

MONEY TALKS

Debt collector, be gone

You have rights, and knowing them can stop the harassment

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The words “collections agency” are frightening, especially if the call comes out of the blue and you don’t know what debt the person is talking about.

You may feel pressured to give out private information; you may be so fed up with the calls that you pay a few hundred dollars of debt you know isn’t yours.

But you do have some protections, local attorneys and federal officials say, and if you know what they are you are in a better position to figure out if you really owe the debt, stop irritating phone calls and even take an abusive collector to court.

Whoever is calling you must identify him or herself as a collector and tell you that any information you give is going to be used to collect that debt, according to the national Fair Debt Collection Practices Act. In 2010, the Federal Trade Commission received 25,000 complaints from people who had given information under false pretenses, according to the agency’s annual report.

Ask for the agency or attorney’s name, address and phone number. “It’s important to make sure this is a legitimate debt collector,” says Tom Pahl, assistant director of the financial practices division of the FTC.

Once you have the address, feel free to end the conversation, says Richard Feferman, an Albuquerque attorney who sues collections agencies on behalf of consumers and collects his fees from judgments in his clients’ favor. Write the collector a letter and ask for documentation of the debt, how much it is, and who originally issued the loan. Use certified mail.

It’s a debt collector’s obligation to validate that the debt is real and that you are the person responsible for it, says Mark Schiffman, spokesman for



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the Association of Credit and Collections Professionals International, a trade group.

“They do not want to contact the wrong person,” he says. “They’re not looking to just randomly call people on stuff they don’t owe.”

(Collectors are allowed to call your friends and relatives one time, Pahl says, to confirm your contact information. It is against the law for them to explicitly identify themselves as debt collectors, or that you are being sought in reference to a debt. If you receive such a call looking for someone else, you are under no legal obligation to give the caller any information.)

Whatever you do, don’t just avoid the calls hoping they go away, Schiffman says. “Simply avoiding it isn’t going to make the calls stop.”

If you know that you are responsible for the debt the collector is after, it might be a good idea to work with him or her to pay it off, Pahl says. Schiffman says collectors are more flexible now than ever, and are open to payment installment plans.

Feferman counsels people not to agree to anything over the phone — in fact, he advises people to stop interacting with the agency completely, after sending a cease-communication letter.

This letter should be

certified mail with a return receipt, Feferman says.

Once you send this letter, any agency or attorney debt collector is required by law to leave you alone, says Art Bova, an Albuquerque attorney. After you send this letter, you may get another letter in the mail from the collector that informs you of other options they have to collect the debt, including filing a lawsuit.

Pahl says the cease-communication letter is the best course of action for someone who feels harassed.

Most often, that harassment takes the form of continuous and repeated phone calls, Pahl says, but

If a debt collector calls you

- Ask for the collector’s name, address and phone number.
- Send a certified-mail letter requesting to see documentation of the collector’s ownership of the debt, the debt amount and who originally issued the loan.

If you dispute a debt

- Send a certified-mail letter to the collector saying “I dispute the debt” and “Cease all communication with me.”

collectors have been known to veer into obscene, profane or abusive language in their phone calls. In 2010, the FTC reported 17,500 complaints of the latter types of harassment, out of about 54,000 harassment claims.

Worse than harassment are threats — Feferman says he had one client who a collector had threatened to have arrested and her daughter taken away if she couldn’t come up with money.

These types of threats are expressly against the law, though the FTC reported about 27,500 complaints about threats from collectors last year.

You cannot be put in jail for failing to pay a debt, Bova says. The only way you’ll end up in jail is if the collector takes your case to court and you don’t show up, in which case you could be held in contempt of court.

If a debt collector violates any part of the fair collections act (www.ftc.gov/bcp/edu/pubs/consumer/credit/cre27.pdf), you can file a complaint with the FTC and the state Attorney General’s Office.