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Money & Careers

Why bills for old credit-card liabilities — even disputed claims — can suddenly arrive in the mail

CONSUMER WATCH

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After Kim Mullen filed for bankruptcy in 1993, she cut up all her credit cards in her lawyer's office. Since then, the Levittown resident has managed to obtain a good credit rating.

But in December, a debt collector contacted her, saying she had an unpaid card balance of \$5,655 from 1992. With interest, the letter claimed, the debt had grown to \$19,400.

As old debt seems to rise from the dead, it's taken on a name — "zombie debt." And in recent years, more and more such debt is coming back to haunt consumers, according to their advocates and lawyers who specialize in debt.

Mullen, 46, says she doesn't remember the debt and has challenged it. Others who have received such notices say the purported old debts are a result of identity theft.

Many credit card companies have started selling delinquent accounts to collectors to boost

quarterly earnings, according to a report by Kaulkin Ginsberg, a Rockville, Md.-based adviser on debt collection.

The collectors then resell some of that debt to other collection agencies, accounting for \$100 billion in credit card debt sold annually, according to the March 2006 report.

"Zombie debt is definitely an issue on Long Island," said Joseph Mauro, a West Islip consumer lawyer specializing in debt-collection issues.

Nassau/Suffolk Law Services, a nonprofit civil legal services program for the poor, launched a clinic in December to help military personnel and low-income consumers facing debt-collection lawsuits, many of which involve old debt, said Mauro, who obtained a private donation for the project.

He said some victims of identity theft in the 1990s face calls from collection agents for credit cards they never used.

Mullen said the letter from NCO Financial Systems, based in Horsham, Pa., transported her to her long-ago financial troubles. Now "I take sleeping pills, which I never did," she said. "When I do get sleep, I wake up wide awake — like I jump up."

Experts say Mullen's financial

recovery made her more likely to face demands for the old debt because collection agencies target debtors in good financial shape who are more likely to pay, said Jacob Silver, a bankruptcy and debt collection attorney in Garden City.

Though collection agencies can't legally contact consumers for debts included in a bankruptcy, experts said sometimes agencies may not know about the bankruptcy, which is removed from credit reports after seven years.

Wrongly pursued

Central Islip resident Nick Estrada, 45, a school bus driver, said he and his wife have been hounded since 2001 over debt for three credit cards opened in his wife's name 10 years ago — in three states where they never lived.

"I was really surprised because we never, never opened those accounts," he said.

Rozanne Andersen, executive vice president and general counsel for ACA International, an industry trade group for debt collectors based in Edina, Minn., said that if consumers inform a collection agency that the debt is due to identity theft, the agency must investi-

gate that claim.

Mauro, who represents Estrada, said the credit card companies acknowledged Estrada was a victim of identity theft — but that may not have prevented the sale of the debt because credit-card company fraud units don't always notify the debt-selling unit.

Zombie debt has its origins in the 1990s, when credit-card companies sought to maximize interest payments by offering cards to customers with a history of carrying balances from month to month, said Brian Bromberg, a Manhattan lawyer who represents consumers dealing with debt collectors.

When cardholders defaulted, banks would sell the debt to collectors. If those agencies couldn't collect, they resold the debt to another company, which might resell it yet again.

When the debt became more than a decade old, it might have been sold for pennies on the dollar, with a successful collector making big profit. At a penny on a dollar, for example, a \$10,000 debt would cost a collector just \$100. So even if the collector managed to get paid just a few hundred dollars of that debt, the profit margin would be substantial.

Some debt collectors prefer old debt because it's so cheap. "It's a huge growth industry," Bromberg said.

That doesn't make it easy for the consumer — who may have disputed the debt with one agency but, once the debt is resold, gets even more calls and letters trying to collect.

"These debts are being sold so quickly, and it's so unregulated, that there is essentially no way to stop the collection letters, the reporting of it on the credit report and the phone calls," Mauro said.

The consumer does have protection: Six years after a debt goes into default, the collector can no longer sue to collect. And after seven years the debt can't be shown on a

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Read the Fair Debt Collection Practices Act, the law that spells out U.S. regulations on the issue.

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How to cope with 'zombie debt'

Here are some tips and information from consumer advocates and government agencies regarding old debt:

- Request documents verifying the debt.
- If you don't owe the debt, send a certified letter disputing the debt within 30 days and demand that the collector stop contacting you.
- If the debt is more than six years old, the collector cannot sue or threaten to sue you.
- If the debt is more than 7 years old, the collector cannot report it to a credit agency or threaten to do so.
- If you had filed for bankruptcy after the debt was due, tell the collector.
- If you don't owe the money or the debt was included in a bankruptcy, tell the collector not to sell the debt.
- Never give a collector the ability to debit your bank account because you may have difficulty stopping the debits.
- Low-income residents and military personnel facing debt collectors may contact the Nassau/Suffolk Law Services (nslawservices.org) for help.

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consumer's credit report.

But efforts to collect old debt are legal, as long as the collector doesn't threaten to sue or report the debt to a credit agency. Consumers who have repaired their credit may feel they need to pay the old debt to avoid a credit blemish.

"Technically, debt never dies," said Richard Feinsilver, a bankruptcy attorney in Carle Place. "People can be haunted for the rest of their lives."

Debt disputed

When NCO contacted Mullen, she said, she didn't recognize the credit-card account number. But she knew her rights — and sent NCO a letter disputing the debt.

Experts say account numbers and even bank names on old debt can change over time.

Andersen, of the trade group, said the industry is working to make sure creditors include documentation when selling debt. But Mullen said that when she demanded proof of the debt, NCO didn't provide it.

NCO, in turn, sent her a letter stating she had agreed to pay and that the company would accept \$5,655 principal as payment in full, with interest waived. She then sent NCO a cease and desist letter.

Such a demand of partial payment is common, experts say, because if payment is made, collectors assert that the statute of limitations has started ticking again, allowing the agency to threaten a lawsuit.

But lawyers say the law is unclear on whether making a payment can revive old debt.

Brian Callahan, vice president of financial reporting for NCO, said he couldn't discuss Mullen's situation. He also wouldn't comment on whether NCO obtains documentation. "I'm not at liberty to discuss what is involved in our purchasing process," he said.

Callahan did say that about two-thirds of NCO's revenue comes from collecting on behalf of clients. Collecting on debt that NCO has purchased represents a portion of the remainder, but he declined to say how much.

Collecting debt has been a billion-dollar business for NCO, the country's largest

debt-collection agency. In the first nine months of last year, the company posted \$936 million in revenue, according to a recent filing with the Securities and Exchange Commission. (NCO is not a public company but does file with the SEC because it has incurred debt that is publicly traded.)

In 2004, NCO agreed to pay \$1.5 million to settle charges it violated the Fair Credit Reporting Act. The company falsely reported dates of delinquency to credit agencies, the Federal Trade Commission charged, allowing debt to appear on credit reports more than seven years after the actual default.

Separately, attorneys general in New York and Texas subpoenaed the company regarding its debt-collection practices in August 2006 and April 2007, respectively, according to an SEC filing in November.

NCO's filing said the company believed it complied with the law in those states.