

United States Senate
WASHINGTON, DC 20510

July 10, 2016

Maureen K. Ohlhausen
Acting Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW,
Washington, DC 20580

Terrell McSweeney
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW,
Washington, DC 20580

Dear Chairman Ohlhausen and Commissioner McSweeney,

I am writing to request a Fair Debt Collections Practices Act (“FDCPA”) compliance review of the call scripts used by four private debt collection companies hired by the Internal Revenue Service (“IRS”). The call scripts are attached. I ask that you report the results of your review to my office by September 1, 2017.

In December of 2015, Congress directed the IRS to hire private debt collectors for certain categories of uncollected tax receivables.¹ The IRS then hired four debt collection companies to implement this mandate: CBE, ConServe, Performant, and Pioneer.² The IRS has already begun assigning accounts to these private contractors.

In order to ensure that taxpayer rights are duly protected at each stage of interaction with the IRS and its private contractors, I believe the call scripts used by IRS contractors deserve review by the FTC. I am particularly concerned that these call scripts may include implied threats to taxpayers, violations of taxpayer privacy protections due to information shared with third parties, and inadequate responses to taxpayer cease and desist requests.

¹ Fixing America’s Surface Transportation (FAST) Act, Pub. L. No. 114-94 §32102.

² “Private Debt Collection,” IRS, last reviewed June 2, 2017. Available at: <https://www.irs.gov/businesses/small-businesses-self-employed/private-debt-collection>

The FTC has jurisdiction over these contractors under Internal Revenue Code section 6306(g), which specifies that these qualified debt collection contracts are subject to the Fair Debt Collection Procedures Act.³ As you know, the FTC is authorized to enforce compliance with the FDCPA.⁴

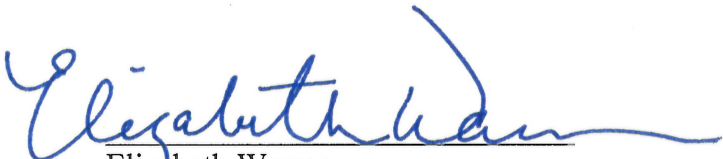
Taxpayers contacted by IRS contractors are at serious risk of abuse. The Taxpayer Advocate has reported that more than half of the initial accounts referred to these private debt collectors are for taxpayers below 250% of the federal poverty level.⁵ Private debt collection companies are also consistently the highest category of complaints received by the CFPB.⁶

Given the FTC's responsibility for enforcing the FDCPA, I ask that you conduct a thorough review of these scripts and provide a briefing to my staff on this matter no later than September 1, 2017. I also ask that you provide answers to the following questions:

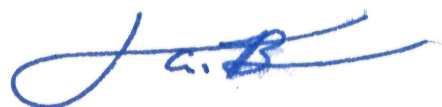
1. To date, has the FTC conducted any reviews of these or similar IRS private debt collector call scripts, and if so, what were the results of these reviews?
2. Does the FTC actively monitor complaints against the four contractors hired by the IRS to collect tax debts? Has the FTC obtained any such complaints, and if so, how many, and what was the nature of these complaints? Did the FTC take any action based on these complaints? Were these complaints forwarded to the IRS?
3. Does the FTC work with the IRS or TIGTA to ensure contractor compliance with the FDCPA? If so, in what ways?

Thank you for your close attention to this matter. For any further communication, you may contact Beth Pearson at Beth_Pearson@warren.senate.gov.

Sincerely,



Elizabeth Warren
United States Senator



Corey A. Booker
United States Senator

³ “The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract...” 26 USC 6306(g).

⁴ “The Federal Trade Commission shall be authorized to enforce compliance with this subchapter...” 15 USC 1629l(a).

⁵ Taxpayer Advocate Service, “Fiscal Year 2018 Objectives Report to Congress, Vol. One,” p. 29. Available at: https://taxpayeradvocate.irs.gov/Media/Default/Documents/2018-JRC/JRC18_Volume1_AOF_01.pdf

⁶ For example, in the CFPB's Monthly Complaint Report for June 2017, debt collection was the number one category of complaint and comprised nearly 50% of all servicemember complaints. Full report available at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201706_cfpb-Monthly-Complaint-Report-50-State.pdf

Ben Cardin

Benjamin L. Cardin
United States Senator

Sherrod Brown

Sherrod Brown
United States Senator

Ben Cardin
United States Senator