

# Collections 101

By Brett Newmyer

In the current financial climate, either you, or someone you know, may have faltered in their financial obligations. You get a little behind and it just seems to snowball from there; the less you can do, the more our creditors demand, and demand they do. The good news is you do not have to be the victim; there are safeguards to protect you, if you know where to find them. The following are general guidelines, and not legal advice. In the collection business, 'the toughest debtor is an informed debtor', so here you go. Bear in mind, the following is *not* legal advice, but merely guidelines.

There are essentially three levels of debt collections: In-house, Third Party, and Oh s\*\*t. 'In-house' means your creditor is calling you about a past-due payment. 'Third Party' means you ignored your creditor and a collection agency would like to have a word with you. 'Oh s\*\*t' means you blew it. Ideally, you do not let this get beyond 'In-house'. In the event it does, the following guidelines are to help you avoid going from bad to... well, you know.

Debt collectors must adhere to the Fair Debt Collection Practices Act (FDCPA), which is Federal Law, as is the Fair Credit Reporting Act (FCRA). The Collection Agency Board (CAB) holds the collector accountable. In other words, if the collector does not follow the FDCPA, s/he is in violation of Federal law, and is in deep doo-doo, up to \$10,000 per violation. As tempting as it may seem, you do not want to go there unless you are a seasoned pro, which is not a good thing. Vegas will give better odds.

So what can you do? Your best defense is a good offense. Google 'FDCPA' and you will get a whole laundry list of reading material. It will give you the 'rule book' for collection agencies. Pay particular attention to any reference to 'harassment', as it is one of the most common violations. If you are going to win, you must know how to play the game. The best collectors understand this, and so should you.

If you (or 'this guy I know'), is contacted by a collection agency, the first order of business is 'Don't Panic!' (Google 'Hitchhiker's Guide to the Galaxy'; you may need the comic relief at this point.) Like the sharks they are, good collectors can smell fear (and money) in the water; do not thrash, remain calm. Chances are, your first communication from a collection agency will be in the mail. This will be your first, and best, opportunity to take control of the situation; don't blow it.

A 'First Notice' from a collection agency will typically say 'Demand for Payment', followed by a lot of fine print known as a 'Mini Miranda'. The operative word here is 'Miranda', as in 'Rights'. Namely *yours*, so use them. You have a right to demand 'proof of the debt', so demand it. Ask (politely, and *by mail*), for a copy of the original bill and the name of the original creditor. At this point, subscribe to the KIS principle: Keep It Simple. Your request may say 'Per the FDCPA, please provide a copy of this account.' Though you have up to 30 days to respond to their first notice, and the agency has 30 days to respond to you, don't push it, bucko.

Next: Let the games begin