

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF FLORIDA
Jacksonville Division

IN RE:)	
)	
Adriana De Lourdes Fox)	CASE NO. 3:05-bk-12267
)	(Chapter 7)
Debtor)	
_____)	

ORDER TO SHOW CAUSE WHY NAVY FEDERAL CREDIT UNION SHOULD NOT BE SANCTIONED

This case is before the Court on the Motion of the Debtor for sanctions against Navy Federal Credit Union ("Creditor") for violation of 11 U.S.C. §§362, 524. After notice and a hearing held on May 6, 2008 at 11:30 A.M., the Court finds:

1. This case was commenced with the filing of a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on October 10, 2005.
2. Creditor had actual notice of the automatic stay in this case by virtue of the Notice of Commencement of Chapter 7 Case delivered to Creditor on November 6, 2005.
3. Debtor received her Discharge on March 29, 2006.
4. Creditor had actual notice of the Discharge in this case by virtue of the Discharge of Debttor delivered to Creditor on March 29, 2006.
5. No assets were administered in this case. Accordingly, Creditor was not given notice to file a proof of claim and did not file one.
6. In January of 2006, and each month thereafter through December of 2007, Creditor reported to the Equifax credit reporting agency that Debtor owed it an unpaid balance of \$4,498.00.
7. When a creditor falsely reports unpaid balances which are stayed or discharged by a bankruptcy, it impermissibly attempts to collect that debt in violation of the automatic stay of 11 U.S.C. §362 and the discharge injunction of 11 U.S.C. §524. See *Russell v. Chase Bank USA, NA (In re Russell)*, 378 B.R. 735, 743 (Bankr. E.D.N.Y 2007), *Torres v. Chase Bank USA, N.A. (In re Torres)* 367 B.R. 478,

486 (Bankr. S.D.N.Y. 2007), *Lohmeyer v. Alvin's Jewelers (In re Lohmeyer)*, 365 B.R. 746, 750 (Bankr. N.D. Ohio 2005); *Carriere v. Fed. Credit Union*, Case No. 03-1894, 2004 U.S. Dist. LEXIS 14095, at 20-23 (W.D. La. July 12, 2004); *In re Burgess*, Case No. 05-12813, 2007 Bankr. LEXIS 142, at 4-6 (Bankr. E.D. Va. Jan. 12, 2007); *Norman v. Applied Card Sys., Inc. (In re Norman)*, Case No. 04-11682, Adv. No. 06-1133, 2006 Bankr. LEXIS 2576, at 3-5 (Bankr. M.D. Ala. Sept. 29, 2006); *Smith v. Am. General Fin. Inc. (In re Smith)*, Case No. 00-02375, Adv. No. 05-9085, 2005 Bankr. LEXIS 2481, at 6-7 (Bankr. N.D. Iowa Dec. 12, 2005).

8. The Court will hold a hearing on June 17, 2008 at 9:30 a.M at which Navy Federal Credit Union shall show cause ^{as to why} sanctions should not be imposed upon it for stay and discharge violations, and Debtor shall present evidence of damages.

Dated this 8 day of May, 2008 in Jacksonville, Florida.


Jerry A. Funk
United States Bankruptcy Judge

cc: Debtor
Debtor's Counsel
Navy Federal Credit Union, 820 Follin Le. SE, Vienna, VA 22180-4907