

# What to Do When a Discharged Debt Still Shows as Delinquent on a Credit Report

By Mark C. Leffler, Esq.

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## A Practical Guide

This is probably the most common post-discharge credit reporting problem. The solution is usually simple, but the order of steps matters.

### The Problem: Bankruptcy Worked — But the Credit Report Didn't

After discharge, debtors frequently discover that creditors continue reporting one or two accounts as past due, charged off with a balance, delinquent after the bankruptcy filing, or still owed.

Here is an example from a credit report (with all identifying information redacted). For context, the debtor filed bankruptcy in mid-2020, properly listed the debt in their Schedules, and received a discharge. Also, the debt was not reaffirmed and not the subject of a complaint under Code § 523.

Account Number	xxxxxxx 01	Reported Balance	\$4,178
Account Status	CHARGE_OFF	Available Credit	

The tables below show up to 3 years of the monthly balance, available credit, scheduled payment, date of last payment, high credit, credit limit, amount past due, activity designator, and comments.

#### Payment History

You currently do not have any Payment History in your file.

#### Account Details

View detailed information about this account. Contact the creditor or lender if you have any questions about it.

High Credit		Owner	INDIVIDUAL
Credit Limit		Account Type	INSTALLMENT
Terms Frequency	MONTHLY	Term Duration	7
Balance	\$4,178	Date Opened	Sep 26, 2013
Amount Past Due	\$4,178	Date Reported	Apr 30, 2018
Actual Payment Amount	\$667	Date of Last Payment	Apr 2018
Date of Last Activity		Scheduled Payment Amount	
Months Reviewed	40	Delinquency First Reported	May 2017
Activity Designator		Creditor Classification	UNKNOWN
Deferred Payment Start Date		Charge Off Amount	\$5,546
Balloon Payment Date		Balloon Payment Amount	
Loan Type	Auto	Date Closed	
Date of First Delinquency	Feb 2017		

Note that the report shows the account was opened years before the bankruptcy, so it was clearly a pre-petition debt. The “account status” at the top says “Charge Off” instead of “Discharged.” The comments at the bottom add more detail that is consistent with the inaccurate account status. This makes it appear as though she still owes over \$4,000, all of which is “past due.” This is really damaging to someone who is trying to rebuild their credit after bankruptcy!

The first instinct — calling the creditor — almost never works. Instead, the correct starting point is the credit reporting agencies (CRAs)<sup>1</sup> :

- Equifax
- Experian
- Trans Union

## **The Single Most Important Step: Send a Written Dispute to the Credit Bureaus**

If you remember only one instruction, it should be this: Send a written dispute letter through the US Postal Service to each credit bureau reporting the account incorrectly. The dispute does not need to be complicated or lawyerly, but it should include enough information so that the CRA and the creditor (called a “furnisher” under the Fair Credit Reporting Act) can identify the consumer, the inaccurate account, and what is incorrect about the reporting.

A perfectly sufficient dispute says something like:

Dear [Equifax/Experian/Trans Union]:

You are incorrectly reporting my debt with [name of creditor], account number [account number as it appears on the credit report] as [whatever the status says, such as “charged off”]. I filed bankruptcy and listed [name of creditor] as one of the debts. Included with this letter is the page from my bankruptcy Schedules showing that I listed this account. Also included with my letter is a copy of my Discharge Order so that you will know that I do not owe this debt any longer. Please send a copy of this dispute letter and these documents to [name of creditor] and ask them to conduct an investigation and correctly report this debt as discharged.

If you have any questions or need further information, please call me at [client’s phone number].

That’s enough – at least for the common situation discussed in this article. The goal is not to argue law. The goal is to put the credit bureau on notice. Provide proof of the debtor’s identity by including a copy of their Driver’s License. Finally, send it by certified mail, return receipt requested, because the credit bureaus will often claim they never received the dispute letter. Also, always keep copies of everything sent.

## **Why You Should NOT Use Online Disputes**

Debtors almost always want to dispute online because it’s convenient. This is strongly discouraged because online systems limit explanations, restrict document uploads, reduce disputes to dropdown menus of categories and codes, and create a record suggesting the consumer provided minimal information. Even the short dispute paragraph above won’t fit in the dispute fields of the online dispute portals maintained by the CRAs or credit monitoring services.

## **Why Does the Dispute Step Matter So Much?**

A recent decision, from the Northern District of Illinois illustrates the problem with going straight to litigation without first disputing the inaccurate credit reporting. There, the court dismissed an FCRA claim because the consumer filed suit without first disputing the reporting.

Although FCRA cases can be brought based purely on the CRAs' failure to update credit reporting after bankruptcy,<sup>3</sup> these cases are difficult and susceptible to being dismissed before trial.

## What Happens After the Dispute Is Sent

After receiving a dispute, the FCRA requires the credit bureau to investigate and forward the dispute to the creditor ("furnisher"). The furnisher must conduct its own investigation. Then, within two or three weeks, the bureau sends the consumer written results.

Three outcomes are common:

- The account is corrected. (Yay!)
- The account is deleted. (Even better – one less discharged account on the report.)
- The bureau responds: "Verified as accurate."

That last response frustrates many people– as it should – but it also creates valuable causes of action under the FCRA. Keep reading!

## Remember!

When sending the dispute letter, include copies of 1) the page listing the debt, 2) the Discharge Order, and 3) your Driver's License or State ID. Always send it via the U.S. Postal Service with return receipt requested and always keep a copy of everything you send.

## If the Dispute Fails

Bottom line: a simple, well-written dispute letter will create a strong FCRA claim if the reporting was inaccurate and the CRAs and furnisher fail to correct it. Once a dispute is received, the bureau and the furnisher must conduct a reasonable reinvestigation. Failure to correct inaccurate reporting after notice can create liability under the FCRA against not just the creditor but also against the CRA. The dispute is what puts the system on notice.



## Mark C. Leffler

Consumer Litigation Associates, Newport News, VA

Mark C. Leffler is a federal civil litigator with Consumer Litigation Associates, a nationally recognized leader in consumer advocacy based in Virginia. Mark has spent most of his career litigating in Bankruptcy Court, including bringing numerous actions against debt collectors, mortgage companies, and predatory lenders in bankruptcy. He is President of the NACTT Academy for Consumer

Bankruptcy Education, is a frequent author for the NACTT Academy's webzine at ConsiderChapter13.org, and has served as a panelist at numerous annual conferences of the National Association of Chapter Thirteen Trustees (NACTT). Mark is AV® rated by Martindale Hubbell, he was selected for inclusion in The Best Lawyers in America for his work in bankruptcy and debtor rights, and he is a frequent speaker and author on bankruptcy matters for Virginia CLE programs. Mark is a native of Williamsburg, Virginia, and he received his law degree from Duquesne University School of Law in Pittsburgh, Pennsylvania. He is a member of the National Association of Consumer Advocates, Virginia State Bar, Bankruptcy Section, and the Richmond Bankruptcy Bar Association.