1257 Commercial Dr. SW Ste B
Conyers, GA 30094

Office: (678) 750-3787
Fax: (678) 528-9513
Email: attorneys@novaemoney.com

www.novaemoney.com

COMMON VIOLATIONS of the

FAIR CREDIT REPORTING ACT

FAIR DEBT COLLECTIONS PRACTICES ACT

TELEPHONE CONSUMER PROTECTIONS ACT

attorneys@novaemoney.com
www.novaemoney.com

Recent Common Fair Debt Collection Practices Act (FDCPA) Violations

Debt collectors may be in violation of the FDCPA when they:

- Harass, oppress, or abuse you.
- Continue collection efforts after you write them to stop.
- Contact you after representation by an attorney.
- Threaten IRS reporting or tax consequences, if untrue.
- Threaten a lawsuit when none is intended.
- Call your cell phone without permission.
- Place private, personal information that is visible through, or on, a mailing envelope.
- Misrepresent, miscalculate, or inflate the amount of the debt.
- Fail to disclose that they are a debt collector.
- Contact you after 9pm or before 8am, unless you have requested that they do so.
- Threaten legal action, or sue, on a time-barred or “stale” debt.
- Threaten wage garnishment (for most debts).
- Represent that they operate or work for a credit bureau.
- Provide inaccurate or false information to the credit bureau.
- Continue collection after you filed for bankruptcy.
- Fail to report your disputed debt as disputed to the credit bureaus.
- Continue collection before validating debt in response to your request.
- Inform you of any untruthful information in an effort to force you to make a payment.
- Fail to make it unclear when interest, if any, will be added to your account.
- Fail to provide the required disclosures in their initial and subsequent letters.
- Confuse you as to who the money is owed to.

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Recent Common Fair Credit Reporting Act (FCRA) Violations

Debt collectors, original creditors, & credit bureaus may be in violation of the FCRA when they:

- Fail to remove false information. This may be a result of identity theft. For example, a client discovers false information that did not belong to them on their credit reports and disputes the information with the credit bureaus. The credit bureaus supposedly "verified" the fraudulent information and the disputed fraudulent information remains on the identity theft victim's credit reports.

- Mix up one person's information with another's because of similar (or same) last name or social security number. For example, a client obtains their credit reports and notices information that relates to someone else (perhaps a family member, ex-spouse, someone else with similar personal information). The credit bureaus "mixed" their credit file with someone else's credit file because they have the same / similar name and perhaps shared the same address at some point in time. As a result, the client's file contained false information that did not belong to them and negatively affected their credit score and ability to get credit. Client disputed the false information, but the credit bureaus supposedly "verified" that the information belongs to the client.

- Disclosed a credit report without a "valid need'. With your consent, a credit report may be provided to creditors, landlords, insurance providers, utility companies and employers. It is a violation to pull a credit report for an impermissible purpose, such as determining if you are collectible in a lawsuit, an employer pulling the report without permission or a creditor on a discharged debt in bankruptcy using the report to check on your current financial activity.

- Inaccurately reporting bankruptcy filing. For example, a client filed a petition for Chapter 7 bankruptcy. Their bankruptcy was discharged by the court. Client obtains their credit reports from Equifax, Experian and Trans Union and discovers accounts included in her bankruptcy that are not being reported with a $0 balance and are being reported as past due. The credit reports included outdated information as the bankruptcy discharged their indebtedness. Alternatively, there may also be a situation where certain accounts were not included in bankruptcy but were reported as included.

- Inaccurately reporting information on background reports. Yes, background report companies must also provide accurate data. For example, a client receives a job offer contingent upon a clean background check. Employer obtains background report concerning the client and the background report includes criminal convictions that did not belong to client and the job offer was rescinded. Another example, a client applies for an apartment and the company obtains a background report that includes criminal arrests or convictions that do not belong to client. Company denies client's application for housing due to an inaccurate criminal history.

- Failing to send you notifications about your credit report or score after you submit an application for credit.

- Reporting a debt as charged off when it was settled or paid off.
- Reporting late payments when your payments were timely.
- Reporting old debts as new ones.
- Reporting that an account was active after it was voluntarily closed by a consumer.
- Reporting information that is more than seven years old (when bankruptcy notices should lapse) or 10 years old (civil judgments).
- Inaccurate statement of balance due.
- Failing to have a reasonable procedure for you to report identity theft (or supplying credit information on an account where identity theft was previously reported).
- A creditor failing to notify you when it supplies negative credit information.
- A "user of credit information'' (prospective employer or lender) failing to notify you of a negative decision based upon your credit report. Or that user of credit information refusing to identify the source of credit information it obtained about you.
- A creditor failing to provide your credit score if it was used as part of any credit decision.
- A creditor failing to notify you of your right to obtain a free credit report.

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Recent Common Telephone Consumer Protection Act (TCPA) Violations

The following practices are prohibited by the TCPA:

Calls to Cellphones: The TCPA prohibits use of automated calls, pre-recorded messages and text messages to cellphones. The law applies to all cellphones whether used for business or personal use. In essence, a telemarketer or debt collector violates the law every time it makes an automated "robo" call, pre-recorded message, or text message to a consumer's cell phone, unless the consumer previously gave the telemarketer or debt collector permission to call. In cases where consent has been previously given, the consumer can revoke that consent by notifying the telemarketer or debt collector to stop calling the cellphone.

Calls to Residential Phone Lines: The TCPA prohibits pre-recorded messages for calls made to residential telephone lines. It only applies to solicitations from telemarketers/sellers with whom the consumer does not have an "established business relationship." If the consumer has done business with a telemarketer/seller within the last 18 months, or made inquiry within the last three months, then it is presumed under the TCPA that the consumer has an established business relationship with that telemarketer/seller.

Telemarketing Calls to Consumers on the Do Not Call Registry: The TCPA prohibits any solicitations calls to those consumers whose telephone numbers are registered on the do not call list. Consumers can place both their cellphone and residential lines on the do not call registry. Under the TCPA, telemarketers and debt collectors using an auto dialer are also forbidden from other practices, including calling the consumer before 8:00 a.m. or after 9:00 p.m. The caller must additionally, during any call, provide his or her name, the name of the business entity on whose behalf the call is being made, and a telephone number or address at which the person or entity can be reached.