

Debt Collectors Unhinged!

By John Skiba

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Last Friday my article on a recent victory against debt buyer Midland Funding, LLC was picked up by the Collection Industry News (“CIN”), a website that provides news and headlines for those who work in the debt collection industry. While the debt collectors of America are not my target audience it is always nice to have new readers to my blog. And then the comments started coming in...below is an anonymous comment I received after my article was posted at the CIN website:

“What is really disturbing is that scumbag abulance (sic) chasing attorneys like yourself convince people to not honor their obligations and actually steal money from their creditors. Why should people pay their bills? (Answer) Because they signed on the dotted line and promised to pay it back. The creditor graciously gave the consumer the ability to buy the goods or services and you are trying to facilitate their thievery. You not only find your clients illegally by scouring court websites looking for cases filed by creditor firms and then solicite consumers illegally by making contact with them, and then convincing them they are doing the right thing by not re-paying their debts. Sounds like a bad brand of snake oil salesmanship. Your fat cheeks and gut are stuffed with with slolen (sic) loot of honest tax paying citizens. Please go jump off a bridge or something and do society a favor.”

Jump off a bridge? Really?? I am not surprised that someone responded with emotion to my article. There are numerous moral issues that surround debt, bankruptcy, and the repayment of debts. I deal with emotions surrounding debt

on a daily basis with my clients. What is surprising, when you think about it, is that this person (presumably a debt collector) responded this way on a debt that is not owed to him personally. The personal attacks aside, there are things we can learn from this comment to my article on Midland Funding.

FDCPA Violations – Obscene or Abusive Language

The first thing that we can learn from this comment is if a debt collector says things to you like they said to me, there is a claim under the Fair Debt Collection Practices Act (FDCPA). Debt collectors are not permitted to use obscene, profane, or abusive language nor are they permitted to engage in any conduct that is harassing or abusive (15 U.S.C. 1692d(2), 15 U.S.C 1692(e)). Clearly, telling me to go kill myself, calling me a scumbag, and telling me I have fat cheeks (are they really that fat!?) fall into these categories.

FDCPA Violations – Use of False, Deceptive, or Misleading Representations

Another violation under the FDCPA occurs when a debt collector uses false, deceptive, or other misleading representations. (15 U.S.C. 1692(e)). In this comment there are several false representations – that I assist clients in thievery, solicit clients illegally, etc. Typically violations occur of this nature when a debt collector threatens that you will be put in jail if you don't pay a debt. Looking back at this particular case with Midland Funding it should have come as no surprise to them or their attorney that they court dismissed their case. Did they think they could stroll into court and get a judgment without any evidence or witnesses? If debt buyers like Midland Funding are going to use the court system as part of their collection effort they need to learn the rules and play by them. If it is not economical for them to have the evidence to prove their case, fine, but don't spout off about "honoring financial obligations" and disparage the attorneys who hold their feet to the fire.

photo by: eschipul