 a year. MBNA has also backed away from offering zero-percent interest loans in order to attract consumers, whereas competitors such as Capital One and Citigroup have faced rising loan defaults.

Further improving profits, MBNA was also one of the first creditors to adopt the "universal default" policy, raising the interest rates on a consumer's debt if they are late with any kind of payment on any bill, regardless of whether they pay their credit card balance on time every month.

In Jeff Stroman's words, "MBNA is so big now, and in their minds they are such 'fearless innovators,' that they are willing to be the first to use such a dragnet as 'universal default,' while Citigroup and Capital One will wait and watch to make sure they get the green light in Washington."

MBNA's continued success has earned it unrivaled clout in the political arena. As has been widely reported, it was one of the biggest financial backers of President George W. Bush's 2004 campaign, and a leading supporter of the recent tightening of bankruptcy laws.

Consumer Affairs.Com's special report on the bankruptcy legislation details how high credit card debt and inability to pay back the rapidly ballooning interest and fees often leads consumers to bankruptcy. These are the circumstances facing many credit card users, even those who have never missed a payment or used their card irresponsibly, or -- as in the case of Teresa W. from Madison, Tennessee -- never used at all.

Teresa's husband had suffered many hospitalizations, was forced to declare bankruptcy, and died, leaving her with a $12,000 debt on an MBNA card she didn't know he had. Evidently not MBNA's preferred class of customer, she was forced to deal with abusive collection agents constantly, and had her formerly low interest rate increased to 27.9% after missing two payments.

"I was a widow, no money, tired, at the point of wishing for my last breath, and now I am sending them the last of my husband's insurance death benefit of $6,000," she said in a complaint to ConsumerAffairs.Com.

In fact, it is very possible that Teresa had no obligation to pay MBNA. If the credit card was in her husband's name, she had no personal obligation to pay even one dime to MBNA. The proceeds from her husband's life insurance policy were presumably hers, not his estate's.

MBNA would have a legitimate claim against her husband's estate but not against any of Teresa's personal assets. Teresa should consult an attorney, as she may be able to recover some or all of the funds in court.

Unfortunately, credit card companies and other creditors routinely demand payment from the families of deceased debtors, knowing full well that in many cases the families have no obligation whatsoever to pay any of the deceased's debts.

"It's very sad that many have died fighting for freedom in this country, only to find they can never truly be free because the corporations that supply you with food, electricity, water, they can ruin your air if they wish, poison your water, take every penny you have and reduce you to nothing," Teresa said.

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Profile of a Debt Collector

I catch a lot of criticism for the stance I take against debt collectors and the firms they work for, but I have to tell you that every day I come to work something happens that convinces me that I am doing the right thing. If there weren't so many crooked agencies breaking the law, there would be no need for me to stay on this soap box...but there is. Less than a month ago we implemented a new feature on this web site that allowed visitors to submit their own personal experiences with collectors and the response has been phenomenal. Already we have amassed more information on these agencies than I have been able to collect in the over twenty years I have been doing this. My staff and I sit at our desks reading the comments being submitted with our jaws on our spacebars. One would think that twenty plus years of being exposed to these slime balls I would not be easily surprised...think again...I am appalled at the way some of these people have been treated. If you have read much of my web site you know how I feel about debt collectors so I will not re-hash that in this editorial. However, I would invite you to read through the "Consumer Comments" left on the various agencies so you can form your own opinion about the depths this industry has sunk to. Here is a letter to get you started. My office received this recently, concerning a debt collector from Rodney Anthony Giove's firm, a firm associated with the Lenahan Group, in Buffalo, NY;

> Giove Law Offices' legal representative BOB COLEMAN is not an attorney or a paralegal. But he'll tell you he is when he calls, just as sure as he'll tell you his name is Bob Coleman. He is a high school dropout and a racist. He is known for being proud of refusing (nor could he pass) a drug test. And he has access to your credit history and personal information. As a professional telemarketer, he has been known to steal numbers out of another company's trash for leads. He is also a con - he preys on people in vulnerable situations. He earns their trust. He makes people feel that they owe him something for being such a good friend to them. Then he convinces them to put things in their name for him and skips out on the bill. He claims that Rodney Giove will defend him if you try to seek restitution. One more thing - BOB COLEMAN is not his real name. How many more people like him work for Giove? Is Rodney Giove a real attorney? Should his unscreened employees have access to the kind of personal info that collection agents have? Would you want him knowing your address, social security number, credit history, work address and number, you relatives' and neighbors' address and phone numbers?

Don't let people like this take control of your life, and don't volunteer any information...ever. If you are being harassed by an agency and need help, call or email me, I can help you. Take care

Bud Hibbs

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