



State, Federal Regulator Actions Highlight Widespread Debt Buyer Abuses

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Recent enforcement actions against debt buyers by state and federal law enforcement agencies illustrate widespread problems in the debt buyer market that must be addressed. The Federal Trade Commission recommends in its 2013 and 2010 reports that states adopt reform efforts to address these market problems.

Based on its review of enforcement actions, industry data, and the FTC's reports, CRL recommends that to be effective, state reforms must include protections that ensure people are not sued in connection with time-barred debt, debt they do not owe, or for amounts they do not owe. At a minimum, state protections should set standards for adequate information and documentation for collecting a debt, and require additional information and documentation to file a debt collection lawsuit and to obtain a judgment against a consumer.

Only with strong underlying consumer protections, can state and federal regulators aggressively address unscrupulous debt collection practices by debt buyers. Below is a summary of recent actions:

State Actions

- In 2014 and 2015, the New York Attorney General obtained separate settlements with 4 large debt buyers for, among other things, **robo-signing and illegally suing NY residents for time-barred debt**.¹ As a result of the settlements, more than 7,500 judgments have been vacated, worth more than \$34 million.²

"Filing lawsuits on debts that have surpassed the statute of limitations is an abuse of the court system and hurts New Yorkers. My office will continue to hold debt collectors and lenders accountable, so that New Yorkers can keep more of their hard-earned money where it belongs—in their pockets." —**New York Attorney General Eric Schneiderman**

- State Attorneys General and state and city regulators in Arkansas,³ Pennsylvania,⁴ New York,⁵ and West Virginia⁶ have all taken action against National Credit Adjusters, a buyer of payday loan debts, for **collecting and attempting to collect illegal payday loans in those states and cities, as well as abusive, harassing, and otherwise illegal collection tactics**.
- The Minnesota Attorney General sued debt buyer Bradstreet & Associates, LLC for **charging consumers interest they did not owe, sometimes more than 21%**, including by obtaining default judgments against people who were not represented in court.⁷

- Attorneys General in Colorado and Minnesota both sued debt buyer United Credit Recovery (UCR) in 2013 for **robo-signing and falsifying original creditor documentation to support debt collection lawsuits UCR filed in state courts.**⁸ In addition, UCR **sold the debts, along with the falsified and robo-signed documents,** to other debt buyers that **used the fake documents as evidence of a consumer’s debt in state courts.**
- The Minnesota and West Virginia Attorneys General brought actions in 2011 and 2012, respectively, against one of the largest debt buyers, Midland Funding, for **filing unreliable, “robo-signed” affidavits in support of its collection lawsuits in Minnesota and West Virginia state courts.**⁹
- The Maryland Office of the Commissioner of Financial Regulation filed a complaint in 2011 against debt buyers LVNV Funding and Resurgent Capital Services for **filing false and misleading complaints and supporting affidavits and misrepresenting the amounts of their claims in the state court collection lawsuits.**¹⁰ The Commissioner and the debt buyers settled in 2012, with LVNV Funding and Resurgent Capital paying the state a \$1 million penalty and the two companies dismissing more than 3,500 cases filed against Maryland residents.¹¹
- In 2011, the Texas Attorney General sued Encore Capital Group and two of its subsidiaries, Midland Funding and Midland Credit Management, for **robo-signing of affidavits in support of collection lawsuits, filing cases against the wrong individuals, attempting to collect debts that had been fully or partially paid,** and using incomplete or **inaccurate information as the basis of its lawsuits.**¹²

“ . . . the defendants sometimes even used incomplete or inaccurate account information, targeted the wrong individuals for collection and improperly attempted to collect debts that had been fully or partially repaid.” – *Texas Attorney General Press Release on charges against Encore Capital Group*

Federal Actions

- The Consumer Financial Protection Bureau filed a complaint in 2014 against law firm, Frederick J. Hanna & Associates, claiming that the firm **operated as a debt collection lawsuit mill** in bringing collection suits on behalf of debt buyer and creditor clients.¹³ Among other things, the law firm **used illegal tactics to intimidate consumers into paying debts they may not owe and filed false affidavits in state courts.**
- The Federal Trade Commission’s 2013 action against debt buyer Asset & Capital Management Group alleged that the debt buyer **extorted payments from consumers by using false threats of lawsuits, arrest, or property seizure and illegally harassing consumers by posing as law enforcement officials.** The case was settled, resulting in more than \$4 million in consumer restitution and the debt buyer being shuttered.¹⁴
- The Federal Trade Commission filed a complaint against Asset Acceptance in 2012 alleging, among other things, that the debt buyer claimed consumers owed debts when it could not substantiate those representations and **had reason to know the account portfolios contained inaccurate**

information, failed to disclose that **debts were too old to be legally enforceable**, and **pursuing individuals who did not owe the debt**. Asset Acceptance paid a \$2.5 million penalty to settle those charges.¹⁵

- In 2004, the FTC filed a complaint and obtained a permanent injunction and penalty against debt buyer Capital Acquisitions & Management Corporation (CAMCO) for attempting **collect debts from people who never owed the debts**, attempting to **collect and report to credit reporting agencies debts that are beyond the statute of limitations** or too old to report to credit agencies, among other abusive debt collection practices. As a result of the injunction and penalty, a court-appointed receiver was appointed to shut down CAMCO.¹⁶

¹ Press Release, "A.G. Schneiderman Announces Settlements with Two Major Consumer Debt Buyers for Unlawful Debt Collection Actions" (May 8, 2014), available at <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-settlements-two-major-consumer-debt-buyers-unlawful-debt>; Press Release, "A.G. Schneiderman Obtains Settlement From Major Debt Buyer Who Filed Thousands of Time-Barred Debt Collection Actions" (Jan. 9, 2015), available at <http://www.ag.ny.gov/press-release/ag-schneiderman-obtains-settlement-major-debt-buyer-who-filed-thousands-time-barred>; Press Release, "A.G. Schneiderman Obtains Settlement With Fourth Debt Buyer Vacating \$1.7m In Improperly Obtained Debt Collection Actions" (Apr. 15, 2015), available at <http://www.ag.ny.gov/press-release/ag-schneiderman-obtains-settlement-fourth-debt-buyer-vacating-17m-improperly-obtained>.

² *Id.*

³ Press Release, Arkansas Office of the Attorney General, "Settlement Reached in Lawsuit over Payday Debt Collection" (May 2013), available at <http://1.usa.gov/15OC2bE>.

⁴ Press Release, "Attorney General Kane Files Lawsuit Over Alleged Illegal Payday Loan Scheme" (Nov. 13, 2014) ("The lawsuit also includes various debt collectors as defendants, including the Washington-based law firm of Weinstein, Pinson and Riley PS, Cerastes LLC and National Credit Adjusters LLC, which are allegedly utilized to collect debts derived from illegal loans."), available at https://www.attorneygeneral.gov/Media_and_Resources/Press_Releases/Press_Release/?pid=1205.

⁵ NYC Dep't of Consumer Affairs v. National Credit Adjusters, L.L.C, Violation No. 5333200 (Consent Order) (Dec. 24, 2014), available at http://www1.nyc.gov/assets/dca/downloads/pdf/about/sa_NationalCreditAdjustersLLC_1142510_1449742.pdf.

⁶ Jessica M. Karmasek, "McGraw Settles With Internet Payday Lender, Collection Agency," *West Virginia Record* (Aug. 24, 2011), available at <http://bit.ly/19olx6j>.

⁷ Press Release, "Attorney General Lori Swanson Sues Minnesota Debt Buyer For Charging People 21.75 Percent Interest They Did Not Owe" (Jan. 8, 2014), available at <http://www.ag.state.mn.us/Office/PressRelease/20140108DebtBuyerInterest.asp>.

⁸ Press Release, "Attorney General Brings Suit Against Fraudulent Debt Collection Companies" (Dec. 10, 2013), available at http://www.coloradoattorneygeneral.gov/press/news/2013/12/10/attorney_general_brings_suit_against_fraudulent_debt_collection_companies; Patrick Lunsford, "State AG Sues Debt Buyer Over 'Robosigning' of Affidavits," *InsideARM* (Oct. 31, 2013), available at <http://www.insidearm.com/daily/debt-buying-topics/debt-buying/state-ag-sues-debt-buyer-over-robosigning-of-affidavits/>.

⁹ Steve Karnowski, "Debt Collector Midland Funding Agrees to Change Its Practices to Settle Minnesota Lawsuit," *Associated Press* (Dec. 12, 2012), available at <http://www.startribune.com/business/183193931.html>; William E. Lewis, Jr., "West Virginia AG Sues Debt Collection Firm Over Fraudulent Practices," *KSL.com* (Mar. 12, 2012), available at <http://www.ksl.com/?sid=19510940>.

¹⁰ Press Release, "Maryland Commissioner of Financial Regulation Suspends Collection Agency Licenses of LVNV Funding, LLC and Resurgent Capital Services" (Oct. 28, 2011), available at <http://www.dllr.state.md.us/whatsnews/lvnm.shtml>.

¹¹ Press Release, “Maryland State Collection Agency Licensing Board Reaches Agreement with LVNV Funding, LLC and Resurgent Capital Services” (July 2, 2012), *available at* <http://www.dllr.state.md.us/whatsnews/lvnxsettlement.shtml>.

¹² Press Release, “Attorney General Abbot Charges Encore Capital Group with Violating Texas Debt Collection Laws” (July 8, 2011), *available at* <https://www.texasattorneygeneral.gov/oagnews/release.php?id=3786>.

¹³ Press Release, “CFPB Files Suit Against Debt Collection Lawsuit Mill” (July 14, 2014), *available at* <http://www.consumerfinance.gov/newsroom/cfpb-files-suit-against-debt-collection-lawsuit-mill/>.

¹⁴ *See* related documents at <https://www.ftc.gov/enforcement/cases-proceedings/122-3031/asset-capital-management-group-dba-acm-group>.

¹⁵ *See* related documents at <https://www.ftc.gov/enforcement/cases-proceedings/052-3133/asset-acceptance-llc>.

¹⁶ *See* related documents at <https://www.ftc.gov/enforcement/cases-proceedings/x040036/capital-acquisitions-management-corp>.