

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

Jeremy L. Baum,

Plaintiff,

v.

JPMorgan Chase & Co.,

Defendant.

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)
) Case Number: 1:14-cv-01326-JCC-IDD
)
) **DEFENDANT CHASE BANK USA,**
) **N.A.’S ANSWER AND AFFIRMATIVE**
) **DEFENSES TO PLAINTIFF’S**
) **COMPLAINT**

Pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1446, Defendant Chase Bank USA, N.A. (“Chase”), erroneously sued herein as JPMorgan Chase & Co., timely removed this action, on October 7, 2014, from the General District Court of Fairfax County in the Commonwealth of Virginia (the “State Court Action”). Chase removed the State Court Action before responding to Plaintiff Jeffrey L. Baum’s initial pleading. Plaintiff’s initial pleading, as revised and served on Chase on September 29, 2014, is comprised of a form complaint, styled as a Warrant in Debt, together with an Affidavit of Plaintiff (“collectively, the “Complaint”). Chase responds to the Complaint as follows:

ANSWER TO COMPLAINT

Warrant in Debt

Claim:

Plaintiff(s) claim that Defendant(s) owe Plaintiff(s) a debt in the sum of \$1000 net of any credits, \$74.00 costs and \$1000 attorney’s fees with the basis of this claim being a violation of the Fair Credit Reporting Act 15 U.S.C. § 1681, et seq.

Response to Claim:

Chase admits that Plaintiff purports to bring an action for an alleged violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 et seq., but otherwise denies the allegations

contained in the Warrant in Debt.

Affidavit of Plaintiff

Paragraph No. 1:

I am a consumer.

Response to Paragraph No. 1:

Chase lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 1 of the Affidavit of Plaintiff, and therefore denies those allegations.

Paragraph No. 2:

I owed a debt to JPMorgan Chase Bank, N.A. (“Chase”), which debt was for personal, family, or household purposes.

Response to Paragraph No. 2:

Chase admits that Plaintiff owed Chase Bank USA, N.A. a debt until Chase sold Plaintiff’s account to a third party prior to the filing of Plaintiff’s bankruptcy petition. Chase lacks knowledge or information sufficient to form a belief as to the truth or accuracy that the “debt was for personal, family, or household purposes,” and therefore denies those allegations. Chase denies the remaining allegations contained in Paragraph 2 of the Affidavit of Plaintiff.

Paragraph No. 3:

I filed bankruptcy on October 20, 2011 in the Eastern District of Virginia, Alexandria Division under case number 11-17626-BFK. I received a discharge on January 31, 2012.

Response to Paragraph No. 3:

On information and belief based on a review of the docket for the U.S. Bankruptcy Court for the Eastern District of Virginia, Alexandria Division (the “Bankruptcy Docket”), Chase admits the allegations contained in Paragraph 3 of the Affidavit of Plaintiff.

Paragraph No. 4:

I properly listed the debt owed to Chase, account #426684114925, on my bankruptcy schedules.

Response to Paragraph No. 4:

On information and belief based on a review of the Bankruptcy Docket, Chase admits that Plaintiff purported to list a debt to Chase as account number 426684114925 on Schedule F of Plaintiff's bankruptcy petition but denies that Plaintiff owed any debt associated with that account to Chase at the time he filed bankruptcy. Chase denies the remaining allegations contained in Paragraph 4 of the Affidavit of Plaintiff. Chase further states that it sold Plaintiff's account to a third party prior to the filing of Plaintiff's bankruptcy petition and therefore no longer owned the account at the time Plaintiff filed for bankruptcy.

Paragraph No. 5:

Defendant Chase has been and continues to report the debt owed to the Equifax credit bureau as a "Charge Off" and "Transfer/Sold."

Response to Paragraph No. 5:

Chase admits that Equifax is reporting Plaintiff's debt as charged off, with a \$0 balance, and "Transfer/Sold," which accurately reflects Chase's relationship to Plaintiff's debt. Chase denies the remaining allegations contained in Paragraph 5 of the Affidavit of Plaintiff.

Paragraph No. 6:

I first submitted a dispute to the Equifax credit bureau as to the status of Chase account# 426684114925 on June 26, 2014. Equifax returned investigation results dated July 2, 2014 on July 7, 2014 stating, "We have researched the credit account" and the "creditor [Chase] has verified to OUR company that the current status is being reported correctly."

Response to Paragraph No. 6:

Chase lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 6 of the Affidavit of Plaintiff, and therefore

denies those allegations.

Paragraph No. 7:

I submitted a reinvestigation to Equifax of the Chase account on July 7, 2014, which included a copy of my bankruptcy schedules and discharge order showing the debt owed to Chase was discharged. Equifax returned the reinvestigation results dated July 9, 2014 on July 11, 2014 with no change indicating the Chase credit account was being reported correctly by the creditor, Chase.

Response to Paragraph No. 7:

Chase lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 7 of the Affidavit of Plaintiff, and therefore denies those allegations.

Paragraph No. 8:

I submitted a third investigation request on July 14, 2014 again (sic) attaching the bankruptcy schedules and discharge order. Equifax returned the reinvestigation results dated July 17, 2014 on July 24, 2014, again with no change.

Response to Paragraph No. 8:

Chase lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 8 of the Affidavit of Plaintiff, and therefore denies those allegations.

Paragraph No. 9:

Defendant Chase received actual notice of both the bankruptcy filing and Notice of Meeting of Creditors dated October 21, 2011 and the discharge order dated January 31, 2012.

Response to Paragraph No. 9:

On information and belief based on a review of the Bankruptcy Docket, Chase admits that it is included in the BNC Certificate of Notice dated October 27, 2011, related to the commencement of Plaintiff's bankruptcy case, and the BNC Certificate of Notice dated February

2, 2012, related to the discharge order entered in Plaintiff's bankruptcy case. Chase denies the remaining allegations contained in Paragraph 9 of the Affidavit of Plaintiff.

Paragraph No. 10:

If Defendant Chase conducted a reasonable investigation, Chase would have discovered there was a bankruptcy and updated the Chase account to reflect the bankruptcy, notwithstanding actual receipt of the notice of the bankruptcy and the discharge order.

Response to Paragraph No. 10:

Chase denies the allegations contained in Paragraph 10 of the Affidavit of Plaintiff. Chase further states that Equifax is reporting Plaintiff's debt as charged off, with a \$0 balance, and "Transfer/Sold," which accurately reflects Chase's relationship to Plaintiff's debt.

Paragraph No. 11:

Defendant Chase is in violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq., for failing to conduct a reasonable investigation despite repeated requests and submissions of the discharge order.

Response to Paragraph No. 10:

Chase denies the allegations contained in Paragraph 11 of the Affidavit of Plaintiff.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE: The alleged claims and purported claims for relief stated in the Complaint fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE: Plaintiff has no cause of action for violation of the FCRA because Chase sold the debt in question before Plaintiff filed his bankruptcy petition, which terminated any obligation of Chase to engage in any further credit reporting relating to the debts.

THIRD AFFIRMATIVE DEFENSE: Plaintiff has no cause of action for violation of the FCRA because Chase's reporting of Plaintiff's debt was not inaccurate or incomplete.

FOURTH AFFIRMATIVE DEFENSE: Plaintiff has no cause of action for violation of 15 U.S.C. § 1681s-2(a) because the FCRA expressly bars individuals from bringing a private cause of action against a furnisher for providing inaccurate or incomplete information to a consumer reporting agency. *See* 15 U.S.C. §§ 1681s-2(c)–(d).

FIFTH AFFIRMATIVE DEFENSE: Plaintiff has no cause of action for violation of 15 U.S.C. § 1681s-2(b) because Chase conducted a reasonable investigation into any dispute by Plaintiff of his credit report.

SIXTH AFFIRMATIVE DEFENSE: Plaintiff's claims are barred in whole or in part by the applicable statutes of limitation, laches, and/or other time bars.

SEVENTH AFFIRMATIVE DEFENSE: Plaintiff's claims are barred in whole or in part because he did not suffer any damages.

EIGHTH AFFIRMATIVE DEFENSE: Plaintiff's claims are barred in whole or in part by his failure to mitigate his damages, if any.

NINTH AFFIRMATIVE DEFENSE: To the extent Plaintiff has suffered or will suffer any damages, such damages were caused, in whole or in part, by the actions or omissions of other persons or entities over which Chase had no control and for which Chase is not liable, including, but not limited to, consumer reporting agencies or third party debt purchasers. In the event any fault of Chase is found to have caused or contributed to cause any damages to Plaintiff, which is denied, any recovery against Chase must be reduced and limited by the comparative fault of such persons or entities.

TENTH AFFIRMATIVE DEFENSE: To the extent Plaintiff has suffered or will suffer any damages, Plaintiff's own actions, inactions, or negligence have caused or contributed to such

damages, therefore, Plaintiff's claims are barred, or, alternatively, any recovery due to Plaintiff must be reduced in proportion to such fault on the part of Plaintiff.

ELEVENTH AFFIRMATIVE DEFENSE: To the extent Plaintiff claims Chase willfully violated the FCRA, which Chase denies, any violation was not willful because Chase's interpretation of the FCRA is not objectively unreasonable. *See Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 70 (2007).

TWELFTH AFFIRMATIVE DEFENSE: Plaintiff's claims are barred in whole or in part because a private litigant is not entitled to injunctive or declaratory relief under the FCRA.

THIRTEENTH AFFIRMATIVE DEFENSE: Chase affirmatively raises and reserves all applicable equitable defenses, including, but not limited to, unclean hands.

Chase has insufficient information or knowledge upon which to form a belief as to whether it may have additional affirmative defenses available and reserves the right to assert any such affirmative defenses in the event that discovery indicates they are proper.

REQUEST FOR RELIEF

WHEREFORE, Chase respectfully requests that this Court deny Plaintiff's claims against Chase, enter judgment in favor of Chase and against Plaintiff, and grant such other and further relief as this Court may deem just and proper.

DATED: October 14, 2014

Respectfully submitted,

/s/ Warren T. Allen II
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CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2014, I cause the foregoing Defendant Chase Bank USA, N.A.'s Answer and Affirmative Defenses to Plaintiff's Complaint to be served upon the following attorneys in the manner indicated:

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