

Feds Investigating Banks' and Debt Buyers' Treatment of Bankruptcy Accounts

Patrick Lunsford November 13, 2014 ([Be the first to respond](#))

The United States Trustee Program, a division of the Justice Department, is investigating several of the largest consumer lenders in the country over their debt collection and portfolio sales tactics relating to accounts owed by consumers under bankruptcy protection, [according to *The New York Times*](#).

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In an article running at the top of *The Times*' front page Thursday, reporter Jessica Silver-Greenberg reveals that the Trustee Program is investigating JPMorgan Chase, Bank of America, Citigroup, and Synchrony Financial (formerly GE Capital) for potential violations of U.S. bankruptcy law. The Trustee Program is the Justice Department branch that oversees the bankruptcy system.

At particular issue is the continued reporting of discharged debts as active accounts on consumer credit reports and the arrangements the banks make with debt buyers who purchase the bankruptcy accounts.

According to sources familiar with the investigation, federal attorneys are examining an increasingly common tactic used by the banks of marking accounts discharged in bankruptcy as "charged-off" on consumer credit reports. By law, the marks on individual accounts should be removed after bankruptcy, although the bankruptcy event still remains on the report.

But the banks argue that the accounts *were* charged-off and sold to debt buyers before consumers filed for bankruptcy protection, thus ending their involvement.

Several bankruptcy judges and consumer advocates have noted that the practice works to the banks' advantage, using the credit report mark as leverage to get a consumer to pay. That practice raises the price debt buyers are willing to pay for the accounts.

The federal probe was likely launched in the wake of a decision by a New York bankruptcy judge in July.

Judge Robert D. Drain in White Plains [denied a motion to dismiss](#) a class action lawsuit brought against Chase Bank that alleged the lender intentionally falsified consumer credit reporting on some accounts to increase their value in the debt purchasing market. Chase argued that its designation of "charged-off" was pre-bankruptcy and after the debt was sold, it had no obligation under either bankruptcy law or the Fair Credit Reporting Act (FCRA) to continue to deal with credit reporting agencies.

Judge Drain disagreed with that defense and allowed the case to move forward.

“I believe the complaint sets forth a cause of action that Chase is using the inaccuracy of its credit reporting on a systematic basis to further its business of selling debt and its buyer’s collection of such debt,” he wrote.

The Times article on Thursday notes that Judge Drain mentioned in oral arguments in a similar case that he might refer the matter to the U.S. attorney, which appears to have happened. The article’s sources speculate that if the Trustee’s investigation finds violations of bankruptcy law on the part of banks, the federal government could “audit the lenders and extract steep penalties.”

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