

ZOMBIE DEBT

DEBT CAN COME BACK TO HAUNT YOU YEARS LATER

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Carole Kelley got a letter out of the blue last year saying she owed nearly \$1,200 on an unpaid credit-card bill.

But Kelley says she never had plastic from the card issuer listed. No such debt had appeared on her credit report when she bought a house three years earlier. Her credit monitoring service had never turned up the debt. And the letter didn't use her current married name.

"So I called, and they told me I owed it. I said, `I don't understand this. What is this from? I can't even tell exactly where it began,'" says Kelley, a paralegal with a Westminster law firm.

When she pressed for answers, the situation turned ugly. The debt collector insisted the debt was on her credit report and that she owed it. "I got off the phone very angry, just frustrated," she says. "They treat you like a piece of dirt."

Kelley now suspects she is being haunted by zombie debt.

Zombie debt is just that - an old debt that won't die off. It may be passed from one debt buyer to another, for years, until one day consumers are startled to find a collector demanding payment.

It may be debt that the consumer owes and has forgotten - or hoped the creditor forgot. But it can also be old bills that have been paid, discharged in bankruptcy, racked up by an identity thief or belonging to someone who shares the same name. Many times, the details from the debt collector are so sketchy that consumers have no idea whether they owe the money or not.

"Usually, the sign of a zombie debt is you can't figure out what it is. It's very old. It's often from someone whom you never had a contract with so the names won't be familiar," says Towson consumer lawyer Jane Santoni. "You haven't heard anything for years and years and years. ... And then all of a sudden, it's back again. Well, where did it come from?"

Consumer and bankruptcy lawyers say zombie debt cases have grown along with the debt purchasing industry.

Debt purchasers have been around for a long time, but the savings and loan bailout in the mid-1980s took the industry to a new level.

The government sold off huge portfolios of delinquent credit- card debt to finance the bailout, spawning some of today's leading debt buyers, according to Bethesda-based Kaulkin Ginsberg, an adviser to debt buyers.

Now credit card issuers routinely package their uncollectibles and sell them to debt buyers for pennies on the dollar. Buyers take their turn at trying to collect and later might bundle uncollected debt to sell to another buyer. Debts may be sold again and again.

Credit-card bills remain the bulk of debt sold. But hospitals, retailers, gyms, utilities, cell phone service companies and student loan lenders are selling off their unpaid bills.

In 2005, debt buyers purchased \$110 billion of consumer debt and the revenue from those old bills exceeded \$3 billion, says Paul Legrady, director of Kaulkin Ginsberg.

It's a big business and growing, fueled by Americans' insatiable appetite for credit.

"We're a country that loves our debt, and whenever it is extended, there is a risk of default. And when that takes place, the sale of debt is a viable option for credit issuers," Legrady says.

This means more people will be visited by old debt that refuses to die.

'Once a week'

Sonya Smith-Valentine, a consumer lawyer in Greenbelt, says a few years ago clients would call once every four or five months to complain about zombie debt. "Right now, it's probably at least once a week," she says.

Bankruptcy lawyers say they increasingly see the resurrection of debt that was discharged by the court.

Baltimore bankruptcy lawyer Robert Grossbart says one of his clients had her debts wiped out in a 1988 bankruptcy, yet different debt collectors in the past few years have dogged her to pay those old bills.

Grossbart says sometimes people, like his client, find out about revived debts when a collector starts calling or sending letters. Or, they might discover it on their credit report when they're trying to get a loan or refinance a mortgage.

"It's sold so many times that the new buyer doesn't do any due diligence ... to verify whether this debt has been discharged or not," he says.

Brad Botes, a bankruptcy lawyer in Birmingham, Ala., says he tells clients to check their credit reports a few months after debts have been discharged. More than half the time, clients find discharged debts incorrectly reported, he says.

"Just like any other business, mistakes happen and they are typically corrected," says Dennis Hammond, president of The Debt Marketplace, a consultant to creditors and debt buyers.

But Hammond adds that credit-card issuers write off billions of dollars in unpaid bills each year and those losses are passed on to all consumers.

"Why is it the creditor or collector's fault that you haven't paid the bill or you think you shouldn't have to pay it?" he says. "Debt collectors aren't bad guys. They perform a service to every consumer in the marketplace to help keep prices down."

Debt collectors are No. 1 on the Federal Trade Commission's complaint list, accounting for nearly one out of five consumer gripes. Consumers have rights under the federal Fair Debt Collection Practices Act. For instance, they have 30 days after receiving a collection letter to dispute the debt and demand verification. At that point, the collector must stop collection efforts until it produces proof.

Some disputes aren't settled by a letter and end up in court.

Each state gives collectors a certain amount of time to file a lawsuit to recover unpaid bills. Once the statute of limitations expires, collectors can't pursue the consumer in court. That doesn't mean consumers no longer owe the money or that collectors can't attempt to collect it in other ways.

In Maryland, the statute of limitations generally is three years since the last payment on credit-card debt. Some debts, though, can be pursued in court for up to 12 years.

Beatrice Christian of Baltimore is battling three debt buyers in court now.

The 81-year-old says she paid off credit-card bills with a home equity loan in 1999 and at that time closed all but one charge account. But she started hearing from bill collectors and getting court summonses last year after refinancing her mortgage.

"If I felt that I owed it, I would make arrangements to pay," says the retired Social Security clerk. "I honestly don't feel as if I owe it."

Christian wonders if debt buyers are confusing her with another woman with the same name. She says her credit report shows a birth date that would make her about half her age.

"Part of the problem with these bills is we don't know exactly what they are for," says Santoni, Christian's lawyer. "It may be that it's a bill from the other person. It may be it's a bill that she's paid. It may be a bill that we don't know about. But they have not to date let us know why they claim these bills are owed."

Christian scored one court victory.

Worldwide Asset Purchasing sued a year ago to collect \$8,875, but the judge dismissed the case last fall, according to court documents. Christian counter-sued, and early this year the judge awarded her \$7,500 plus \$5,300 in legal fees. Worldwide is appealing, and its lawyer declined to comment.

So what can consumers do when zombie debt haunts them?

First, don't ignore it.

The problem won't go away and could end up in court. If you ignore a court summons, the judge could rule against you, possibly leading to your wages being garnished or a lien placed on your property, lawyers say.

If you recognize the debt as yours, make arrangements to repay it, says consumer lawyer Smith-Valentine.

Fighting back

If you're not sure or know it's not yours, then use the tools under the Fair Debt Collection Practices Act to fight back.

"It's actually powerful, if they use it to their advantage," says Smith-Valentine.

You have 30 days after receiving a letter - the way debt collectors usually will contact you - to challenge the debt in writing and ask for verification that the debt belongs to you. Send the letter by certified mail with return receipt to make sure the collector got it, Smith-Valentine says.

In some cases, a consumer's first notice of the debt collection is a court summons. Even then, it's not too late to ask for

debt verification and stop the collection activity until proof is provided, says Rozanne Andersen, general counsel for ACA International, a trade group for debt buyers and collectors.

Of course, the collector might come back with the evidence to jog your memory about a bill you owe. If there's doubt that it's your debt, resist the temptation to pay some money to get rid of a persistent collector, until you get verification.

"The burden of proof is on the collector to show that the debt is owed," Santoni says. "What people often do in these cases, they go ahead and pay something because they are panicked."

Problem is, making a payment may be seen as acknowledging the debt, she says.

If it was your old debt and the statute of limitations had expired, making a payment will start the clock again. It also can lead to the debt reappearing on your credit report, lawyers say. Delinquent debts generally remain on a report for seven years.

Working in a law office, Kelley was aware she had rights. "I know I don't owe it," she says. After she spoke with the debt collector last fall, she wrote a letter disputing the debt. "I haven't heard from them again," she says.

The debt collector says due to privacy laws it cannot comment on Kelley's case.

Kelley has advice to fellow consumers: "Read the mail, even if you think it's junk. ... You never know what's disclosed in there."

To suggest a topic, contact Eileen Ambrose at 410-332-6984 or by email at eileen.ambrose@baltsun.com

[Illustration]

Photo(s); Caption: 2. Beatrice Christian, 81, of Baltimore has been fighting debt collectors in court over zombie debt for the past year. She says she paid off credit-card bills with a home equity loan in 1999.; Credit: 1. Photo Illustration by Brian Henderson; Original Images by Istockphoto 2. Barbara Haddock Taylor : Sun photographer

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Abstract (Document Summary)

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