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Wide-open market for debts feeds abusive tactics

Selling unpaid debts offers buyers great potential for profit, and a lack of oversight lets some 'bottom feeders' cash in

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Harry Scull Jr./Buffalo News
Debt collection lawyer Timothy Collins says debt sellers sometimes sell an account more than once.

Outsiders don't have to hack a bank's computer to get your account information. They can just buy it - cheap.

In Buffalo and around the country, banks and other creditors are selling unpaid debts on a new and wide-open market.

The buyers of bad debt say that they help consumers by offering better repayment terms than a bank.

But industry watchdogs say that sold-off accounts, free of lenders' oversight, provide a buffet for collection bullies.

"We call them bottom-feeders, companies that go out and buy up old debt for pennies," said Thomas G. Conway, chief of the Consumer Frauds Bureau at the New York State attorney general's office.

"We've seen an explosion of those type of companies and complaints resulting from those practices," Conway said.

Banks that hire strong-arm collectors can get yanked into court and have their image sullied. But when banks sell debts, they are free to turn their back on collectors.

After an expensive divorce, Harold Wood was trying to repay his debts when he got a shock: Three firms - one in California and two in Western New York - were collecting the same \$14,000 credit card bill he ran up in 2002.

"I hit the total panic button," said Wood, a computer programmer from Long Island. He only discovered the triple-billing after a counselor urged him to check his finances.

Wood's unpaid account was sold by credit card issuer First USA, then passed around until it somehow got into the hands of multiple collectors, he said in court papers. Even after he told the collectors about the triple-billing, one of them withdrew \$1,000 from his checking account, he said.

Timothy Collins, whose Amherst collection law firm is one of the firms that dunned Wood, said the dispute is hardly the first of its kind. "It does happen," Collins said. "Certain sellers will sell the same account to multiple parties." He denied wrongdoing, saying he relied on the debt buyer who hired him to have clear title to Woods' debt.

Debts are hot items

Selling a debt may sound odd, but it's a hot idea in the financial sector. Investors buy \$100 billion a year in old credit card bills alone - plus more in bad checks, doctor bills and other obligations, industry analyst Kaulkin Ginsberg in Bethesda, Md., estimates.

"Virtually all major credit card companies sell portfolios," said Paul LeGrady, director of the research at Kaulkin Ginsberg. Debt brokers sell accounts from Chase, HSBC, Fleet, Bank of America and other major lenders. Buyers can bid over the Internet and download account information in minutes.

The accounts often include Social Security numbers, along with addresses and phone numbers. Buyers hire collectors to bring in the money or collect it themselves.

Most accounts cost less than 10 percent of the original debt, so the potential profit is high. Buyers expect to triple their money in five years, LeGrady said.

"You're actually helping people," said Johnny Williams, president of debt buyer Total Assets Recovery outside Dallas. One of his investors is a church that sees collection as part of its humanitarian mission. "What's appealing to these ministries, they can relieve the entire debt if they want to," Williams said.

Some debt buyers aren't so tender hearted. In 2004, the Federal Trade Commission shut down a collector called CAMCO that operated a hardball collection scheme with sold-off accounts.

The Illinois company bought years-old credit card accounts that originally came from mainstream lenders like Fleet, Citibank and First Card. The debts had been written off by others, but CAMCO squeezed money from them by threatening to put people in jail, seize their wages and take their homes. Some victims paid to make the threats stop even though they didn't owe money, the FTC said.

"The scale of this fraud is staggering," agency staff wrote in court papers. CAMCO had several hundred workers who generated millions of dollars and 2,000 consumer complaints in the eight months before it was unplugged.

Misusing account data

Collectors are supposed to safeguard account information, but CAMCO shows that collectors themselves can misuse the accounts they buy, never mind hackers and identity thieves.

In Western New York, a debt buyer called Account Management Services operated abusive collection offices under the guise of a law firm, Maine's attorney general charges in a lawsuit filed in Augusta. The collectors falsely threatened people with felony charges and the loss of their homes and tried to collect more than people really owed, the suit said.

Mark Bohn, president of Account Management Services of North America, said a unit of the company called First American hires law firms to collect debts but isn't responsible for their tactics. He also denied operating the collection offices, although his company does provide office space to some.

Bohn also denied permitting abusive tactics, saying they're bad for business. "If there's a violation, we can't collect the amount," he said. "The better [collectors'] compliance, the better it is for us."

Bohn's company buys debts totaling \$2 billion a year in face value, he said. It usually pays about 3 cents on the dollar and expects to triple its investment over time.

"It's mostly credit cards, just about every major issuer," Bohn said. The company hires 150 collection law offices nationally, he said, including Collins' firm and several others in the Buffalo area.

Some retailers have sold debts for decades, but major lenders didn't join in until the 1980s, when the savings and loan bailout created a market for unpaid loans. After the bailout ended, investors started scooping up loans from healthy banks.

Banks may screen their initial buyers, but few restrict the resale of debts, allowing the accounts to circulate indefinitely.

"You've got companies that will buy 2,000 accounts, pull out every hit [correct address], then sell it," one collector in Buffalo said. "Every time it's sold it becomes worse and worse."

Contracts for debt sales can require the buyers to resell only to reputable companies, said David Ludwig, president of National Loan Exchange Corp., a debt broker near St. Louis. However, "once it's gone, it's out of your control," he added.

Ludwig, one of the founders of the bad-debt market in the 1980s as an auctioneer for the Resolution Trust Corp., said problems in the industry are minor. Sellers would quickly get wind of an unscrupulous operator and shut them out of the market, he said.

Peggy L. Twohig, a top financial regulator at the Federal Trade Commission, isn't so sure. Debt sales may be a cause of the wave of complaints directed at the collection industry, she said.

"It's very possible that's part of the picture," said Twohig, associate director of the agency's division of financial practices. "Once it's sold . . . whatever oversight a creditor might do may not be there."

Banks not responsible

Are banks obligated to protect borrowers who don't pay? The American Bankers Association doesn't issue guidelines for bad-debt sales and had no comment on the practice, spokeswoman Laura Fischer said.

Several big credit card issuers refused to discuss sales of delinquent accounts. Diane Wagner, spokeswoman for Bank of America, owner of credit card issuer MBNA, said the institution considers debt sales proprietary information. Representatives of Capital One and HSBC also wouldn't comment.

An exception was Providian National Bank, a San Francisco credit card issuer with 10 million accounts. Providian, now part of Washington Mutual in Seattle, said it screens buyers of its accounts but doesn't restrict them from reselling.

"When we sell the debt we sell it completely," spokesman Alan Elias said. "Everything that happens after that is not ours."

Courts have agreed.

After Providian sold off California resident Angela Feldmeier's debt in 2003, the account wound up in the hands of an abusive debt collector in Buffalo. The collector threatened criminal prosecution for a debt that had been erased, but Providian wasn't responsible, Bankruptcy Judge Trish M. Brown ruled.

Buffalo-based M&T Bank started selling off its bad debts for the first time earlier this year, Administrative Vice President Geralyn Bonilla said. Not a credit card issuer, M&T sold 4,000 bad checks and unpaid installment loans for an undisclosed sum.

"It's a basement full of charged-off paper that's been sitting around doing nothing," she said, "so if someone's going to offer you a few cents on the dollar, it's a no-brainer."

Protections fall short

Even disputing a debt doesn't prevent a collector from reselling it. Consumer protection law only freezes a debt if a credit reporting agency gets into the act, said Thomas Kane, an expert on debt-collection practices at the FTC's Consumer Protection Bureau.

"If a consumer says, 'I'm a victim of identity theft,' that doesn't prevent the collector from selling or transferring the debt," Kane said.

Larry Wittkugle keeps getting dunned for an old Household Bank credit card that he paid off in 1996. Every so often, a different debt collector jars his retirement with a stern letter urging him to pay off the account again.

"I show them it's been paid, but they keep selling it to some other poor character," said Wittkugle, a retired insurance executive in Ohio. The bank, now part of HSBC, can't stop the collection attempts because it sold Wittkugle's account. The original buyer, whom Wittkugle paid, is out of business.

"It's lasted 10 years," he says of the dunning calls and letters. "It's going to last for 20."

Dennis Hammond, executive director of the 500-member Debt Buyers Association in Los Angeles, said the market should be free to decide who is qualified to buy debt. Collectors are already regulated, and some problems will crop up in any business. "Regardless of rules and regulations," he said, "there's always going to be someone who is going to do something negative."

That's little comfort for consumers. After disputing the debt with three collectors trying to dun him for it, Wood's debt surfaced yet again. A fourth collector eager to claim his fat credit card bill called his ex-wife last year and threatened to seize her house unless she came up with the money.

"They hit her for \$4,500," Wood said.

"I would like to see this stuff regulated," he said of his sold-off debt. "There needs to be some accountability in the system, and it's not there."

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