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I put this particular lecture together to save you time, and to provide you with exactly what you need to know regarding the Fair Debt Collections Practices Act (FDCPA) and the Fair Credit Reporting act (FCRA). So that you can quickly and efficiently remove negative and derogatory items from your credit file.

Knowledge is power, but it does not benefit us if we do not know how to apply it. Doesn't it annoy you when you know someone is breaking the law, but you don't know exactly what to say, who to escalate to, or what to you can do, to enforce **compliance**? My focus with this lecture/production is to give you the information, the templates, and the understanding so that you can implement and

The first thing you should do, is read through the [Fair Debt Collections Practices Act](#). You need to understand it on a practical level so that you can rightfully apply it to remedy your situation.

One important thing to note is this. The FDCPA is referred to as [15 USC 1692](#)(codification) or [Pub. L. 95-109;91 Stat.874](#) (Public Law). They both say the same thing. For example, you will find that 15 USC 1692d (for the United States Code version) is essentially the same thing as Pub. L. 95-109;901 Stat.874 Section 806 (for the Public Law version). This will be the case with Most Acts. There will be a public law version and a codified, United States Code version.

Throughout this guide I will highlight the common violations that Collection Agencies commit, and I'll reference the specific section of the act, so that you can refer to it directly, and know it for yourself.

When it comes to the strategy of removing collection accounts, I like to call the debt collector on the telephone, so that I can create a record of the violations for use throughout my process. This is not absolutely necessary, but if you want to be proficient at removing negative items, from multiple angles, and approaches, then the more comfortable you become with dealing with debt collectors and credit bureaus in Real Time, the quicker and more efficient you will be at resolving matters.

There are some violations that I **know** they are going to commit so, I prepare a [list of about 10-15 questions](#) that I am going to ask them, so I can make a precise record of their misrepresentations and deceptive practices. Foremost you must identify who you spoke to, and the time and date I spoke to them.

You will be a little nervous at first, but by the time you get to your third call, you will be a professional. When you are dealing with Debt Collectors, it is important for you to know, that they do not have any first hand knowledge as to whether or not the debt is legitimate. They are trained to gauge your responses to validate their collection efforts. The only thing they know about you, is typically your name, address, ssn, telephone numbers, and other information that they purchased from another Company that charged off a debt. Therefore, you should approach the telephone call providing NO acknowledgment whatsoever that the debt they are trying to collect is valid. When they try to question you about it, you must remember that you are not required to prove anything to them, nor are you required to answer any of their questions. They are only required to answer yours. The way you communicate this over the call, is by informing

the debt collector that you will not be discussing confidential matters without them providing a power of attorney, that they represent the alleged original creditor. There are several things you can say actually. You can perhaps tell them that you believe you have been a victim of identity theft and for that reason you are not giving any information about anything until you consult your attorney.

One of the most helpful things you can do, is to have your list of questions ready, but also have your list of responses, to any potential question they can ask you. Be creative and firm in your responses. Check out the creative responses, questions, and statements that I use when I'm communicating with them.

**Did you have a loan with XYZ company?**

On what basis are you asking me this question. Do you represent the XYZ Company? For privacy reasons I cannot provide you with personal information.

or

Why are you collecting information, and what are you going to do with it? You still haven't told me who gave you my Name, and SSN, I believe that you've retrieved my info unlawfully.

or

Am I legally required to give you this information? If so I prefer that you answer my questions and I'll refrain from answering yours.

or

I can neither confirm or deny that at this stage of our communications, because I you are not my legal representative, nor do I believe you represent this other party you are alleging to be the Creditor.

**Sir you did take out a loan with ABC Company or You did agree to pay ABC Company and you are liable for...**

Are you making a legal determination? Do you have first hand knowledge of what you are saying? Are you 100 percent certain that you are not making a false statement?

**We got your info from Original Creditor Company**

I need to know who gave you the information because I did not give anyone at Original Creditor Company permission to sell my private information. You did say you purchased this correct?

You told me the original creditor charged the account off. This means all collection activity stopped, and the account on the creditors books were balanced. So if your telling me the account was transferred for collections, that is a deceptive and false statement. It was sold for value correct? Did <Original Creditor Company> original creditor sell you my private info?

Listen to the example call below. Anything they say can and will be used against them. You do not need to record your call, you simply need to keep notes, and write down their answers.

Listen to this call. **Returned Call to Debt Collector** It isn't my best work, but you can use this as a tool to learn how to communicate with them.

Again, these people are only trying to collecting information and make assumptions. They do not know anything about you except for what is in their file, and whatever you confirm to be true. Therefore, you should not answer ANY questions for them. They need to answer all the questions. Remember, the law says what THEY are required to do as the Debt Collector. This is why you want to become intimately familiar with the FDCPA, this is your authority over them. You can tell them what they are required to do for you, and you can tell them that you are not required to give them any personal information.

This is your private information, that they typically store in their files about you

*(Name, Address, Home phone, Work phone, Cell phone, Social Security number, Date of birth)*

**Ok so let's analyze the violations that Danielle made on this call.**

She made a misrepresentation by claiming that they did NOT open a new account. (they did)  
15 USC 1692e(2)(A), falsely characterizing the account as an "open"account

She claims she doesn't need to give me a disclosure (but she does)(violation of xyz)  
15 USC 1692a(6) (6) The term "debt collector" means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or **indirectly**, debts owed or due or asserted to be owed or due another.

She admits to purchasing a debt (but also claims it was charged off)

(15 USC 1692e(10) by using a false representation or deceptive means to collect or attempt to collect any debt.

15 USC 1692e(2)(A), falsely characterizing the account as an "open"account

She admits that the "original" account was closed, and tries to deny reopening a new account (reaging, violation of xyz, ) This is a violation of the Fair Credit Reporting Act, see the publication issued by the Federal Trade Commission (Consumer Reports – What information Furnishers Need to Know). Again, her denial is another false representation and a violation of (15 USC 1692e(10) by using a false representation or deceptive means to collect or attempt to collect any debt.

15 USC 1692e(2)(A), falsely characterizing the account as an "open"account

15 USC 1692e(8) by communicating credit information, which is known to be false

Did you hear that? She agrees to me naming her in my Affidavit of identity Theft.

Ever talk to someone so stupid that they made you squint? Just plain foolishness on her part.

What does it mean when they say the account was sold, or the account was transferred for collections. No matter what a third party debt collector tells you about the way they obtained the account, you will find out that in one form or another they broke the law in doing so, and at bare minimum, they are going to give you a misrepresentation when you communicate with them about it. If you've read through the FDCPA by now, you know that any deceptive form of communication is a violation.

So, when they say...

**The account was transferred to us for collections.** You should ask..

**Did you Purchase the account? Or, was it charged off. What date was the Original account closed. What day did you open your account using my information.**

(if they purchased it after it was charged off, then the account wasn't transferred FOR collections. They purchased your private information in order to force you to contract with them. When an account is charged off, it essentially is PAID off. The liability is no longer on the original creditors books, and they can no longer report on the account. The account is then closed.)

After collecting this preliminary information, I like to send a friendly letter to an Officer of the Debt Collector Company. This isn't necessary, but I tend to think it causes them to take you seriously, which in essence will make them more inclined to not engage you when they receive your **dispute letter**. [Letter to the CFO, pointing out violations of FDCPA](#) .

The Federal Trade Commission (FTC), and the Consumer Finance Protection Bureau are always welcoming reports of Unfair Deceptive Acts and Practices (UDAP), because prosecuting companies is how they get paid. (\$10,000 per violation). Under the Federal Trade Act, a violation of the FDCPA is a UDAP. The letter to the CFO, Treasurer, or Officer of the Debt Collector Company is setting them up for real trouble, which increases the likelihood that they will not want to deal with you in the dispute/validation process. Ideally, one should send such letter immediately after the phone call (24-48hrs).

Now let's get on to actually Removing the negative items by the dispute/validation process. You first have to have a copy of your recent credit file from one of the 3 major Credit Reporting Agencies. In it you will find any negative accounts as well as the contact information for the Debt Collector reporting on such account. Asking for validation is basically a form of disputing the debt altogether. It's kind of like challenging the allegation that the original account ever existed. Disputing on the other hand, presumes the account is valid, but challenges certain aspects of the debt, such as the amount, credit limit, timeliness of payments. In some instances it may be necessary to only dispute information, without requiring validation, but for the purpose of this lecture, we are trying to remove these accounts altogether so here, I've provided a letter that requests Validation and Disputes the information at the same time.

[1-Debt Validation Letter](#). You should send this letter to the Debt Collector, and provide a copy to each of the three major credit bureaus for their records. After 30 days the debt collector must either remove the negative items, or validate the debt in accordance to the terms set forth in the validation letter. If the Debt Collector goes into default, you can use the letters, and tracking numbers to have the Credit Agency remove the information from your file.

From this point, it would be very impractical for us to think of every situation and tell you exactly what you should do to have the Collection Account removed. The third party Debt Collector will remove the collection account, or you will have to pressure the Credit Agency to remove the items, once the Debt Collector defaults. Your knowledge of what they can and can't do will carry you through any unperceived responses. Remember your remedies are sending letters to report violations to the FTC, or Consumer Finance Protection Bureau, while CCing the Debt Collector or Credit Reporting Agency. In my experience these organizations will not fight as hard as you are willing to fight. I've removed debts of up to 25,000 using validation requests, statements of account, and administrative procedures. The statement of account can be used to certify the balance of an account to be zero. Statement of Account is slightly different from validation, whereas the statement of account will correct negative info, and the debt validation approach will remove the account altogether. The statement of account is discussed on [thctrust.org](http://thctrust.org), but we will be discussed in more detail, in the future.

If you think the debt collector is going to fight you tooth and nail, over the alleged debt, then you can use [this letter \(Validation-Verification-Proof-of-Claim\)](#), which is designed to be used with an [Administrative Procedure](#) (log into [www.thctrust.org](http://www.thctrust.org)) and establishing a Default.

To discuss the details of administrative procedure in regard to removing a collection account is beyond the scope of this lecture, but you can learn more about administrative procedure by watching the free videos on [TheTrust.org](http://TheTrust.org), or you can schedule a [coaching and consulting session with Tex Mason](#).

Here are some quick Notes, regarding what Debt Collectors Can and Can't do, in accordance with the FDCPA

- Ss 804 (1) They must Identify themselves, and their company [15 USC 1692b]
- Ss 804(5) May not use any language or symbol on the mailing envelope in connection with Debt collecting
- Ss 804(6) may only communicate w/ consumers attorney when known
- Ss 805 Without permission they can't communicate with you
- Ss 805(b) cannot communicate with any third party (except your Attny and reporting agency)
- Ss 806 Can't call at odd times, must cease and desist when told to in writing
- 806(1) [15usc1692d] cant harass, threaten, oppress, abuse criminal means to harm the repetition, ringing the phone, or engaging in conversation to annoy you (Count the rings), answer them and get your phone record.
- 807[usc 1692e] No false representation, amount, charchter, legal status or , threat to take action. False representation that a consumer committed a crime.
- 807[usc 1692e] No -Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure

to communicate that a disputed debt is disputed; No - use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

- (12) The false representation or implication that accounts have been turned over to innocent purchasers for value.
- The term "debt collector" means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts,
- The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose,
- Inaccurate information, but you cannot, under any circumstances, report information the consumer has told you is inaccurate if it is, in fact, inaccurate.
- 814 [15usc1692] a violation of this title shall be deemed an unfair or deceptive act or practice in violation of the [Federal Trade Commission Act](#)

Remember a creditor is always asking questions, and never taking positions. Except for those positions already proven by the Contract. So essentially I'm saying, the only positions you should be taking is, forcing them to respond to the questions according to their obligations under the Fair Debt Collections Practices Act. I hope this makes sense. Also please provide me your feedback on this lecture. I want to know if the information I am presenting is clear, concise, understandable, and usable. ([coaching@thctrust.org](mailto:coaching@thctrust.org)).

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The easiest way to remove Collection Accounts, is to complete your affidavit for Identity Theft online. Remember, if someone is using your private information to open accounts, without your knowledge, consent, or authority to do so, then that constitutes Identity Theft.

Download and complete it by hand. <http://www.consumer.ftc.gov/articles/pdf-0094-identity-theft-affidavit.pdf>

Or complete the Affidavit and print out a copy online. <https://www.consumer.ftc.gov/articles/0277-create-identity-theft-report>

When you read Page 11 of ([Consumer Reports – What information Furnishers Need to Know](#))

It informs you that if a consumer notifies you that he is a victim of identity theft, and gives you an identity theft report, you may not furnish information to a CRA regarding the fraudulent account or debt. FCRA 623(a)(6)(B) 808[1692f]

Therefore, if you demand validation, dispute, and report the accounts as Identity Theft, the reporting agencies CAN NOT report the accounts to the Credit Reporting Agency.