

Consumer Tips Empowering YOU to be a savvy consumer

June 8, 2009

Defend against debt collectors

Posted By Gerri Willis, Personal Finance Editor

Posted: 11:12 AM ET

<http://tips.blogs.cnn.com/2009/06/08/defend-against-debt-collectors/>

78,838. According to the federal government, that's the number of people who formally complained about debt collectors last year. As more and more consumers are falling behind on their bills, the collections industry is trying harder than ever to collect that debt.

According to the Federal Trade Commission, more complaints are lodged against the debt collection industry than any other. And they're reportedly using technology like social networking sites or cell phone texting to get you to pay up. Experts say we're just seeing the tip of the iceberg.

1) Know the rules

First, there are strict laws about how debt collectors have to do business. They must identify themselves as debt collectors. They can't harass you and they can't talk about your debt to anyone but you or your attorney. You shouldn't be getting phone calls before 8 a.m. or after 9 p.m. They can't threaten to sue you if they don't have any intention to do so. And, they can't misrepresent the amount you owe.

2) Stick with a 401(k)

First, if you've recently been laid off or you've lost your job, you may consider keeping your money with your old employer instead of rolling it over into an IRA. That's because 401(k) plans are off-limits to creditors. IRAs have more limited safeguards. For example your money is protected in an IRA up to \$1 million only in the case of a personal bankruptcy. But in other cases, state law determines how protected your IRA is from creditors. There may be a cap placed on exactly how much is shielded from these creditors according to Jay Adkisson, a California attorney who specializes in asset protection.

3) Don't file bankruptcy unnecessarily

Sometimes people file bankruptcy in order to get creditors to stop calling them. But this is an expensive and unnecessary step if you just want creditors to stop calling you. Instead, write a letter to the debt collector and send it certified mail and pay for a return receipt so you know the collector received it. Once they get your letter they can't contact you again except to tell you they won't contact you anymore or they're taking action against you — say, filing a lawsuit. Remember, just because they're not contacting you anymore doesn't necessarily mean you don't owe the debt.