

The Effect of Credit Reporting and the Bankruptcy Discharge Injunction

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Does a credit report which still shows a debt, post-discharge, violate the discharge injunction? A bankruptcy court held that mere reporting, and nothing more, does not. In *Mahoney*, 2007 WL 1217851 (Bankr. W.D. Tex. April 23, 2007), the debtor complained about the reporting of a debt on a credit card account after obtaining a discharge in bankruptcy. Simply reporting a debt did not violate the discharge injunction because there must also be evidence of acts “to collect, recover, or offset”, the debt owed to the defendant and the effect on the debtor. In making this determination, the court recognized the distinction between the existence of a debt as opposed to an attempt to collect the debt. In other words, bankruptcy does not erase the debt as it is still due and owing to the creditor; instead, the discharge operates as an injunction against any attempt to collect the debt.

The court’s analysis included a colorful metaphor, comparing the issue to the sacrifice of a goat. If the creditor decides to sacrifice a goat that could be a violation of the discharge injunction but only if the debtor knows about the sacrifice and cares about goats. In other words, if the debtor cares about goats, he might be willing to pay the debt to save the goat which could constitute a violation of discharge injunction because the debtor would have been coerced into paying the debt. On the other hand, should the debtor not care about goats spiritually (preferring to eat cabrito) such an act would not encourage the debtor to pay the debt and thus would not be a violation of the discharge injunction. Thus the debtor has to provide evidence that the actions by the creditor were designed to coerce him/her to pay the debt in question. Absence that evidence, the mere reporting of the debt after the bankruptcy would not constitute the violation of the discharge injunction.