

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Consumer Financial Protection Bureau,

Plaintiff,

v.

Collecto, Inc. d/b/a EOS CCA,

Defendant.

COMPLAINT

The Consumer Financial Protection Bureau (Bureau) files this Complaint against Collecto, Inc. d/b/a EOS CCA (EOS) and alleges as follows:

INTRODUCTION

1. This case concerns EOS's collections and credit-reporting practices on a \$2.3 billion portfolio of old, previously collected telecommunications debt that an EOS subsidiary acquired from AT&T in 2012.

2. EOS reported inaccurate information about the debts to credit-reporting agencies, and collected and continued to report debts that consumers disputed, even though EOS was unable to verify that the debts were still owed.

3. As a result, EOS violated the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681s-2, the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692 et seq., and the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531(a), 5536(a)(1).

JURISDICTION AND VENUE

4. This Court has subject-matter jurisdiction over this action because it is brought under “Federal consumer financial law,” 12 U.S.C. § 5565(a)(1), presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C. § 1345.

5. Venue is proper in this district because a substantial part of the events or omissions giving rise to the claims occurred here and EOS’s principal place of business is located in this district. 28 U.S.C. §1391(b); 12 U.S.C. § 5564(f).

PARTIES

6. The Bureau is an agency of the United States created by the CFPA. It has independent litigating authority, including the authority to enforce FCRA, the FDCPA, and the CFPA. 12 U.S.C. §§ 5564(a)-(b), 5481(12), 5481(14).

7. EOS is a corporation that maintains its principal place of business at 700 Longwater Drive, Norwell, MA 02061. At all times relevant to this Complaint, EOS regularly collected defaulted consumer debt related to a consumer-financial product or service, including telecommunications debt that was owed to companies that regularly extend credit by providing cell-phone service without requiring

immediate payment; used instrumentalities of interstate commerce or the mails in a business the principal purpose of which is debt collection; and furnished information relating to consumers to one or more consumer-reporting agencies for inclusion in a consumer report. Accordingly, EOS is a “covered person” under the CFPA, 12 U.S.C. § 5481(6); *see also* 12 U.S.C. § 5481(5), (15)(A)(i), (15)(A)(x); a “debt collector” under the FDCPA, 15 U.S.C. § 1692a(6); and a furnisher subject to FCRA, 15 U.S.C. § 1681s-2.

FACTS

8. EOS’s principal business is third-party debt collection, and it also has a wholly owned subsidiary, US Asset Management (USAM), which purchases defaulted consumer debt, including telecommunications debt. EOS serves as the exclusive collection agency for debt acquired by USAM.

The AT&T Portfolio

9. In August 2012, USAM entered into an agreement with AT&T to purchase a portfolio of over three million defaulted telecommunications accounts with a face value of \$2.34 billion (the AT&T Portfolio). USAM acquired the AT&T Portfolio for pennies on the dollar, paying \$35.4 million for the debts.

10. In accordance with its customary practice, USAM entered into a collection-services agreement with EOS for the collection of the AT&T Portfolio. Under the

terms of that agreement, EOS agreed to remit money collected from consumers to USAM monthly, less fees and expenses.

11. The AT&T Portfolio was the largest debt portfolio ever purchased by USAM and collected by EOS.

12. The AT&T Portfolio consisted mainly of old accounts that AT&T had sent to multiple collection agencies.

EOS Reports the Entire AT&T Portfolio as Disputed

13. EOS knew from past experience collecting old, previously collected telecommunications debt that the AT&T Portfolio debts were likely to have inaccurate and incomplete dispute histories and documentation as well as other defects.

14. Shortly after acquiring the portfolio in August 2012, EOS reported every account in the AT&T Portfolio to the consumer-reporting agencies and reported all of the over three million accounts as disputed by the account holder, despite knowing that consumers had not disputed each of the accounts.

15. Numerous consumers contacted EOS about the dispute flags and informed the company that they had not disputed the debts.

16. A month after reporting the entire portfolio as disputed, EOS reversed course and deleted the dispute flags on AT&T Portfolio accounts unless it had specific information that the consumers had in fact disputed the debts.

17. This about-face sparked more consumer calls to the company. Numerous consumers called to complain about the dispute flag being removed from their counts.

18. EOS flip-flopped again and reported all the AT&T Portfolio debts as disputed in early October 2012.

19. Finally, in late October 2012, EOS decided to delete the dispute histories on all of the AT&T Portfolio accounts and report them without dispute flags unless it had specific information that the consumer had, in fact, disputed the accounts.

EOS's Collection and Reporting of Disputed Accounts

20. At the same time EOS was going back and forth in reporting the AT&T Portfolio as disputed, it was obtaining additional information suggesting significant issues with the portfolio.

21. Among other things, EOS learned that, contrary to the sales agreement with AT&T, the portfolio contained time-barred debt, fraudulent debt, and debts consumers disputed as having been paid or settled.

22. In addition, when consumers contacted EOS to dispute or question a debt, EOS had difficulty getting AT&T to provide sufficient, and sometimes any, documentation to verify the debts.

23. In January 2013, a senior EOS manager warned that the AT&T Portfolio likely contained significant numbers of time-barred, disputed, fraudulent, and settled or paid debts.

24. Notwithstanding the issues EOS encountered with the AT&T Portfolio, EOS continued to report and collect on the portfolio accounts.

25. It was not until June 2014 that EOS took steps to identify the portfolio accounts that potentially had been paid or settled.

26. To do so, EOS reviewed its internal records and dispute notifications from consumer-reporting agencies to find all the accounts in which a consumer complained that the account had been paid or settled or was suspected of having done so based on EOS's internal call notes or dispute flags from the consumer-reporting agencies.

27. Because it lacked sufficient, and in some cases, *any* documentation to verify that those debts remained outstanding, EOS sent the list of potentially resolved accounts to AT&T to confirm whether those accounts had been paid.

28. AT&T reviewed only a subset of the accounts EOS provided and concluded that 20% of the accounts it reviewed had been paid or settled. AT&T did not, however, give EOS any information or documentation revealing whether the remaining accounts on EOS's list were still outstanding.

29. To date, EOS has identified over 10,000 AT&T Portfolio accounts that may have been previously paid or resolved.

30. EOS does not have sufficient, or in some cases, any documentation from AT&T to refute consumers' claims that the vast majority of these accounts have been paid or resolved.

31. EOS initially reported over 9,700 of these accounts to consumer-reporting agencies. Although EOS has since processed deletion requests for many of these accounts, EOS continues to report over 1,900 of these accounts as past due even though consumers have disputed the accounts as resolved and EOS lacks any documentation to demonstrate otherwise.

32. EOS also has identified other accounts that were disputed by consumers for various reasons but later paid. EOS sought and took payment on those accounts even though it did not—and does not—have sufficient information from AT&T to substantiate the debts.

33. In total, EOS also has collected about \$743,000 on over 2,000 accounts that consumers have disputed and EOS is unable to verify remain outstanding.

COUNT I
(Inaccurate Reporting in Violation of the FCRA)

34. The Bureau realleges and incorporates by reference paragraphs 1 through 33.

35. Section 623(a)(1)(A) of the FCRA, 15 U.S.C. § 1681s-2(a)(1)(A), prohibits a person from furnishing any information relating to a consumer to any consumer-

reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.

36. Section 623(a)(2) of the FCRA, 15 U.S.C. § 1681s-2(a)(2), provides that a person who (A) regularly and in the ordinary course of business furnishes information to one or more consumer-reporting agency about the person's transactions or experiences with any consumer, and (B) has furnished to a consumer-reporting agency information that the person determines is not complete and accurate, shall promptly notify the consumer-reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains incomplete or inaccurate.

37. EOS regularly and in the ordinary course of business furnishes information to one or more consumer-reporting agency.

38. EOS twice reported as disputed every account in the AT&T Portfolio to the consumer-reporting agencies, once in August 2012 and again in October 2012.

39. EOS had no information or reasonable cause to believe that all of the more than three million accounts in the AT&T Portfolio had been disputed by consumers, and it had already determined the information was not complete and accurate.

40. Indeed, after reporting all the debts as disputed in August 2012, EOS learned from numerous consumers that they had not disputed the debts. EOS nonetheless failed to correct the information it had previously reported and in fact reported all AT&T portfolio debts as disputed a second time in October 2012.

41. In reporting all the AT&T Portfolio debts as disputed, EOS furnished information relating to consumers to consumer-reporting agencies that EOS knew or had reasonable cause to believe was inaccurate.

42. In addition, EOS failed to correct previously furnished information that EOS determined was inaccurate, and it thereafter again furnished information that remained inaccurate.

43. EOS thus violated § 623(a)(1)(A) and (a)(2) of the FCRA, 15 U.S.C. § 1681s-2(a)(1)(A), (a)(2).

COUNT II
(Inaccurate Reporting Violated the FDCPA)

44. The Bureau realleges and incorporates by reference paragraphs 1 through 33.

45. EOS is a “debt collector” under the FDCPA. 15 U.S.C. § 1692a(6).

46. Section 807 of the FDCPA, 15 U.S.C. § 1692e, prohibits debt collectors from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

47. Section 807(2)(A) of the FDCPA, 15 U.S.C. § 1692(2)(A), specifically prohibits false representations of the character, amount, or legal status of any debt.

48. Section 807(8) of the FDCPA, 15 U.S.C. § 1692e(8), further bars debt collectors from communicating to any person, including consumer-reporting agencies, information that they know or should know to be false.

49. EOS twice reported as disputed every account in the AT&T Portfolio to the consumer-reporting agencies, even though it knew or should have known that not all of the over three million portfolio debts had been disputed by consumers.

50. EOS's reporting of all the AT&T Portfolio debts as disputed was a false, misleading, and deceptive act in violation of § 807 of the FDCPA, 15 U.S.C. § 1692e, (2)(A), (8).

COUNT III
(Deception under the CFPA in Reporting and Collecting Disputed Debts)

51. The Bureau realleges and incorporates by reference paragraphs 1 through 33.

52. An act or practice is deceptive under the CFPA if it involves a material misrepresentation that misleads, or is likely to mislead, a consumer acting reasonably under the circumstances.

53. In reporting, collecting, and attempting to collect AT&T Portfolio debts from consumers, EOS represented, directly or indirectly, expressly or by implication,

that the consumers owed those debts and that EOS had a reasonable basis for claiming such debts were owed by the consumers.

54. In fact, in numerous instances those representations were false and misleading, or not substantiated at the time they were made.

55. EOS continued to represent that consumers owed the amounts claimed on particular accounts even after learning that AT&T Portfolio contained unreliable data with respect to some accounts, including previously paid or settled accounts. EOS has failed to obtain information that would have been necessary to conclude the accounts remained due.

56. Moreover, in numerous instances, EOS continued to report as delinquent certain debts that consumers disputed and challenged, including those that consumers said they previously paid or settled, even though EOS lacked the information necessary to have a reasonable basis to report those debts remained outstanding.

57. Further, in numerous instances, EOS collected debts that consumers disputed and challenged even though EOS did not have the information necessary to have reasonable basis to believe those debts remained outstanding.

58. These misrepresentations were material because they were likely to affect consumers' responses to allegedly outstanding debts and were likely to mislead consumers acting reasonably under the circumstances to pay debts they do not owe or have no obligation to pay.

59. Accordingly, EOS's reporting and collection of debts consumers disputed, including the debts consumers stated they paid or settled, were false or misleading and constitute deceptive acts or practices in violation of §§ 1031(a) and 1036(a) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a).

COUNT IV
(Deception under the FDCPA in Reporting and Collecting Disputed Debts)

60. The Bureau realleges and incorporates by reference paragraphs 1 through 33.

61. Section 807 of the FDCPA, 15 U.S.C. § 1692e, prohibits debt collectors from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

62. Section 807(2)(A) of the FDCPA, 15 U.S.C. § 1692e(2)(A), specifically prohibits debt collectors from making false representations of the character, amount, or legal status of any debt.

63. Section 807(8) of the FDCPA, 15 U.S.C. § 1692e(8), also bars debt collectors from communicating to any person, including consumer-reporting agencies, information that they know or should know to be false.

64. Section 807(10) of the FDCPA, 15 U.S.C. § 1692e(10), further prohibits debt collectors from using false representations or deceptive means to collect or attempt to collect any debt.

65. In reporting, collecting, and attempting to collect AT&T Portfolio debts from consumers, EOS represented, directly or indirectly, expressly or by implication, that the consumers owed those debts and that EOS had a reasonable basis for claiming such debts were owed by the consumers.

66. In fact, in numerous instances these representations were false or were not substantiated at the time they were made.

67. Specifically, EOS reported and collected debts that consumers disputed and challenged, including debts that consumers challenged as paid or settled, even though EOS failed to obtain or review information necessary to have a reasonable basis to conclude those debts remained outstanding.

68. These representations were false or misleading and constitute deceptive acts and practices in violation of § 807 of the FDCPA, 15 U.S.C. § 1692e, (2)(A), (8), (10).

COUNT V
(Violations of FCRA and the FDCPA Violate the CFPA)

69. The Bureau realleges and incorporates by reference paragraphs 1 through 33.

70. EOS's violations of FCRA and the FDCPA, described in Counts I-II & IV, constitute violations of § 1036 of the CFPA. 12 U.S.C. § 5536(a)(1)(A).

DEMAND FOR RELIEF

The Bureau requests that the Court:

1. permanently enjoin Defendant from committing future violations of the CFPA, 12 U.S.C. §§ 5531, 5536, or any other provision of “Federal consumer financial law,” as defined by 12 U.S.C. § 5481(14);
2. grant additional injunctive relief as the Court may deem to be just and proper;
3. award damages and other monetary relief against Defendant;
4. order Defendant to pay redress to harmed consumers;
5. order disgorgement of ill-gotten gains against Defendant;
6. award civil money penalties against Defendant;
7. award costs against Defendant; and
8. award additional relief as the Court may determine to be just and proper.

Dated: December 7, 2015

Respectfully submitted,

ANTHONY ALEXIS
Acting Enforcement Director
JEFFREY PAUL EHRLICH
Deputy Enforcement Director
NATALIE R. WILLIAMS
Assistant Litigation Deputy

/s/ Christina S. Coll
CHRISTINA S. COLL (CA Bar No. 250712)
Enforcement Attorney

Consumer Financial Protection Bureau
301 Howard Street, Suite 1200
San Francisco, CA 94105
Phone: (202) 435-7843
Fax: (415) 844-9788
Email: christina.coll@cfpb.gov