

Business attorney Frank Lauletta comments on a recent court decision, whether debt purchasers are "debt collectors"

Recently, the Third Circuit reviewed a Pennsylvania case where one of the central issues was whether a debt purchaser is a "debt collector" under the FDCPA.

SEWELL, NEW JERSEY, UNITED STATES, March 1, 2019 /EINPresswire.com/ -- Business attorney [Frank Lauletta](#) has published a new case comment, addressing the issue whether debt purchasers are considered debt collectors under the Fair Debt Collection Practices Act. A recent Pennsylvania case illustrates the issues. The article will be published in full on the Blog of [Mr. Lauletta](#) at <https://franklaulettablog.blogspot.com/>

The case, Barbato v. Greystone Alliance, LLC, was a case on appeal from the US District Court for the Middle District of Pennsylvania. "Appellant Crown Asset Management ("Crown") is a purchaser of charged-off receivables, that is, accounts on which a consumer has stopped paying the debt owed. When Crown purchases an account, it determines if the debtor has filed for bankruptcy or is deceased. If neither is the case, Crown does not collect on the account itself; rather, it refers the charged-off receivable to a third-party servicer for collection or it hires a debt collection law firm to file a collection lawsuit on its behalf. Although Crown does not contact consumers directly, it principally derives revenue from liquidating the consumer debt it has acquired."

Crown contracted with Turning Point, which was later absorbed by Greystone Alliance, LLC, to collect debts on Crown's behalf, for which Turning Point would be paid on a contingency basis. Crown was solely in charge of the settlement guidelines. "Pursuant to this agreement, Turning Point sent [Appellee Mary] Barbato a collection letter in February 2013, identifying itself as a 'National Debt Collection Agency' and Crown as its client. Turning Point also called Barbato and



Frank Lauletta, Partner at the Law Firm Lauletta Birnbaum

left her two voicemail messages. For its part, Crown did not have any direct communication with Barbato regarding her account, nor did it review or approve the letter sent to her by Turning Point. When Barbato filed for bankruptcy, however, Crown recalled Barbato's account from Turning Point and subsequently closed it."

Barbato eventually filed suit against Greystone Alliance, later joining Crown, for violations of the Fair Debt Collection Practices Act ("FDCPA"). Eventually, Crown remained the sole defendant and the parties filed cross motions for summary judgment. One of the central issues was whether Crown was a "debt collector" under the FDCPA.

"On appeal, Crown contends that it does not qualify as a 'debt collector' under the 'principal purpose' definition for three reasons: First, the Supreme Court's decision in [Henson v.

“

The Third Circuit rejected Crown's argument, that it was a creditor and not a debt collector. ... creditor and debt collector were not mutually exclusive ..."

*Frank A. Lauletta, Attorney at
Lauletta Birnbaum*

Santander, Consumer USA Inc.] undermined our prior precedent that would render it a debt collector. Second, its principal purpose is the acquisition—not the collection—of debt, and a faithful interpretation of the statute requires that we distinguish between the two. And third, the legislative history demonstrates that Congress intended to regulate the proverbial 'repo man,' not a 'passive debt owner' like Crown."

The Third Circuit rejected Crown's argument, that it was a creditor and not a debt collector. The Third Circuit

explained that creditor and debt collector were not mutually exclusive and that an entity that operates as both is covered by the FDCPA. The Third Circuit also explained that Crown overreached on the effect of the Henson decision on Third Circuit precedent. Indeed, the Court noted that "the Supreme Court went out of its way in Henson to say that it was not opining on whether debt buyers could also qualify as debt collectors under that prong of § 1692a(6)." As to Crown's principal purpose argument, the Court explained that nothing in the statutory language suggests that the regulation was intended to narrowly apply to those engaged in active acts of debt collection and not to entities such as Crown that acts through another entity. As the Third

Frank A. Lauletta, Business Attorney



Overview

Frank Lauletta is an experienced corporate attorney who has many years of "hands on" experience in private and public companies. His practice focuses heavily on representing and counseling a broad array of companies in corporate transactions such as venture capital, corporate finance, and mergers and acquisitions. Frank also has extensive experience representing companies and shareholders in connection with drafting and negotiating shareholders agreements and buy-sell agreements and also frequently represents clients involved in partnership disputes and shareholder oppression actions. With his broad legal experience, executive-level background, and extensive relationships in the legal, venture capital, and high technology communities, Frank is uniquely suited to serve as outside general counsel to clients.

Working closely with executive management teams, Frank currently serves in this capacity to a number of software and other technology-based companies throughout the United States.

Frank is frequently relied upon to help develop sales, licensing and royalty-based models for companies in the software, cloud, energy, medical and other intellectual property and technology-based industries. Frank also assists companies in developing their form sales, licensing, terms of use, distribution, employment and other agreements. Since 1997, Frank has negotiated and closed hundreds of software licensing, distribution, technology, joint venture, construction and other complex agreements with dozens of Fortune 500 and international companies with annual transaction values ranging from hundreds of thousands to multiple millions of dollars.

Frank Lauletta, Attorney Profile at
solomonlawguild.com



Lauletta Birnbaum
ATTORNEYS AT LAW

Lauletta Birnbaum, Attorney Frank A. Lauletta

Circuit put it “[a]s long as a business’s raison d’être is obtaining payment on the debts that it acquires, it is a debt collector. Who actually obtains the payment or how they do so is of no moment.” As for the legislative intent argument, the Court reasoned that “[t]he statute is clear, and Crown’s argument fails for this reason as well: ‘[R]ecourse to legislative history or underlying legislative intent is unnecessary when a statute’s text is clear and does not lead to an absurd result.’” Therefore, the Third Circuit held that Crown was a debt collector within the meaning of FDCPA and is therefore bound by applicable federal consumer protection law. The case is *Barbato v. Greystone Alliance, LLC*.

About [Frank A. Lauletta](#)

As a general corporate attorney, Frank Lauletta’s practice focuses heavily on representing and counseling a broad array of emerging growth and established companies in both the public and private sectors. With his broad legal experience, executive-level background, and vast relationships in the legal, venture capital, and high technology communities, Frank is uniquely suited to serve as outside general counsel to clients. Working closely with executive management teams, Frank currently serves in this capacity to a number of software, telecommunications, and high technology companies throughout the United States.

Bio of attorney Frank Lauletta on law firm website: <http://lauletta.com/our-lawyers/frank-a-lauletta/>

Attorney Profile: <https://solomonlawguild.com/frank-a-lauletta>

Blog of Frank Lauletta: <https://franklaulettablog.blogspot.com/>

LinkedIn Profile: <https://www.linkedin.com/in/frank-lauletta-9143a82/>



Office of Lauletta Birnbaum, Frank Lauletta, Partner



Office of Lauletta Birnbaum in New Jersey (Frank Lauletta, attorney)

Law Directory: <http://www.legaldirectories.com/Lauletta-Frank-A-III-245514-Atty.aspx>

Caitlin Mattera

Lauletta Birnbaum

+1 856-232-1600

[email us here](#)

Visit us on social media:

[LinkedIn](#)

This press release can be viewed online at: <https://www.einpresswire.com/article/477941497>

EIN Presswire's priority is source transparency. We do not allow opaque clients, and our editors try to be careful about weeding out false and misleading content. As a user, if you see something we have missed, please do bring it to our attention. Your help is welcome. EIN Presswire, Everyone's Internet News Presswire™, tries to define some of the boundaries that are reasonable in today's world. Please see our Editorial Guidelines for more information.

© 1995-2021 IPD Group, Inc. All Right Reserved.