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REVOLUTION



**Path  
of the  
Smart  
Consumer**

**John C. Heath, Esq.  
Dr. Randy Padawer  
Jayson R. Orvis**

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# CHAPTER

# ONE

## **The Heart of the Matter**

Back when people lived in caves, a person's value was measured by his ability to slay the woolly mammoth or her ability to plant and harvest grain. Cavepeople were esteemed or diminished by their tribe, simply based upon their ability to produce food or protect the village. As of this writing, not a whole lot has changed.

We don't all plant grain, and nobody slays woolly mammoths anymore. But we do pay a great deal of attention to each other's ability to create value and keep our commitments. In fact, deep inside, we're constantly judging one another on the basis of how well we provide for our families and how much we're trusted as stewards of the benefits and luxuries of civilization.

When we're able to afford a beautiful home, we feel a profound sense of self-worth. When we can buy a new car, we pick up a distinct spring in our step. When we pay off a credit card, it's a good day.

Our quality of life and our self-esteem run together like thunder and lightning. When we're able to provide for our families comfortably, we feel good about ourselves. When we are failing to meet our basic needs, or if there's stress sur-

rounding our ability to earn a living, we begin to feel less and less valuable as human beings.

Abraham Maslow was a psychologist who described the needs of human beings as a pyramid, beginning with our most basic needs and progressing to more sophisticated ones. Maslow rightly pointed out that we first require basic food, clothing and shelter. But Maslow's analysis may underplay something far more critical in today's society: Without a sense of self-worth and self-esteem, we may be able to eat and enjoy shelter, but it might be tough to accomplish much else. How we feel about ourselves is a big factor in determining our quality of life.

We will do most anything to feel good about ourselves. Almost nothing is as important as feeling like we're worthy, respectable people who are making an important contribution to the world. If we're buried in debt and failing to meet the basic needs of our family, it often feels like we've failed as a contributor to our family and sometimes that we have failed as a human being. Nothing can be more desperate than that: to FAIL as a human being.

Consider the front line brigades of the Taliban of Afghanistan, Tamil Tigers in Sri Lanka or similar fundamentalist terrorists anywhere. With few exceptions, such individuals are extremely frustrated by the economic conditions in which they find themselves. Many front line terrorists have found themselves struggling to meet the needs their families or their own basic human needs. As an example, in Afghanistan, more women die in childbirth than anywhere else on the face of the planet, and over sixteen percent of infants die before they're one year old. They have absolutely no chance of achieving the standard of living openly displayed by the Western world, and they're lucky to provide enough to simply ensure their families' survival. They have a choice:

either accept their inability to live on an economic level comparable to Western standards or find another way to feel good about themselves. (One might argue that their only alternative is to submit to the possibility that they are so inferior to Westerners as human beings that they don't deserve to live any better than they do. And who would accept that?!) So, rather than entertain that possibility, even though it means in some cases losing their very lives, these men and women turn toward a philosophy that demonizes financial abundance and exalts the *nobility* of their own poverty. It's just too much for them to accept their economic state as a fact of life. It would mean seeing themselves as less valuable than the "decadent" and corrupt Americans. They will do almost *anything* else, including taking their own lives in acts of terror, in order to feel better about their circumstances.

Likewise, our own self-esteem is sustained, buoyed up by our financial well-being and supported by our ability to buy a home, a car or take vacations with our family. When the tide of our success falls, so does our self-confidence. As shallow as this may sound, our self-esteem sometimes seems as if it can be measured by our credit scores. In fact, it's undeniable: when our credit tanks, when our card is denied, when our home is foreclosed, these can be the darkest moments of our self-worth. Sadly, these are the times when some of us slip into depression and others turn to escaping this life altogether.

If Maslow lived today, and he knew of the dark tides of financial failure engulfing much of America, it would be interesting to see where he might place a good credit score in the hierarchy of human needs. The credit score, whether right or wrong, says so much about a person's value to society that it's difficult to unwrap its grip from every area of our lives. It is the closest thing to a report card that we have as adults. It implies volumes about our productivity, our intelligence, and our ability to perform as a human being.

When you strip away a person's dignity, you strip away the color from their lives. If our principal mission as a country is to preserve "life, liberty and the pursuit of happiness," then our collective self-esteem and self-respect should be a top priority. We tend to ignore these matters of the heart and mind, tossing them into a bin titled *Optional*. But if we're really concerned with the quality of life in this country, questions of well-being and self-esteem must be addressed. And a good place to begin is the credit report and the credit score.



CHAPTER

TWO

## **The Bogus Brick Wall**

There's nothing that Congress (or consumer advocate attorneys) can do to put a stop to financial catastrophe. Those gut-wrenching, devastating financial disasters will happen in the lives of good people. Divorce, job loss, and health crisis will always be facts of life.

However, there's much that can be done to throw a drowning person a rope. As long as there's a lifeline, most people will take comfort in knowing that a solution to their predicament is out there somewhere. We all desperately need to know that we can work our way out, step-by-step, from bad financial situations. While the devastation of a financial or life-disaster is certain to sting for awhile to come, a person can have hope if he or she knows that effort and hard work can resolve the problem.

Unfortunately, that's not the picture the banks, credit card companies, and even some credit experts paint. Instead, they paint a picture of a brick wall that is seven years tall and three credit bureaus deep. They cast the impression that "time is the only antidote to bad credit" and they discourage any talk of credit improvement prior to the day, almost a decade in the future, when the negative credit listings begin falling off the credit reports on their own. When you know that an item

on your credit report is in error, where do you go and with whom do you speak in order to straighten out the situation?

Roger found himself asking these questions after he discovered a student loan on his credit report that was being reported in total default. This one negative listing, of course, completely destroyed Roger's once-pristine credit score. In fact, Roger had struck a new agreement for a rehab payment program with his student loan lender. In the rehab, Roger had made increased payments on his student loans over a period of nine months. At the end of that time period, the student loans were paid in full, and Roger was feeling pretty good.

After the student loans were paid in full, Roger found out that they were still being reported as bad loans and that he had received no credit whatsoever for paying them off— and his credit report still showed that he was in default.

Roger was understandably freaked out, so he called his original student loan lender who directed him to Sallie Mae, who managed Roger's student loans. Sallie Mae responded by sending Roger a letter in which they stated that he needed to contact the original student loan lender to dispute the default listed on his credit report. Round-and-round it went with Sallie Mae and the student loan lender both pointing the finger back at one another. Neither would fix the problem because neither wanted to take the responsibility.

Roger was told that there was nothing he could do and that the negative reporting would remain on his credit report for seven years. When he investigated the possibility of *credit repair*, he was told over and over again by a multitude of government and consumer advocate websites that “time is the only antidote to bad credit.” Even though Roger had made a new agreement with his student loan lender and had paid the

loan off early, the consumer “experts” of the world continued to drone on that since Roger had *once been* late on his student loan, that the listing was technically accurate (even though the listing showed him in default *now*). Confused and discouraged, Roger gave up.

Several of the pundits who preach the “brick wall” (that credit repair cannot be hurried along) are the same people who claim to speak for the average American. This is particularly bizarre when you consider the sources: many consumer protection groups, state and federal regulatory agencies, and even many consumer advocacy lawyers. Such less-than-fully-informed sources actually buy the party line being sold by the credit industry, that negative credit shouldn’t be challenged unless it’s clearly inaccurate. These same “consumer advocates” know full well that credit reports are rife with errors, but they fail to understand that the circumstances surrounding questionable credit are complicated. Many consumer advocates like to think that there’s a clear, black and white line between accurate credit and inaccurate credit. They imagine a world where people can be neatly divided into “good” consumers and “bad” consumers – and they go so far as to imagine that the credit score can predict which is which. So, in support of the dogma being promoted by the credit industry, these “consumer advocates” parrot the tidy and prevalent lies that are meant to convince the average American to leave their credit report and credit score well-enough alone.

Jane Campbell is a “consumer advocate” and an attorney (Jane’s name has been changed). She has fought many cases against collection agencies, credit card companies, credit bureaus and the like on behalf of consumer clients. Over her many decades of legal practice, she has probably sat across a desk from middle-class Americans who are experiencing actual credit troubles only a few times. Jane has never had

credit problems herself. Jane is involved with numerous consumer groups, including high-profile consumer advocacy bureaus and attorney trade groups specializing in consumer rights. But, when it comes to credit correction, Jane might as well be on the credit bureau payroll. Her words harmonize nicely with the public relations prattle of Equifax and Experian.

*“Only time can cure bad credit.”*

*“The volume of consumer complaints to the credit bureaus causes harm to the credit system and slows the credit bureaus’ response to ‘legitimate’ consumer complaints.”*

*“Consumers and credit correction lawyers who submit questionable disputes interfere with the credit bureaus’ business of providing accurate reports.”*

In strange synchronicity with the credit corporations, she takes every opportunity to propose limits to a consumer’s access to legal counsel when it involves issues of credit correction. Of course her preferred method of consumer advocacy is litigation. Other credit correction lawyers amount to competition. But Jane doesn’t seem like the kind of woman fazed by a little competition. There’s something more subtle beneath her attacks on the disputing of credit inaccuracies.

Jane, living in the East Coast, upper strata of our society, has lost touch with the true nature of the credit struggles of Middle America. She assumes that there are two kinds of credit-troubled consumers: those who deserve it and those who don’t. And she’d just as soon see “those who deserve it” wallow in credit limbo.

Of course Jane is right about one thing: there are those who

don't deserve credit. There are many Americans who can't handle the responsibility of debt and who can't be trusted with a credit card.

But Jane just doesn't see the myriads of Americans who "deserve it" but have been evicted from our credit society. She doesn't realize that hundreds of thousands of Americans have been discarded by the credit system unfairly. In Jane's black-and-white world – a world where her only contact with true "consumers" is when she passes through the McDonalds drive-thru – there is no gray. There is no possibility of "questionable" credit listings. There are "accurate" credit listings and "inaccurate" credit listings. Accurate credit should be left alone. Inaccurate credit should be taken to court.

What about the millions of credit listings that are inaccurate but don't warrant a court case? What about the millions of credit listings that are somewhat accurate and somewhat inaccurate? What about the millions of credit listings that are explainable and that any reasonable person would agree should be removed? What about the wide world of gray? Should those people, who through no fault of their own have experienced financial tragedy, be excluded from the credit world for the next seven to ten years?

Jane doesn't ask those questions. Jane doesn't even *know* to ask those questions because Jane deals with so few of the people actually affected by her sense of credit right and credit wrong.

So, Jane goes on her way, taking a fierce stand for the "consumers" she doesn't really know, and she sometimes does innocent and untold damage to their cause.

It's just so striking to hear the "consumer advocates" of this world parroting the edicts of the credit corporations them-

selves. The disinformation penetrates to the very ground floor of consumer advocacy and governmental consumer protection.

At the mouth of this river of disinformation are the credit bureaus themselves (and why the consumer advocates and the state and federal regulators choose to carry their banner is a matter of some curiosity). Of course, it's understandable that the credit bureaus would want to stem the tide of people challenging their credit reports – it's expensive and problematic. So the bureaus churn out sound bites like these:

*“There is really no way to ‘repair’ a credit report when the negative information on it is accurate – except through the passage of time.” — Maxine Sweet, Vice President of Public Affairs, Experian (a credit bureau).*

*“Question: Should I use a credit ‘Repair’ clinic? These items (credit record, history and rating) are based on your past or historical credit behavior, and accurate and timely adverse credit information based on your past credit behavior cannot be changed. For this reason, you should avoid credit repair clinics that claim they can repair your past credit behavior.” — Equifax (a credit bureau, too) Terms of Use agreement for one of their membership programs.*

There's nothing shocking in these statements. What's in it for Experian or Equifax to encourage credit correction or credit fairness? The United States Congress has provided a number of ways for a person to take control of their credit report and positively affect their credit score. There are legal and practical ways to structure step-by-step recovery from financial disaster. Credit recovery is complex, to be sure. But policy makers have provided ways for people to work their

way out of negative credit. No credit issue is as simple as black-and-white, and numerous regulations and credit scoring policies allow for fairness and accuracy in representing the credit worthiness of an individual. While a person may not be ready for a slough of new credit offers immediately after a divorce, job loss, bankruptcy or health crisis, that same person may be ready to regain the trust and support of the credit institutions some time thereafter (and almost always long before seven years have expired). If a person is willing to rebuild good credit and re-establish their good name, that same person is probably ready to take on the responsibility of abundant credit opportunity.

The brick wall is a myth at best, and a calculated lie at worst. There *is* hope for people who have passed through a financial crisis. There are many things that can be done to re-earn credit worthiness and to speed the journey of financial and credit recovery.

James is a middle-aged family man who has struggled with his creditors and the credit bureaus for some time. Erroneous, negative listings on his credit file have continued to appear and re-appear as James fell victim to the credit bureau's stall tactics and "brick walls" over the course of years. James hit brick wall after brick wall as experts and the credit companies told him, "nothing can be done about bad credit." They continually insisted that James wait until the time limits ran out on the negative listings, rather than pausing to listen to his story and take action to correct the errors. Eventually, James turned to professional legal assistance and broke through the wall. James tells the story in his own words:

*"I have tried several other methods to have my credit report corrected and that of my wife's too. Those efforts did not have much impact. I have been searching for other avenues*

*to repair my credit but have found none. Companies have placed things in our credit file that are not correct and that has caused much grief for us. The latest of which [was that] we could not obtain credit for our daughter to get adequate funding for her last year as a senior at our state university. We had to go an alternate route with much higher interest rates and much less favorable terms. This is only one example of many where having our scores improperly impacted caused us to either be denied or to pay much higher than necessary interest rates. Contacting the bureaus on our own has been a waste of time and contacting the banks or collection agencies seems to make matters worse. We contacted Lexington Law Firm and engaged them to perform credit report error correction services on our behalf. It was comforting to know Lexington Law would use the correct terminology in their correspondence with the credit bureaus. Lexington Law's effective and timely correspondence allowed us to have great success with our requests to the credit bureaus."*

With a little help, James and his wife were able to get through the brick wall and began realizing their goal of having an accurate and clean credit report. But, before he could accomplish this, he had to ignore the "expert opinion" of so many consumer advocates and official websites. James had to buck the system, stand up and say, "I don't care what you all tell me. I don't believe that this is right. My family and I deserve better than this. I know my credit report is wrong and I'm going to prove it to you!"

The worst thing that could happen to a person's self-esteem after they have been devastated by bad credit would be for them to become convinced that there is no hope – that their credit mishaps were cast in stone and that recovery was impossible within a reasonable period of time. But the voices of many, sometimes well-meaning, credit experts ring in their ears, proclaiming a message that is as heartless as it is false — that there is no way to take control and recover what was lost; that the unfortunate person is left helpless against a merciless machine of denial.



# CHAPTER

# THREE

## **Credit: How It Rocks Our World**

any consumer advocates decry, despise and otherwise deny the value of consumer credit. This position is simply wrong. Consumer credit is one of the greatest (and least celebrated) inventions of our modern age. We owe much of our stratospheric quality of life to fast and easy credit.

Let's take a look at how much we're blessed by easy consumer credit. As you may know, we in the United States have incredible access to credit – we can get almost anything, anytime with only a brief credit check. Walk into a recreational vehicle dealership, and thirty minutes later you're driving off in the home-on-wheels that you've always dreamed of. Nobody checked your income. Nobody checked your references. Nobody checked the balance in your bank account. All they did was pull up your name, address and Social Security number in a credit reporting database, and boom, you're the proud owner of a \$200,000 rolling palace. That's amazing. Sure, it might be a little dangerous, but it's amazing, still.

Credit's not just for luxury purchases. We all know just how easy it is to get our family into the home of our dreams. Yes, it may seem hard at the time you're going through closing. But let's get real: It's a breeze when you consider the size of

the purchase of a home – probably the largest transaction you’ll ever conduct in your life. When you go to buy a home, there’s often little more than confirmation of your income, your time on-the-job, your previous home-ownership experience, etc. Within thirty days or so, that’s all done, and there you are picking out curtains in a home with a house payment that costs roughly twenty-five percent of your monthly income.

Compare our situation with the same scenario south-of-the-border. Mexico doesn’t have a fraction of the access to credit that you’ll find in the United States. In fact, most people who buy homes in Mexico *literally buy* the home just as Americans did until the early 20<sup>th</sup> century when the home mortgage splashed upon the banking scene. Even today, most citizens in Mexico don’t finance any part of the purchase. They save as much as they can, then they build the place. Obviously, they’re not able to project into the future and dedicate twenty-five percent of their prospective income, projected out thirty years, and then make a home buy. On the contrary, they count up the money they have under their mattresses and then buy the homes they can afford right now. Just ask yourself: what kind of home could you afford if you had to buy it with the money in your checking account today?

Our credit economy opens a lot of doors to those living in the United States and other countries with advanced consumer credit systems. But, there are dangers lurking in the shadows. In 2007, a significant portion of the housing lending market collapsed as sub-prime bankers realized that they had been awarding home loans far too easily to people with bad credit. Almost overnight, the sub-prime market slammed shut, leaving thousands of homeowners unable to refinance expensive mortgages. The effects of this retraction may be felt for years, both in the housing markets and in individual lives.



# CHAPTER

# FOUR

## **Credit Reports and Scoring Made Easy**

Despite the risks, easy consumer credit is a tool that can be used artfully by a smart person who is willing to accept certain guidance. At the heart of consumer credit is the credit report and credit score. In fact, the credit report, with an accompanying credit score, is by far the most important piece of personal information reviewed when you apply for a loan.

The credit score is one hundred percent derived from what is on your credit report. There are three main credit reporting agencies in the United States: Experian, Equifax and Trans Union. These credit bureaus collect data from creditors (banks, collection agencies, credit card companies, etc.) and from public records (bankruptcies, liens, judgments, etc.) and basically generate a report card on you each time someone pulls a credit report in your name. By the way, in case you were wondering, the credit bureaus are NOT owned or controlled by the government. In fact, the credit bureaus spend considerable time in “hot water” with the government due to the intense regulation and oversight applied to their industry by the Federal Trade Commission and the states’ attorney generals.

Prior to 1996, the three main credit bureaus, Experian, Equifax and Trans Union, worked pretty effectively at becoming hard-to-reach. In fact, it was nearly impossible to

find an actual credit bureau telephone number, answered by an actual person. The message was clear: don't write, don't call, we don't care.

Then, the federal government got fed up with the non-stop complaints flooding in about credit bureaus, so they enacted an amendment to the Fair Credit Reporting Act, requiring that the three major credit bureaus maintain telephone numbers that consumers could use to call in and handle credit report errors.

The bureaus dutifully complied. The phone lines were put in place and the phone numbers were made active. But they overlooked one small detail: they didn't provide the staff to answer the phones. Millions of phone calls went unanswered and millions of consumers were put on hold for unreasonable periods of time. The credit bureaus went so far as to specifically block certain calls from specific area codes.

Ultimately, the Federal Trade Commission came crashing down and hit them all with fines totaling \$2.5 million. The bureaus quickly cleaned up their act. Sort of.

In 2003, the FTC had to smack one of the credit bureaus, Equifax, *again* for not answering their phones. Equifax, after being sued by the government, paid another \$250,000 for blocking calls and making people wait too long.

As big as these penalties seem, they probably didn't even put a dent in the credit bureaus' bank accounts. And these lawsuits aren't the only ones that credit bureaus face from the government. The FTC and many state attorney generals have sued the credit bureaus, over and over again, to force them to deal with consumer disputes and consumer complaints. A 1980's review of all the complaints received by the FTC revealed that a full forty-four percent dealt with credit bureaus.

All of these complaints and lawsuits resulted in the United States Public Interest Research Group (a consumer advocacy organization) granting the credit bureaus the title of “Public Enemy Number One.” Clearly, the credit bureaus aren’t governmental entities.

The credit report contains: a history of how you’ve done with credit in the past, listings of late payments and other credit mess-ups going back seven to ten years, and it indicates where you’re at today – how much you owe against how much credit you have been offered. Lastly, the credit report also provides a picture of what credit you’ve applied for in the recent past. All of this information is then thrown into a complex formula, and your credit score is spit out of the computer. This single number, this credit score, is the most important piece of data in determining how much credit you can have. In effect, a bunch of huge computers spread around the country instantly crank out a picture of how you borrow and how you spend; and they condense it all down to a single three-digit number: your credit score.

If your credit score is under 620, then you’re considered a low-end-borrower , and you may struggle endlessly to find credit at any rate. If your score is over 620 but below 700, you’ll have some difficulties, but you should be able to get the basics, such as a home or an automobile. You’ll pay a little more and some doors will be closed to you, but you’ll definitely be “in the game.” If your score’s over 700 (or 720 for some prime lenders), then the sky’s the limit. You’ll qualify for just about anything that your paycheck will support. With a better credit score, your whole lifestyle transforms – even without making any more money. Bad credit breeds bad credit, and it’s a downward spiral that’s nearly impossible to overcome.

Consider these two, real life characters. Both work at the

same place, make about the same amount of money and both are close in age. However, one guy has terrible credit and the other has fantastic credit. While their jobs and their incomes are virtually identical, their lifestyles couldn't be more different.

Steve is a manager of sales for an Internet paintball company. He's thirty-one-years old and he destroyed his credit rating about five years ago. Having never learned anything about credit from school or his family, Steve got a few small credit lines then hit some financial difficulties. Those credit lines went south and so did a couple of checks he had written. Within a few short months, Steve had done damage to his credit report that would dog him for the next seven years. Today, Steve lives in a cramped, three bedroom apartment that he shares with his new wife. Even though he makes over \$40,000 a year in addition to his wife's salary, he doesn't even consider buying a home because he knows that the mortgage officers will just laugh when they see his credit score. He and his wife would like to start having children, but they can't imagine raising them in a small apartment on the wrong side of the tracks. Steve finally qualified for an auto loan – but it was the auto loan from hell. He pays 18% interest on a three-year-old compact car. His car payment is through the roof. It eats up more money than his rent. They finally bought a second car, but they had to save up and pay cash-on-the-barrelhead (and all they could afford was a broken-down '96 Blazer). Steve and his wife have one credit card – a Capital One Visa with a scrawny \$500 limit and a 29% interest rate. They keep the card maxed, and the monthly payment is a killer. One day, Steve and his wife hope to get out from under the dark cloud that hovers over them. With all the money they make, they're amazed that one little three-digit number can have such a horrendous impact on their lives.

Ross works for the same Internet paintball company as Steve. He's also in management, but he works in the engineering department and makes about the same money as Steve. He's a little younger than Steve, so you'd expect his credit rating to be a little lower as well. But that's not the case at all. Ross started his credit at nineteen years old when he bought his first motorcycle. Ross made all his payments on time and has used his credit several times to finance other bikes, a car and a home. Even though Ross is only twenty-four years old, he owns a tidy \$170,000 house and he's building equity every year. Ross just bought a brand-new Subaru Legacy for \$28,000 and he scored a low 6.5% interest rate. With that great rate, he pays less for his new car than Steve pays for his used car. Credit cards are no problem for Ross and he's trying to decide right now which of the many credit card offers he receives each month that he'll take. He has his eye on the Delta Skymiles Platinum Amex card. He's thinking he'd like to travel more, and racking up the Skymiles sounds pretty good. Ross is sitting pretty: a new house, a new car and a new motorcycle – all well within his monthly budget. Ross is building equity in his home and moving upwards in the world.

Don't ever let anyone tell you that your credit score doesn't matter. As the story of Steve and Ross proves, your credit score has a LOT more to say about the quality of your lifestyle than even your income.



# CHAPTER

# FIVE

## **Credit Reports and Scoring Made Much More Complicated**

The obvious question is: How do I make my score higher than it is? That's the big question, isn't it?

In fact, you DO have an enormous amount of control over your credit score. Control over your credit score requires either: a) a tremendous education in how the consumer credit system works, or b) someone with that knowledge to guide you.

The landscape of credit report correction and improvement has become increasingly complicated over the years. You are entitled to a huge stack of consumer rights. That's really good news for you because you're accumulating more and more opportunity to improve your credit. However, the flip-side is that those same rights are becoming harder and harder to understand. Isn't that just like government? The more rights you're given, the harder they are to access. Again, an informed coach will make all the difference in the world.

The whole credit repair enchilada began with the 1971 passing of the Fair Credit Reporting Act (known as the "FCRA,") when Senator William Proxmire and other statesmen banded together to do something about the tsunami of consumer complaints building against the credit bureaus. Proxmire

started with high hopes, but after the FCRA passed, he was plagued with a sense of defeat. The law had been so thoroughly modified by credit bureau industry lobbyists, that Proxmire feared that the statute had succeeded in nothing at all.

But Proxmire might feel differently if he lived today (he passed away in 2005). Since the first version of the FCRA, many amendments have built up a wall of consumer protection that, while not simple by any means, still provides an interesting and fertile array of rights badly needed by Americans.

During the Clinton Administration in 1996, the FCRA seemed to be going the wrong direction. Amendments were added to give some protection to credit bureau industry practices such as pre-screening and federal pre-emption of sometimes-tough state laws against the credit bureaus. Other additions strengthened the FCRA—such as specific limits to the duration of an investigation (thirty days).

The 108<sup>th</sup> Congress, under the second Bush Administration, would see the FCRA take a new leap toward consumer rights. With the 2003 passage of the Fair and Accurate Credit Transactions Act, several things would shift decidedly in the American citizen's favor. Credit bureaus were required to provide one free credit report per year (instead of only having to provide them freely if a person was turned down for credit.) Also, information providers (banks, credit card companies, mortgage companies, collection agencies, etc.) were required to accept disputes from consumers and were placed under the same penalties as credit bureaus if they failed to handle disputes efficiently.

With all these twists and turns, the FCRA has grown more powerful for the people. But it has also become more com-

plicated and more difficult for the average Joe to get his arms around what he's supposed to do when his credit report comes up bad. That's just the way it is with government: every silver cloud has a dark lining.

At the same time your credit rights are expanding, the commercial side of credit scoring and credit reporting has been getting more sophisticated as well. As a matter of fact, the credit bureaus are breaking ranks with the credit scoring companies by creating their own scores and their own credit models. Moreover, the credit bureaus are breaking ranks with each other, with bureaus like Trans Union becoming increasingly consumer-friendly, while other bureaus stick to their pro-business, anti-consumer guns.

In this environment of confusion and sophistication, smart folks have huge opportunity to take hold of their own destiny and shape their credit scores. Even a little work toward a good credit score makes a big difference. It's important to understand that the credit card companies and banks make most of their money on the lower margin of their borrowers. American Express and Discover Card don't make very much money off millionaires. The majority of millionaires pay their bills on time; they hardly ever carry a balance owing; they may never incur late charges; they usually possess cards with the lowest available interest rates; and they are seldom the target of interest rate increases. Although Sears will give a credit card to just about any millionaire, they're not planning on making much money from him/her.

People on the lower end of the economic spectrum, on the other hand, are just like virtual cash cows for the credit card companies and banks. Such financially-strapped consumers keep their cards maxed out, incur regular late charges, are forced to accept already high-rate credit cards, and they get slapped with interest rate increases on a regular basis. So

long as low-end borrowers don't go completely broke, they're the perfect customers! And how do credit card companies troll for nearly-broke people? Simple: they monitor their credit scores. Nearly-broke people receive many more credit card applications and loan offers than rich people.

In the compelling film documentary, *Maxed Out*, Harvard Law professor, Elizabeth Warren, recounts her visit to a workshop with Citigroup. Mrs. Warren had been invited to speak to the senior executives of Citigroup on the perils of bankruptcy. As a consumer advocate, Mrs. Warren's message was simple: if Citigroup were to screen its weakest customers – those overloaded with debt and least likely to pay — they could cut their bankruptcy losses by 50% in the blink of an eye.

After hours of discussion, argument and presenting data to prove her point, a man in the back of the room finally spoke up. When he did, the room fell silent and it became clear that this was the person who held the true power in the group of executives.

“Very interesting. But, if we cut those people off (those living paycheck-to-paycheck), that's where we make all of our profits. And we wouldn't make as much money.”

In a flash, it became clear. If Citigroup were to cut out all the people least likely to repay — if they cut out the most marginal borrowers (the ones who are deepest in trouble) — then they'd be cutting out the heart of their profits. Because *that's* where they make most of their money!

To be an average person with a taste for credit, especially if you're an average person who isn't spot-on with your bill paying and keeping your credit card balances down, is to be the kind of person that contributes heavily to the profits of

the corporate credit industry. It's the regular folks, living paycheck-to-paycheck, that pay for the kid of some bank executive to drive a BMW to high school and to attend Spring Break on the beaches of Miami. It's not the rich people who are paying the bankers' fat salaries, it's the regular folks.

But you don't need to be rich to get on the right side of the credit system. You just need to be *smart*. The trick is to groom your credit score by carefully managing your debt and by maximizing your score. This leads the banks and credit cards to treat you like a rich person. They'll give you the high limits on the cards (which then pumps up your credit score), low interest rates, and great benefits such as frequent flyer miles and rewards programs.

If you're in the nearly-broke category, and the banks and credit card companies are taking you for a ride, you need to work your way out of that situation. You simply must stop them from using (or abusing) you. In fact, YOU need to use THEM! Getting in the driver's seat in this credit society isn't hard, but it takes smarts and a little discipline. Solid, professional coaching doesn't hurt, either.

Looking at this dynamic, you can see how the credit companies have a vested interest in keeping your credit score **down**. They will always err on the side of damaging your score. And mistakes will usually be in their favor. Lots of good credit listings, for example, may not do much to increase your score. A couple of bad credit listings, on the other hand, can wipe you out. Although credit scores were originally designed as a tool to determine creditworthiness, they've become more of a tool for determining how much people will pay for their credit. Think about it: Credit denial may not be the worst thing that can happen to a person. Rather, credit approval at abusive rates may actually be a worse possible result. And that's what the credit card companies and banks

are shooting for.

We like to think of banks as powerful, elite lending institutions that lend only to those with a sterling character and flawless credit records. Not so. The biggest banks are also sometimes the biggest sub-prime lenders. Wells Fargo, for example, is the largest single provider of high interest payday loans in the nation. Collectively, the credit card companies and banks offer a dazzling array of the highest-interest, most abusive credit cards and lending tools out there. The big banks ARE the bottom feeders of the credit world. And their biggest tool to pry into your pocketbook is a low credit score. So, while you're feeling lucky to get a credit card because you've been so broke lately, the credit card company is feeling even luckier to have you as its customer.

As a society, we've got to stop the cycle of accepting expensive credit, which leads to low credit scores, which leads to expensive credit. It's the sucker's game in this country, and if you're caught up in it, you can work your way out. And the way out is to work your credit score upwards. Fortunately, there *are several* ways to make that happen.



# CHAPTER SIX

## The Nuts and Bolts of the Credit Score

As you look to improve your credit score, there are several “chunks” that you’ll want to address. Some chunks are more critical than others. We’ll rate each piece of the credit score improvement toolbox on a scale of one to ten, with ten being “prime importance,” five being “average importance” and one being “low importance.” However, depending on a variety of factors, the importance of any particular “chunk” of credit score improvement could go up. For example, if you have seventy-five credit inquiries, even though each one is a pretty low-impact chunk of credit improvement, the sheer number of them begin to overshadow even the more important pieces, like credit history. In short, our rating system is informative, but not conclusive.

### **Bad Credit Listings**

*Level of Importance: 10 out of 10*

The biggest score-killer is definitely the presence of negative credit listings. These may include public records, collection accounts, charge-offs and late payments. The bulk of the credit score depends on credit history.

### **Amount of Revolving Credit Used**

*Level of Importance 8 out of 10*

This piece rates the amount of your available credit that's already tapped out. In other words, how loaded up are your cards and credit lines? Basically, this part of your credit score adds up the total of all the revolving credit you have used, and then divides that by the sum of your available revolving lines of credit. This provides what credit experts term a credit "utilization ratio" that gives the scorer an idea of how extended your credit is. The more maxed out your credit looks, the more likely the banks believe you may default on your debts (and the lower your credit score will go). This is an area where it's particularly valuable to get a good credit coach. Grooming your credit score by adjusting your balances is a fast and easy way to push your score up – if you know what you're doing.

### **Age of Credit**

*Level of Importance: 7 out of 10*

If your credit is very recent, say less than three years, then your credit inexperience will drive down your score. This is measured by the age of your oldest account.

### **Amount of Credit**

*Level of Importance: 6 out of 10*

The more credit you have, the better —except when you have too much. Basically, your credit score will be helped by having a solid amount of open credit (say, roughly six or seven open accounts). Although too much credit is less important (maybe a 4 out of 10), it can still negatively impact your score.

### **Type of Credit**

*Level of Importance: 5 out of 10*

Oddly enough, the type of credit you use can hurt your credit report as well. If you use credit through finance com-

panies or other high-interest credit sources, or have too many installment loans (other than a conventional home-mortgage or automobile loan), it will cause your score to dip. For some reason, credit scoring assumes that high-interest finance is a sign of a bad borrower.

### **Number of Inquiries**

*Level of Importance: 4 out of 10*

Whenever you apply for credit, an “inquiry” is generated on your credit report. Some inquiries slightly depress your credit score and others do not. If you’re working your credit score and you’re thinking about applying for another credit line, you should talk to someone knowledgeable. It may or may not hurt you to apply again.



# CHAPTER

# SEVEN

## **Bad Credit Listings: They're NOT All Created Equal**

As mentioned previously, negative listings on your credit report are the biggest factor in lowering the credit score. If you're out to improve your credit score, any "negatives" on your three credit reports are definitely "job one." But, not every negative listing impacts your credit score the same. We'll list them all and rate them one-by-one on the same ten-point scale we used before with 10 being the most severe.

### **Public Records/Bankruptcy**

*Level of Importance: 10 out of 10*

Tax liens, judgments, and of course bankruptcies are full-blooded credit-killers. They are the nuclear devices of credit devastation. When you read that bad credit stays with you for "seven to ten years," the "ten years" part refers to public records. That's the bad news. The good news is that the credit scoring models don't really know how to read public records very well. Since public records are all listed differently, and since this information comes from county courthouses all over the nation, there's very little consistency between these records. For the most part, these records are simply text fields that the scoring model must somehow "read." Also, public records must be pulled down by hand by the credit bureaus. This is difficult, error-prone

and expensive. In short, there are many holes in the public record reporting system, and most of these inefficiencies lean to the consumer's favor. But ANY kind of public record must be made to disappear (even paid judgments, paid liens etc.) Saying much more on this subject will lead you down the path toward becoming an "expert," and you've probably already decided that you'd rather learn wakeboarding or crochet than become one of those. So, we'll just stop here.

### **Included In Bankruptcy Items**

*Level of Importance: 10 out of 10*

When you file for bankruptcy (or when someone with a similar name files for bankruptcy), the accounts that were included in bankruptcy will usually turn up as "Included in Bankruptcy" items. This means that they were part of your supposed bankruptcy. These items are particularly damaging because even if the bankruptcy public record listing itself is removed (which is fairly common), the "included" items will continue to verify the bankruptcy on your credit report. In a sense, "included in bankruptcy" items are just as damaging to your score as a bankruptcy listing itself.

### **Collection Accounts**

*Level of Importance: 9 out of 10*

Collection accounts are similar to public records in that they're reported hit-and-miss by collection agencies. Each agency is less interested in accurate reporting than they are in twisting the consumer's arm by trashing their credit rating. Collection agencies, in short, are more interested in getting paid than they are in the accuracy of the credit system. So, collection accounts are often inaccurate – but the collection agency has a vested interest in keeping an active collection account from dropping off the report. Since they're so focused on profit, collection agencies are often

willing to delete a negative credit listing themselves, given the proper financial incentive. Paid collection accounts are just as bad to a credit score as unpaid collection accounts, but paid collection accounts are better because they're easier to remove through efforts to dispute and remove.

### **Foreclosure/Repossession Listings**

*Level of Importance: 9 out of 10*

These kinds of “charge off” listings are devastating to the credit score, especially when applying for a mortgage. Much like a charge off or collection account, a foreclosure/repossession not only damages the score, but it's very difficult to remove by contacting the creditor.

### **Charge Off or Profit and Loss Write-off Accounts**

*Level of Importance: 8 out of 10*

When a creditor gives up on ever getting paid, they sometimes list the item as a “charge off” or a “profit and loss write-off.” This doesn't mean that you no longer owe the debt. This just means that they've written the debt off against their corporate taxes. In fact, it becomes much more likely that the debt will be sold off or consigned to a collection agency for further action. It's uncertain whether or not the credit score takes the “charge off” part of the listing into account, but it's sure that such accounts are rated a “9” (which is very bad) and that they are devastating to the credit score.

### **Recent Late Payments**

*Level of Importance: 8 out of 10*

The more recent a black mark is on the credit report, the more damage it does to the credit score. And the more recent negative listings that appear, the worse they impact the score as well. For example, one thirty-day late pay will cer-

tainly ravage the credit score, causing it to plunge considerably. But that's nothing compared to a series of late payments, all recent. If you show that you are "crashing," your credit score will crash too.

### **Late Payments – 90 to 120 days late**

*Level of Importance: 7 out of 10*

Thirty day late payments, in small numbers, aren't as damaging as 90 and 120-day late payments. The later you were, the harder it will be on your report (and the harder it will be to remove when you set about repairing your credit report).

### **Late Payments – 30 to 60 days late**

*Level of Importance: 6 out of 10*

Just because these "small" late payments aren't rated as highly, doesn't mean that they won't wipe out your credit score. Especially when they come in groups, these small late payments can easily take your score from 700 to 600 in a matter of days. However, limited, small, late payments (in small numbers) can often be negotiated away by talking to the creditor through creditor-direct "interventions" or simple goodwill requests to remove the late listings.

### **Old Late Payments**

*Level of Importance: 5 out of 10*

The older a negative listing becomes, the less it impacts the credit score. Negative listings that are six or seven years old may not impact the score at all. They can sometimes affect the score, and they're often easier to remove through standard bureau challenges and direct-to-creditor interventions.

**Wrong Address, Previous Employment, etc.**

*Level of Importance: 1 out of 10*

Clerical mistakes such as these generally do no damage since the credit score doesn't take into consideration personal data such as age, type of employment, income, etc.



CHAPTER

EIGHT

## **Credit Errors: As Simple as Black & White (With a Massive Heap of Gray)**

What is a credit error? Credit companies and long-winded consumer experts will go on and on about how simple credit errors are. Either negative credit information is right (meaning that the bill was paid late), or it was wrong (meaning that the bill wasn't paid late). Judging by their two-dimensional response, one could properly conclude that neither the credit companies nor the consumer experts have actually ever met a "consumer" in the flesh. Once you begin to talk to actual people with actual negative credit on their credit file, and you hear their stories and how their negative credit came about, the black and white world of credit errors becomes a hopeless swirling mess of gray. What's more, when you involve the lawyers (if you dare), and you begin to research the case law surrounding credit inaccuracy, you discover that the definition of "inaccurate credit" is hopelessly complicated.

The people who're paid to differentiate between which credit listings a person should dispute and which they should not, are professionals who usually don't really have the foggiest clue what actual people in real life are experiencing when they struggle with the world of credit. These "consumer ex-

perts” go about their day making pronouncements about “consumers” without much practical knowledge regarding what it’s really like to be a typical American. Even in the oft-used term “consumer,” the experts reveal an impersonal view of people as machines that use up goods and services (e.g. “consumers.”) Who’s going blame them, though? It’s not like the consumer experts and regulatory pundits man “consumer’ help lines where they receive hundreds of calls a day from normal people reciting story after story about how credit reporting is unfair. Without putting themselves in a position to speak with actual people, there’s no way an expert would guess the complexity of the world of credit accuracy/inaccuracy. Credit correction attorneys, on the other hand, actually *do* man “help lines” where hundreds of people call in to discuss their credit dilemmas. Perhaps it’s because of this that these attorneys have a healthier respect for the gray areas surrounding credit disputes.

The average person (as well as many experts) has a logical, but completely erroneous, view of credit accuracy or inaccuracy. If you ask a “consumer advocate” to give an example of a person who has “accurate” bad credit, they usually tell a story like this:

Deadbeat Denny was out of control. He’d worked at the Quick-e-mart sweeping floors for the last three years, so his income was steady, but Denny had applied for an arm-full of credit card offers. When the credit cards came rolling in, Denny went on a spending spree. He took his girlfriend out to steak dinner, he bought a dozen pairs of baggy, ‘gangster’ pants and he picked up low-profile rims for his car. Before Deadbeat Denny knew it, the credit card bills came rolling in, and Denny suddenly realized that he didn’t make enough money to pay for all the credit he’d racked up and still pay his rent. After a couple of months of trying to pay his bills, Denny noticed that he

wasn't having as much fun because he was pouring a lot of his paycheck into credit card bills. In no time, he began chucking the bills as soon as they arrived and focused on more important life issues such as buying the latest rap album by '50 Cent.' Denny's credit score crashed and the youngster was left with a pile of charged off credit cards and collection accounts.

According to most people, it's a pretty simple matter to distinguish the Deadbeat Denny's of the world from the rest of us. Also, according to the "experts," Denny's the kind of person who should not have a "second chance" and who should not take advantage of credit repair. Denny should live with his painful results and learn a lesson. In fact, most people, including the authors of this book, would agree: Denny should probably sit out of the credit game until he's matured a little.

While Denny's story may be on the "black" end of the black-and-white spectrum of credit accuracy, what most people forget is that there is a huge gray area and that most Americans with bad credit fall into the gray.

Here's a better example – an example of a situation far more common than Deadbeat Denny's, in our experience:

Average Joe was struggling to pay his bills, and he was making some headway. Since his divorce with Average Jane, not only was he lonely, but he was over-his-head financially. The divorce judge had ordered Joe to pay some bills and Jane to pay others. Since they both worked, it was reasonable to expect them to divide up the debt. Joe happened to know that Jane wasn't paying her debts, because Joe had luckily received a couple of calls from the creditors who had his name and number. Joe had a sinking feeling that even though the judge had assigned the debts to Jane, the credit companies would still wreck his

credit if she didn't pay. So Joe called all the creditors and made sure they knew his address and how to bill him if Jane didn't pay. He left explicit instructions that they send him a duplicate bill with each month's payment. But, after the first couple of months, it became clear that the credit companies weren't going to keep him informed. If he got a call at all from them, it was after the payments were already past due. Some of the credit card companies wouldn't even speak to him because Jane was the primary cardholder and he wasn't on file as someone authorized to deal with the accounts. Joe ended up paying both his bills and the bills that Jane missed. He could barely do that and survive, but Joe was doing everything he could to preserve his credit. Inevitably, though, Joe missed some bills because the credit companies never called him and Jane just didn't pay. As fate would have it, all Joe's efforts couldn't keep things from falling through the cracks. Bad credit began to show up on his credit report, and by the time Joe knew there was a problem, it was too late. Joe was a good credit risk – he paid his bills and paid them on time. But because of the divorce, Jane's unpaid bills were coming back to haunt him, and the bad credit history that Jane created would dog Joe for a very long time.

When you start speaking with actual Americans who suffer from bad credit, it's a parade of one "Average Joe" story after another. Rarely do you come upon a Deadbeat Denny story – probably because Deadbeat Dennys don't often seek credit correction assistance. But the "consumer experts" usually assume that most people are Deadbeat Dennys when they criticize credit repair. They assume that the vast majority of people with bad credit deserve their bad credit and should leave it alone.

Many of these same consumer groups get totally entangled

with one another when it comes to measuring credit inaccuracy. There is a hodge-podge lineup of studies that say all kinds of contradictory things about credit report accuracy. Not even the agreeable experts agree on how to define inaccurate credit listings. (The authors of this book would like to note that we are not, in fact, agreeable. Therefore, we feel that all such studies are hogwash and generated by frazzled neophytes who wouldn't recognize a credit inaccuracy if it bit them on the leg.) In any case, the consumer groups and their many studies all agree on one thing: the credit reports are monstrously screwed up.

For your reading pleasure, we herein provide the most sensational points of a few of these studies:

U.S. Public Interest Research Group, in their 2005 study, discovered that 79% of credit reports contain errors and that 25% of those contain enough mistakes to prevent a person from obtaining credit. (Gulp.)

The National Credit Reporting Association study in 2002 found that 96.1% of all credit files, 576.5 million files, contain inconsistencies across credit reports. The same study found that 78% of credit reports failed to include one or more revolving lines of credit in good standing. This study concluded that 29% of credit reports have errors that are serious enough to cause the misclassification of a borrower when they apply for a mortgage.

The Federal Reserve Board, in 2003, uncovered the fact that 70% of credit reports failed to provide credit limit data for one or more accounts (which makes a huge difference in calculating indebtedness and the credit score).

All of these facts and figures certainly scintillate the mind, but they don't come close to describing the experience of

credit reporting accuracy in America. Because none of these statistics account for *technically accurate* credit listings that **don't accurately portray what happened**. We're not talking about a fanciful credit reporting world where the credit bureaus publish lengthy soap operas on the credit report describing the person's stories and excuses as to why they didn't pay their bills. On the contrary, credit reports are full of errors wherein negative listings describe events in a way that a reasonable person (after they hear the full story) would conclude are inaccurate. Technically accurate credit reporting can often be completely inaccurate.

Perhaps the best way to illustrate the breadth of this inaccuracy quandary is to examine several actual, anecdotal consumer scenarios. Only by examining the quandaries of real people can you truly grasp the limitless "faces" that credit listing inaccuracy can take.

When you consider the circumstances of average Americans, it illustrates how credit listings can span a wide continuum, ranging from absolutely inaccurate to patently accurate. The "gray" really begins to show. As any reasonable person would see, many negative credit listings fall somewhere between accurate or inaccurate – in a murky gray area where it is exceedingly difficult to determine the validity of the consumer dispute. Since each actual consumer scenario invites a great deal of subjective and individual assessment, it is not possible to definitively place each scenario along that continuum. Check out the stories of some regular folks:

**Eduardo Garcia\***

Mr. Garcia purchased a television from the May Company department store in Southern California. Members of the Garcia family are not native English speakers and are scarcely able to read English. The store salesperson suggested a payment plan for the television, which he

said would require no payments for six months. The Garcias signed the loan agreement and took possession of the television. The purchase agreement signed by the Garcias indicated that they would be required to make payments immediately, despite the representations of the salesperson. Over the next six months, the Garcias received bills requiring immediate monthly payments for the television. Since the Garcias did not understand the billing statements, and since they had understood clearly that payments would not be required for six months, they made no payments until the sixth month. At that time, the Garcias began making their monthly payments regularly. According to their credit reports, even though the Garcias were making their payment each month, they were one hundred and eighty days late each time they made a payment. When the Garcias went to purchase a home, they discovered this ongoing late payment history on their credit reports. Shortly thereafter, the Garcias retained a credit report error-correction attorney. After corresponding several times with the Garcias' attorney, May Company relented and agreed that the negative listings were in error. They requested that the Garcias dispute the negative credit listings with the CRAs and that the company would decline to respond to the reinvestigation request by the CRAs, thus allowing the negative listings to be deleted due to unverifiability.

Some might argue that the negative credit listings against the Garcias were technically accurate, but few would argue that the Garcias had no grounds for dispute of the negative notations. In particular, the Garcia scenario raises a common questionable credit listing scenario: an information furnisher makes two different agreements with a person (one of which may be verbal) and then fails to reconcile the two agreements, resulting in a negative credit reporting.

**John Washington\***

The paramedics took Mr. Washington to the hospital. Due to the fact that Mr. Washington was injured and largely incoherent, the paramedics registered him as “uninsured” even though he had health insurance. When Mr. Washington received a bill from the ambulance service, he contacted them and forwarded his insurance information. Nevertheless, the ambulance service forwarded the debt to a collection agency and a negative credit listing was entered on Mr. Washington’s credit reports. Subsequently, Mr. Washington changed insurers and the former insurer proved unresponsive to the claims submitted by the ambulance service once Mr. Washington was no longer a client. Mr. Washington contends that if the ambulance company had taken the time to get correct insurance information at the time of his transportation to the hospital or soon thereafter, they would have been able to easily secure payment from his insurer. Mr. Washington is a good credit risk and has maintained continuous health insurance coverage. However, because of a dispute with a creditor, which was complicated by the involvement of a collection agency, Mr. Washington now appears to be a very poor credit risk, based on his credit report. Notably, a single collection account on one’s credit report is sufficient to drive the person’s credit score below typically acceptable ranges.

Mr. Washington argues that the negative credit listing is inaccurate because: a) it is due to an error on the part of the ambulance company; b) was compounded by the automatic negative reporting policies of the collection agency; and c) is inherently misleading because the negative collection listing indicates that he is a bad credit risk rather than a good credit risk who is involved in a creditor dispute.

**Mary Glade\***

Mrs. Glade co-signed on a loan for her sister while her sister was in college. Mrs. Glade subsequently moved to Japan. The lender told Mrs. Glade's sister that she wouldn't have to pay any payments until after graduation. Sometime thereafter, the lender contacted the sister and revised its position: she would have to begin to pay immediately. Mrs. Glade's sister began making payments and continued to make the required payments each month. However, unbeknownst to Mrs. Glade's sister, she was accumulating late payments with each payment she made, since the original payment had been delayed. As a co-signer, Mrs. Glade received parallel negative listings on her credit reports, though she was never notified of the supposed default, or of the impending negative reporting to the CRAs. Eventually, Mrs. Glade discovered the default and the negative credit listings, and personally took over the payments via phone from Japan. However, the negative credit listings remained on her credit report.

Mrs. Glade contends that the negative listings are inaccurate because: a) the original agreement with the lender was deceptive; b) the lender changed the agreement from what was originally agreed upon; c) the lender reported a negative listing on her credit report even though she was never notified of the default; d) that the lender failed to bill her for the missed payments; and, e) her credit reports are misleading because they cast her as a bad credit risk even though she is willing and able to make even her sister's co-signed payments. Rather, the credit report shows her paying the bill late, even though she pays all her other bills on time.

**James Reynolds\***

Mr. Reynolds had a student loan with ACS (a student loan provider), but he defaulted on his payments. When con-

tacted by ACS, Mr. Reynolds created an agreement with them, whereby he would make payments following a new payment arrangement and ACS would accept the payments in full accord and satisfaction of his original agreement. The parties also agreed that no negative reporting would be made to the CRAs. Over a year later, the account was transferred to Sallie Mae, and Sallie Mae reported all past late payments on Mr. Reynolds' student loan and reported a full default of two thousand dollars, which Mr. Reynolds had completely paid by that time.

Mr. Reynolds argues that the negative listings on his credit reports are inaccurate because: a) ACS had agreed to accept his repayment plan in full satisfaction of his obligation; b) that the listing was not accurate when it was reported, years later; and, c) that the listing was incomplete because it failed to show that he had paid the student loan in full.

### **Donna Briggs\***

Mr. and Mrs. Briggs decided to get a divorce. In the divorce decree, the judge awarded all responsibility for debt to Mr. Briggs. However, Mr. Briggs ceased payment on three marital credit cards and one auto loan. Mrs. Briggs had moved by that time and consequently did not receive any notice of Mr. Briggs' default. When Mrs. Briggs subsequently applied for credit, her credit report showed multiple late payments and a low credit score.

Mrs. Briggs challenges the accuracy of her negative credit listings because even though she is a co-signer on the debts, the Family Court ordered her ex-husband to pay off the debts. The credit report is misleading because she is currently making all payments to which she is obligated. Even if she is obligated to pay the debts her former husband defaulted on, Mrs. Briggs was never

notified of the default and was given no opportunity to cure the default. The reporting of the items is incomplete and misleading because it fails to describe the fact that the debts have gone unpaid due to a legal conflict with her non-performing former spouse to meet the requirements of the divorce decree, and because she never had a chance to cure the defaults.

**Mark Telford\***

Mr. Telford subscribed to the Ditech mortgage payment service, which was offered to him when he initiated his mortgage, and which breaks his monthly mortgage payment into two semi-monthly payments. A slight change in the property taxes on the property caused an increase in the amount owed each month. This change was never communicated to the semi-monthly mortgage payment service. Therefore, each month, Mr. Telford was unknowingly paying slightly less than his full mortgage amount. He did not receive any notices reflecting this shortfall. Even though Mr. Telford was making nearly the complete mortgage payment through the automated service, his credit report showed that he wasn't making his payment at all, due to the fact that the amount paid was insufficient. When Mr. Telford went to purchase a new home, he was surprised to discover that his credit report included many non-payments of his previous mortgage. Upon discovering the discrepancy, he immediately paid the deficient amount.

Mr. Telford believes that the negative credit listings on his credit report are inaccurate because: a) he made his mortgage payments pursuant to his agreement with his lender; b) he did not "miss" his payments as the report shows, but was making payments that were slightly less than the full payment; and c) he was never notified of the payment shortfall. Mr. Telford firmly believes that the

negative credit reporting is misleading because it indicates that he missed making mortgage payments, when in fact he had completely complied with the terms of his loan agreement.

As these instances all illustrate, credit accuracy and inaccuracy is not always a black and white science. And, these stories aren't even unusual – most people with bad credit have an excellent (and perplexing) story behind their credit mishaps or inaccurate credit reporting. In each case, the negative credit is arguably technically accurate – a person failed to make a demanded payment of some kind and in some way. However, in each of these cases, the consumer has good faith arguments that the negative credit is inaccurate, misleading, incomplete, biased or unverifiable.



CHAPTER

NINE

## **Your Fruit Cocktail of Credit Rights**

The more a person speaks with actual people with actual bad credit, the more that person begins to feel that the practical reality of credit ethics is completely convoluted. But the confusion doesn't even start there. The law itself, as it pertains to credit reporting and credit scoring, is grossly complicated and confusing. Because judges usually respond to reason (instead of legal theory), the courts have heard credit accuracy cases and have expanded the law to fit common sense. This is great news for regular people, but when a judge imposes common sense on federal law, it creates some of its own funkiness.

Each judge works within his own jurisdiction, and that could include a single state, a region of the country or the entire nation. Only the Supreme Court of the United States can interpret law and impose it on the whole country. So, judges around the country have imposed common sense on the law but have done it in a patchwork quilt-fashion. In one area of the country, the controlling case law may define inaccuracy one way and in another part of the country, the controlling case law may say something different. The net result of all this legal work has been to create a colorful fruit cocktail of legal rights and judicial interpretation. It's anyone's guess as to what kind of credit listing is "accurate" and what kind of

credit listing is “inaccurate.”

The Fair Credit Reporting Act supplies several reasons for disputing negative credit. If a credit item is “inaccurate,” “incomplete,” “unverifiable” or “untimely,” it must be removed from the credit report if the person challenges it. As various credit accuracy cases have floundered their way through the courts, decisions have been made by judges deciding that questionable credit listings should also be deleted if they are found to be “misleading” “biased,” “ambiguous,” or “unclear.” On top of this, nobody has clearly defined any of these terms, so it’s anyone’s guess as to whether a particular credit item is “inaccurate,” “incomplete,” “misleading,” “biased,” “untimely,” “ambiguous,” “unclear” or “unverifiable.”

When reviewing the court cases that have set and expanded these definitions, it’s hard to avoid the conclusion that the judge simply applied reason to the question and then wrapped the definition of “inaccurate” around common sense.

On the front line of the credit accuracy debate, stand the credit correction attorneys. These lawyers are faced with a sticky question: which people’s credit listings deserve to be disputed? Folks call in, all day every day by the dozens, to talk to credit correction attorneys to get help deleting undesirable credit from their credit reports. With each call, the attorney is faced with the question, “should I take this particular case?” Since the definition of inaccuracy is such an open question, and since it would be an ethical problem for an attorney to attempt to pass judgment on each person’s arguments, the credit correction attorney typically accepts any case where a person believes that there is some unfairness or inaccuracy on their credit report. The honor-bound duty of an attorney, after all, is to vigorously advocate for his or her client. Everyone, regardless of whether or not they’re “guilty” or “innocent,” deserves to have someone in their corner – someone to help them discover if their arguments of in-

nocence are valid. If an individual believes that they have credit listings on their file that are “questionable” (a catch-all phrase meant to include inaccurate, incomplete, unverifiable, untimely, misleading, ambiguous, unclear or biased), and if the person will attest to the fact that the credit report is “inaccurate” (whatever that means to the person), then the attorney must take the case. In the end, the creditor and the credit bureau are the ultimate arbiter of fairness. If the disputed listing is deleted, it must have been inaccurate. In practice, credit correction attorneys receive hundreds of thousands of deletions each year, so there must be substantial validity to peoples’ claims that there are loads of bogus credit listings showing up on the credit reports.

Credit correction attorneys also review and bring cases in federal and state courts. Most of these cases involve the common issue that the credit bureau, or in some cases the creditor, have reported questionable items on the consumer’s credit reports. While used as a last resort, litigation can assist the consumer with credit correction. The following cases involve everyday people, like you and me, who have been the victims of the credit reporting system.

**CASE 1. Jane Doe, Esq.**

Jane (we have withheld her real name for privacy) came from a well-to-do background. At an early age, Jane married a successful businessman and began living the “American Dream” in the suburbs of a big U.S. city. Jane was accustomed to shopping in the morning, spending afternoons at the country club and evening dining with her husband and his business partners. Sometime in her mid-thirties, Jane’s world came to a screeching halt. Jane’s husband, by then a corporate executive in a large company, informed Jane that he was no longer in love with her and that he had filed for divorce. As often occurs, Jane’s husband retained a skilled attorney and stripped

Jane of the majority of their marital possessions, including their home. Jane was left with nothing other than a hard work ethic and a large amount of consumer debt.

As a result of the divorce, Jane was left in the midst of serious financial trouble. Jane contacted Consumer Credit Counseling Services (“CCCS”) a non-profit debt counseling service that attempted to assist Jane with her financial problems. CCCS negotiated with Jane’s creditors, who in turn agreed to accept reduced monthly payments from Jane. After a few months of payments, one of Jane’s credit card companies held two of her payments and did not apply them to her account. This caused the payments to be late and the credit card company initiated a collection action against Jane in a state court. As a result of the court action, Jane entered into a settlement with the credit card company where she agreed to pay them the remaining amount of the debt plus interest. Rather than honor the terms of the agreement with Jane, the credit card company, without Jane’s knowledge, obtained a judgment against Jane for the remaining amount of the debt plus interest, attorney fees and costs. This judgment was subsequently reported by all three credit bureaus.

After the divorce and while this business with the credit card company was going on, Jane decided to do something for herself. She returned to school, earning a master’s degree in business administration and a law degree. Jane’s time at graduate school was difficult. Because Jane had a collection and a judgment on her credit report, she was not able to get private financial aid and/or student loans. She was forced to work and attend school fulltime during this period. Jane was not able to participate in needed externships and internships to prepare for a job after graduate school. Also, because of the collection and judgment listings on Jane’s credit report, Jane applied for

apartments near her law school and was turned down. These turn-downs for apartments took place during face-to-face meetings, which were very embarrassing to Jane. Jane's only alternative was to apply for an apartment in a "bad" neighborhood far from school.

After law school, Jane attempted to purchase a car. The dealer informed her that he could not sell her a car because of the collection and judgment on Jane's credit report. Jane also applied for admission to a state bar to practice as an attorney. Because of the collection and judgment on her credit report, Jane had to hire an attorney to meet with the state bar association to explain why these items were listed on her credit report and why she should be allowed to sit for the state bar exam. Jane explains, in her own words, how these listings affected her:

*"I have had to relive my credit reporting problems each time I have dealt with potential landlords, creditors, and the Bar Examiner's Panel. Each time I have felt like a deadbeat who had to depend upon whether these creditors would believe me or even take pity on me. I have been embarrassed, having to tell friends and colleagues that I had money problems because of this situation. This affected my relationships with my friends because they really never knew for sure whether I was telling the truth."*

Jane sought the help of Lexington Law Firm, an experienced consumer report repair firm in Salt Lake City, Utah. Through Lexington, Jane was able to dispute these and other inaccurate items on her credit reports. Through Lexington, Jane also took legal action against the credit card company and the credit bureaus and has since settled

with them. Because of this settlement, the collection and judgment have been removed or corrected and Jane is now experiencing the professional lifestyle she worked so hard to achieve.

## **CASE 2. John Doe, Inc.**

John (we have withheld his real name for privacy reasons) is a small business owner who had several credit problems, including bankruptcy, collection accounts and late pays on his credit report. All of these credit problems occurred in the mid 1990s. Since then John has worked hard and has built a successful small business that employs a number of people and services many customers. John has also worked hard to pay all of his bills on time. In order to grow his business, John has required small business loans from time to time. However, John was denied his loan requests because of the negative listings on his Experian credit report from the mid-1990s. All of the negative items on John's reports, including the bankruptcy, had become obsolete under the Fair Credit Reporting Act (FCRA) long ago. In order to fix his credit situation, John, on several occasions, has disputed these negative items listed on his Experian credit report. John has specifically requested, in writing, that Experian investigate and remove the negative items and correct his credit report so that it accurately reflects his credit history. Unfortunately for John, Experian blatantly ignored John's requests.

Frustrated with Experian, John hired Lexington Law Firm (the same as Jane) to assist him in his attempts to get his credit report right. John's attorney sent several letters to Experian on his attorney letterhead, explaining that Experian was reporting obsolete information on John's credit reports. Experian responded to the attorney's letters by continuing their campaign of stall tactics. Exper-

ian had the gall to (once again) ask for additional identifying information that John had long since provided. This was the last straw for John. He directed his attorney to file a lawsuit in federal court against Experian for Experian's willful violation of the FCRA. As of this writing, the case is pending.

Jane and John's cases are not the norm (though credit reporting errors ARE the norm). Many consumer disputes with the credit bureaus are resolved through artfully-drafted dispute letters crafted by a credit professional. However, as you can see, while it is not the most favored alternative, sometimes it is necessary to take legal action to correct credit reporting problems.



# CHAPTER

# TEN

## **Getting Help with Credit Improvement**

During the Middle Ages, when the “great” western libraries consisted of fewer than 100 books, scholars could actually learn everything known to man. A person could read every book ever written, could learn every bit of math ever devised and could understand every theory of science conceived by the brain of man. There just wasn’t that much information floating around. You could learn it all.

Since that time, information has exploded at a rate that boggles the mind. It’s ridiculous to imagine that you can even know a tiny fraction of the facts accumulated by the humans. Even lawyers, doctors and scientists must trim their careers down to the tiniest slices of specialty in order to be true “experts.” No longer can you claim to be a one-stop “lawyer.” Now you must be a “litigator” or a “patent lawyer” or a “consumer lawyer.”

John Heath is a co-author of this book and a Lexington Law Firm attorney. Today, John focuses his practice on credit error correction. But it wasn’t always so. John began his career as a public service lawyer. It became apparent to John while he was at his first job that he could never know every single thing about the law. On the contrary, he learned that in order to become an effective attorney, he would have to

focus his practice in specific areas. No attorney is expert in every area at once. No lawyer is at the top of many fields at the same time. Divorce, bankruptcy, litigation, collections, tax negotiation, patent law, contract law, etc. all require specific knowledge and experience for a lawyer to be proficient.

Credit correction law is much the same. The laws that govern credit reporting, lending, collection agencies, credit service organizations and extensions of credit in general are complex and ever-evolving. Even more importantly, the policies and procedures of the credit bureaus are constantly shifting. An attorney needs to stay current in all of these areas in order to be worthwhile to his clients. Not just any attorney can hang out his credit correction shingle and get to work. There's a lot to learn before an attorney will get good results.

Like other attorneys who have picked up the cause of credit correction, John has had to focus a great amount of time and energy on its research, study, and practice. Studying the law is an important part of staying current with credit correction. However, an even bigger job is staying current with the policies and procedures of the credit bureaus, credit lenders and credit scoring companies.

For example, in 2007, credit repair clinics began to blatantly manipulate the credit scoring system and created an industry outcry. John had to watch events carefully because the outcome would affect how he coached his clients.

Previous to that year, when a client was looking to increase their credit score, John would counsel them to find a family member who would legitimately add them as an authorized user to one or more credit cards. By becoming an authorized user, it would add positive listings to the client's credit file and the client's credit score would usually go up (depending to some degree on the "negatives" showing up on the client's

files).

Credit repair clinics had run amok with this strategy. The credit doctors had begun to pay people to “rent out” their good credit listings – adding dozens of strangers to their credit cards in exchange for cold, hard cash. This perversion of the credit scoring model made the credit industry people angry and caught the attention of regulators as well. The credit scoring company, Fair Isaac, took notice and announced that it would change the credit scoring algorithm to ignore authorized users.

It would seem that the days of getting credit mileage from becoming an authorized user were over. But John looked deeper and continued his research. Drawing from classes that Lexington had received at the hands of the credit scoring companies themselves, John went back to their notes. Even though the credit scoring companies had announced that authorized users would no longer receive a credit “bump,” John realized that these changes would take almost a decade to implement. The credit scoring programs, John knew, were hard-wired into the lenders’ computers. They change out credit scoring programs very rarely and often run old programs for many years just because they’re so difficult to modify. Therefore, contrary to the announcements, John realized that the authorized user approach would continue to give people a positive score increase for many, many years to come. So, the Lexington attorneys could continue to recommend becoming authorized users for family members.

This isn’t something that just any attorney would know (and this is one bit of knowledge among a library of credit correction information that an attorney must watch). Credit correction, like all other areas of law, requires a considerable amount of specialization.

These days, to be smart ISN'T to know everything or even to know a LOT. That's just not possible. Nobody can know or understand even a tiny portion of the valuable information known to man. Being "smart" today has a lot more to do with "street smarts" and common sense than it does having a brain packed full of information. More than anything, being "smart" depends on who you know and what resources you have at your fingertips.

Nowhere has the level of complication exploded more than in the area of consumerism. We're completely buried in information when it comes to being a smart citizen of our economic world. Navigating our financial lives, even for average people, is like wandering into a dangerous, foreign city. At every turn, there's someone poised to exploit our ignorance and to relieve us of our wallet. Of course you can begin to learn the local language, you can figure out the streets little by little and you can begin to avoid some of the dangers of the city.

Tackling all this information on your own will eat into your time – time you're now dedicating to making a living, getting ahead in the world and caring for your family. There are only so many things even a genius can take on and become an "expert" in during one lifetime. Do you want to make smart consumerism one of those things or should you save that time slot in your life for windsurfing, parenting, fly fishing, rodeo riding or becoming a veterinarian?

You can always hire a guide to lead you through the streets and to do the intellectual heavy lifting for you. In fact, unless you're burning up inside looking for a new hobby – one where you would learn all the ins and outs of the consumer credit world – hiring a guide is a great idea.

For example, several years ago John Heath, then a law stu-

dent, took a semester abroad in Cairo, Egypt, a fabulous city of 16 million people, containing several worthwhile cultural and historical treasures such as the Pyramids. John did not speak the local language (Arabic) and had never been out of the United States for more than a few days. Being confident and stubborn, he thought he could, on his own and without a guide, locate the address of the student hostel where he was going to stay. The address was simple enough, 113 Kasr El Aini St., Cairo Egypt—the route to the hostel was not. After several hours speaking with locals, walking back streets and riding public transportation, John decided to hail a cab. Fortunately, the cab driver spoke excellent English and knew the city like the back of his hand. John was delivered by the cab driver to the hostel within 30 minutes of being hailed. On this day, he learned to rely on the fact that, while he knew plenty about the law, he didn't know much about Cairo. In the weeks following, John took advantage of the experience of Cairo's cab drivers and their ability to find cultural sites — such as an 1,800 year old Christian church, a personal tour of the Pyramids and the very best dining the city had to offer. The moral of the story is simple: don't muck around trying to figure things out for yourself if there's a good guide available.

Before you go out and find a guide and plunge into the dark streets of the city of “Credit Cairo,” there are a few things that you do need to figure out for yourself:

Realize that you're in a dangerous city. You need to know that things can go very, very wrong if you take a misstep with your credit and your debt.

Realize that this is definitely NOT a city you want to avoid. The tangled web of consumer credit provides so many amazing advantages that you definitely DO want for your life. Fine homes, automobiles, travel, and education for your children – some of the best things of life become available

through the wise use of credit and debt. You don't want to miss out on the huge advantages of the credit economy. And you need to know where to go to find a good guide.

So, this book won't be an "everything you ever wanted to know about credit but were afraid to ask" encyclopedia of consumer information and rights. That would be like inviting you to get your doctorate in Smart Consumerism. We assume that you have better things to do with your time. Instead, this book is a primer to get you a quick picture of all the opportunity, and the dangers, surrounding credit and debt. You should learn just enough to know what you're looking for when you go out and find someone to handle all of this for you.



CHAPTER

ELEVEN

## **OK, But Give Me a Taste of Why I *Shouldn't* Do-It-Myself**

Given the fact that the credit repair landscape is littered with the carcasses of fly-by-night companies (make a mental note: these usually aren't bona fide law firms), why wouldn't you want to take on the task by yourself? After all, the FTC correctly warns consumers to be wary, right?

In fact you may have come across credit repair methods that really are strictly illegal. These range from booklets and consultants who will advise you to do everything from: identifying someone near your age who died as a child and have you attempt to establish credit in their name; encouraging you to make up a Social Security number; to acquiring an IRS Taxpayer Information Number (TIN), which looks like a Social Security number, and establishing credit with that; to you-name-it. Needless to say, all such methods risk loss of freedom, income, and community standing. In other words, they're trouble.

Fortunately, you won't find this book espousing that type of credit repair. Anytime you see an advertisement for *NEW CREDIT FILE OVERNIGHT*, steer clear. Truly legal credit

repair is a gradual process that takes time to complete.

In fact, what **is** advocated here — and by credible credit correction attorneys — is putting Federal statutes to work in the service of improving your credit standing. In this book, laws are chased and embraced —rather than shunned and avoided. Sometimes, to meet their goals, consumers guided by credit correction attorneys use laws to actually file lawsuits against abusive original creditors, collection agencies, and credit bureaus.

The bottom line is this: To effectively clean up your credit reports without seeking professional assistance requires tackling a HUGE learning curve. Without turning you into one of those dull, squinty-eyed experts we warned you about, a very basic and general background regarding the handful of Federal statutes advocated is included below:

### **Fair Credit Reporting Act.**

As mentioned briefly before, the FCRA regulates how credit reporting agencies treat consumers. Before this law was enacted and fully implemented in the early 1970s, credit bureaus were basically unregulated and could do just about whatever they wanted. Equifax, for example, is the nation's oldest credit bureau and did business up until the seventies as the Retail Credit Company, its original name. Retail Credit had long contracted with companies that sent *welcome ladies* to new homeowners. Such representatives would make careful notes about the new families on the block: whether anyone smelled of alcohol, the color of their skin, whether the family appeared sufficiently employed, subjective notes about perceived stability, and other such matters that should have been irrelevant but seemingly weren't. Then, after the hearty welcome and a heartfelt goodbye and a basket of coupons, the welcome ladies would write up a report and

send it back to the Retail Credit Company. Retail Credit had many other ways of acquiring personal information but probably none as colorful as the one described above. Such methods were outlawed by the FCRA. By the early 1970s, race, religion, and subjective personal observations could no longer be included within one's credit report. (And it's a wonder that they ever could!) Consumers were finally allowed access to their credit reports—which up until the FCRA was enacted, were never disclosed to ordinary citizens who might literally suffer financial consequences for decades due to incorrect and unfair information within these secret reports.

But wait, there's more.

In order to fully and effectively tackle credit repair on your own, you need to know what rights the FCRA accords you. So, for the brave of heart, here they are in a nutshell (and the not-so-brave-of-heart may skip to the next section):

The FCRA ensures that consumers can acquire their consumer credit reports at a reasonable price (or for free under certain circumstances), and severely restricts “investigative consumer reports” (e.g., friendly ladies bearing coupons and checklists, for example).

The FCRA regulates who has “permissible purpose” to acquire a consumer's report. (You'll hear credit correction attorneys talk about “permissible purpose” when discussing *INQUIRIES*.) As we mentioned before, an inquiry is quite simply the notation made in a credit report when a creditor acquires your report. The FCRA details who can legally acquire your report and for what reason (i.e. permissible purpose). And here's some good news: Inquiries made without the required *permissible purpose* incur a \$1000 per violation penalty payable by the cred-

itor directly to the effected consumer. Successful small claims court lawsuits have been brought by consumers against those who acquire their credit reports without that required *permissible purpose*.

The FCRA details the running reporting periods for information on credit reports — generally seven years for most items except for bankruptcy-related listings that can remain for ten years. Now here's what the banks DON'T WANT YOU TO KNOW: these periods of time are just *MAXIMUM LIMITS*. The FCRA does not indicate a *MINIMUM* amount of time something must remain on your credit report. So if an original creditor or even a collection agency ever tells you, "Sorry, ma'am, but by law that must remain on your report for seven years," you'll know better. In this respect, the FCRA exists to protect you against something remaining on your report forever, but no law requires that private companies tattle on you for any minimum length of time at all. In fact, the FCRA doesn't *REQUIRE* creditors to report anything ever. To this end, it's worth remembering what we said earlier in this book: credit reports are not official government documents, and credit bureaus are not government agencies.

The FCRA details how a credit bureau must handle consumer disputes. The hyper-simplified version: When a consumer disputes a credit file notation (often called a *tradeline* by credit wonks), the credit bureau must note within the file that the item is disputed by the consumer and initiate a "reinvestigation" (a peculiar word, but the idea is that the original investigation occurred before the item was appended to the file in the first place). This reinvestigation must be completed within a "reasonable" amount of time, a community standard that has been almost universally held to be thirty days. When that reinvestigation is completed, the credit bureau must inform

the consumer of the action that was taken: either verified (the item remains as is), modified (certain aspects of the *tradeline* have been revised), deleted (the item is removed from the file), or deemed “frivolous” (an awful provision that allows the credit bureaus to basically say you’re not being serious). You have the right at that point to request additional information regarding how the reinvestigation was conducted, as well as specific points of contact made with the creditor (i.e., identifying data regarding who or what was contacted).

Finally, the FCRA includes other wonderful provisions which really are well beyond the scope of this book, including such nuggets regarding the “duty of furnishers of information to provide accurate information,” “their duty to correct and update” errors, and more stuff that your credit correction attorney (should you elect to find one) will have within his arsenal on your behalf.

### **Fair and Accurate Credit Transactions Act.**

As discussed elsewhere in this book, FACTA is an amendment to the FCRA. It adds some new, juicy stuff to the FCRA. For example, thanks to FACTA, you can get one free credit report per year, per bureau. In the bad, old days, you only had a right to a free credit report if you were denied credit. Now you get one free report per year regardless. Also, FACTA applies the same standard of consumer dispute to the “information providers.” This means that you can dispute your questionable credit with the folks who generated the listing in the first place: credit card companies, collection agencies, banks, etc.

### **Fair Debt Collection Practices Act.**

This consumer protection law is a true gift to all Americans because it protects them against some of the meanest players in credit-land: those dreaded collection agencies

and the snarky third-party debt collectors whom they employ.

Put simply, the FDCPA regulates how collection agencies can and can't ply their trade. If it wasn't for this Federal statute, debt collectors could harass you day and night. They could wake you up every single morning, and they could kiss you goodnight every single night. They could speak with your neighbors, your boss, your mother, or anybody else. They could lie and insinuate pending legal action. They could even pretend to be some official agency acting on behalf of your creditors. Hey, wait a minute—they do those things anyway at times! So isn't the FDCPA just a farce? Are we helplessly held hostage to the whims of these abusive collectors? Unfortunately, too many consumers have resigned themselves to that attitude. Fortunately, the FDCPA allows you to carefully document such abuses and then turn the tables and take control of the situation.

Here we'll briefly review your rights as delineated by the FDCPA. In a nutshell, the FDCPA:

Provides behavioral standards for acceptable third-party collections. For example, collection agencies are prohibited from contacting debtors at "unusual" times, generally considered to be between 9 p.m. and 8 a.m. the following morning. Collection agencies are prohibited from telephoning or writing you at your place of employment if you ask them not to.

Specifies that debt collectors must always use certain legal words whenever they deal with consumers, including such disclaimers as "This correspondence is an attempt to collect a debt." Before the FDCPA was enacted, collectors might try to weasel their way into families for

days and weeks at a time—for apparently completely unrelated reasons like soliciting for the Boy Scouts and so on—without stating the true purpose of their attempts to forge such relationships. The history of debt collection during the 19th and first two-thirds of the 20th centuries are rife with what are now-humorous (but weren't so funny at the time) stories regarding outrageously misleading collection tactics. Such shenanigans are now expressly forbidden. If a collection agency doesn't state their purpose right away when communicating with a debtor, whether that communication is written or verbal, then they are violating that consumer's rights under the FDCPA.

Prohibits collectors from screaming, threatening or actually employing violence, using profanity, misrepresenting their identity, or hinting at possible imprisonment. Neither can they specifically threaten legal action unless they fully intend to follow suit expeditiously and then actually do so! That's why sleazy collections agencies sometimes try to weasel around this by saying stuff like, "Well, I'm not saying bad consequences will occur if you don't pay this, but you know what you're supposed to do," etc. As for identity misrepresentation, this includes sending letters that look like official government correspondence. By the way, the preceding list (scream, threaten, etc.) was not designed to provide a full listing of all of the ways abusive third-party collectors harass debtors. If you're someone who's ever had to deal with these surly folks, you can surely remember other similarly illegal examples. The FDCPA seeks to protect you against such abuse.

Allows the debtor to formally request (i.e., by letter—hopefully certified and sent with return-receipt requested) that the collection agency "cease and desist" from communicating with the debtor further. And guess what? The

collector must then do so! Of course, the debt collector is still free to engage the legal system (lawsuits, judgments, liens, etc.) in order to collect any outstanding debt, and he may advise you of the steps they intend to take along those lines.

Obligates bill collectors to behave in a certain manner when investigating a consumer who no longer resides at a previous address. Specifically, collectors must identify themselves by name but are prohibited from identifying their employer or the reason for their call. So, for example, they may say, “Hi, my name is Joe Rodgers, and I am trying to locate someone named Fred Jones. May I please speak with him? . . . No, I’m sorry, I can’t tell you the reason for the call as it is confidential, but do you know where or when he might be reached?” However they cannot say, “Hi, I’m with ABC Collections, and I’m trying to reach Fred Jones because he owes Sears twenty-five thousand dollars and nine cents.” Incidentally, collectors call such investigative activity *skip-tracing*, which really provides a glimpse into their horrible mentality regarding debtors: people who owe money are, in their world view, trying to *skip* out of paying their debts and are often treated disrespectfully as a result. Ugh.

Specifically details a consumer’s right to request further information regarding an alleged debt. Such procedures are termed debt validation and are so POWERFUL that good credit correction attorneys will often leverage them on your behalf and with terrific results. For now, it’s important to simply understand that every consumer has the right to challenge the truth of any debt; a collector must then respond in a certain way, otherwise the collection activity must CEASE and all related credit report items must be REMOVED. Validation, in fact, can become the central tool in a consumer’s arsenal when confronting ag-

gressive collectors.

Applies to third-party collectors—independent collection agencies as opposed to in-house collection arms. In other words, original creditors are not bound by the FDCPA (although harassment may become a matter for civil action in any case, although not under the auspices of the FDCPA in particular). On the other hand, original creditors can be approached with a different set of legal tactics. Specifically, the Fair Credit Billing Act (FCBA) requires that original creditors bill correctly and in a timely manner and be able to demonstrate that such billing occurred correctly; and finally original creditors are responsible for the illegal activities of their assigned third-party collectors.

**Fair Credit Billing Act.** The FCBA requires creditors to bill correctly and completely, and it's the government's job to make sure that the statute is universally applied. The list of rights given to you by the FCBA provides a good credit correction attorney with a whole buffet of credit correction possibilities. The Federal Trade Commission summarizes the kinds of hoops they make banks and other creditors jump through under the FCBA like this: “unauthorized charges; charges that list the wrong date or amount; charges for goods and services you didn't accept or weren't delivered as agreed; math errors; failure to post payments and other credits, such as returns; failure to send bills to your current address—provided the creditor receives your change of address, in writing, at least 20 days before the billing period ends; and charges for which you ask for an explanation or written proof of purchase along with a claimed error or request for clarification.”

Solid credit correction law firms exploit the full potential of

FCBA for credit correction purposes in a way that's designed to make creditors wonder about which part of the FCBA is about to nail them. Imagine for a moment, the picture of a credit correction letter intended for a creditor that basically says something along the lines of what follows in the next paragraph. By the way, brace yourself. Legal jargon will abound—that's why you should probably hire professional assistance rather than taking on the task of choosing which sentences are applicable to your particular situation by yourself:

*“The reports underlying the problematic tradeline referenced herein apparently arose due to willful billing errors which your company promised to correct as a good faith response related to faulty merchandise and a resultant civil judgment. In accordance with my Federal civil rights as stipulated by the Fair Credit Billing Act, you are obligated to comply with this lawful request for elaborated documentation for billing, including charges and interest, as well as a full accounting of where each bill was mailed, for the life of the account, or rescind these reports from every consumer reporting agency to which you have reported same. Your expeditious handling of this matter is expected.”*

For some reason (call it *fear* maybe), so many creditors decide to simply dispense with the nasty credit report remarks upon receipt of letters like the above. Credit correction attorneys understand that although the FCBA is usually invoked to protect consumers with CURRENT charges in dispute, creditors will not welcome the idea that they may have broken the law with your account even several years before. When creditors (especially fully paid creditors who have nothing more to gain because no collectible money is at stake) sense that they can dodge an ominous legal issue by

simply removing a *tradeline*, guess what they often do? The FCBA provides a solid means to that end.

**With respect to this chapter, remember these summary points:**

The two statutes most commonly used by credit correction law firms are the FCRA and the FDCPA. The FCRA primarily concerns itself with how your credit history may and may not be reported to CRAs, your rights regarding accessing and challenging same, and who may and may not view your credit history. The FDCPA regulates how collectors conduct themselves as well as your right to challenge the presentation and validity of an alleged debt.

The FCBA stipulates how creditors must behave when billing and dealing with disputes regarding same; although the FCBA is far less used with respect to credit correction, the statute does provide competent legal professionals with excellent ways to work toward credit correction as well.

Now you probably understand why we recommend that you find and hire competent legal assistance. This stuff's a little complicated, and unless you dream of being a closet attorney, then you might find the self-education a little time-consuming and tiresome.



# CHAPTER TWELVE

## **But Wait! Even If I Hire Help, I'll Still Have to Deal With Creditors Sometimes**

And it's true. So how should you behave? Should you treat that debt collector with the kindness you'll hope he returns? In a word, no. But neither should you treat them as unprofessionally as they'll often treat you.

The best way to remember how to deal with creditors when you're getting professional assistance with credit correction is to adopt a *litigious* mindset. No, you'll probably never go to court, but that *litigious* mindset (and we'll shortly explain that fully) may save you much heartache and maybe real money down the line.

A few tips:

**Never approach creditors as if they share your goal.** Hint: they don't. You're a nuisance. You take up valuable time that could be better spent on more productive endeavors—like collecting money that you may not even owe them. Again, creditors don't want to bother with you. Nobody there wants to hunt for the right form to modify or delete the credit bureau *tradeline* by hand. Even worse

for the creditors, such action may require learning something new because usual credit bureau reporting is done by computer rather than by human beings. It's hard to provide customized responses to credit correction issues. Most employees of credit companies will not want to mess with you.

**Don't be impatient.**

Just because your credit correction lawyer sent a letter, don't think you should follow up with a friendly phone call a week or two later. Credit correction takes time. It's important to remember that it doesn't matter if the credit companies respond or not because IT'S ALL GOOD. If they respond quickly, that's good. If they don't respond quickly, then the next legal intervention may well hint at further violations of your civil rights under federal law. Either way, by remaining patient and not gumming up the process with your own friendly telephone calls or letters, you'll remain in control.

**Keep your power.**

Written correspondence carries a certain weight. Think about it: when you receive a formal letter, you don't know or really care how friendly its author might be. You don't know if the letter was prepared by his or her attorney. You don't know how the author will follow up. In short, a formal letter—unlike a telephone chat—is a bit off-putting. By *checking up* after the credit correction law firm has initiated its action, you may have pierced their letter like a balloon, and its power may indeed begin to leak away.

**Whenever a creditor calls you while your credit correction is proceeding, don't forget the larger context of what's going on**—and it is this: When you dispute the veracity of a trade line (or of an allegedly outstanding debt, for that matter), you are basically asserting this very

simple statement: “You, sir or madam, are wrong.” By definition, you’re striking an adversarial stance. So, whenever dealing with a creditor, be powerful about the conversation.

Psychologists like to talk about how *CONGRUENCE* between feelings and behaviors suggests a level of mental health. In other words, when somebody’s body language and emotions match their behavior, a few things happen:

The person looks serious. Why? People who look serious are more often regarded seriously.

The person appears to believe in him- or herself. Why? People who believe in themselves aren’t likely to just go away, so the demand for attention appears stronger.

The person appears to be dealing from a position of strength. Why? Strong people are more likely to receive positive attention than weak ones.

The person feels better about himself or herself. Why? Those who have positive self-esteem (or those who can fake it while they build it) are more likely to inspire socially proactive, helpful behavior in others.

This is why suddenly acting like the creditor’s friend can make it far more difficult to achieve your credit correction goals. In this case, grandma’s old saying about attracting more flies with honey than vinegar doesn’t apply. With few exceptions, you are not the other party’s friend. You are an adversary simply because you are taking up their time. Don’t trade away your legal position by being impatient. Don’t trade away your personal power by self-medicating your short-term anxiety with pleasing chatter. Remain strong, professional, and contain your anxious feelings as best you can while your case proceeds.

## **So what is a *litigious mindset*?**

Adopting a *litigious mindset* means that you understand that what you are doing is rooted in law. Everything you do should imply that you're protecting your legal rights. Everything you do should imply that you are willing to fight to preserve your federally guaranteed civil rights. When most people consider the phrase *civil rights*, they think of the laws that exist to ensure racial equality; but those aren't your only civil rights. In fact, any law that exists to protect you against other citizens is a *CIVIL* right. Within this context, several federal statutes exist to protect you against *those other citizens* (both individual and corporate citizens) regarding credit-related transactions. Some of these laws were detailed in the previous chapter:

The Fair Credit Reporting Act (FCRA)

The Fair and Accurate Credit Transactions Act (FACTA)

The Fair Debt Collection Practices Act (FDCPA)

The Fair Credit Billing Act (FCBA)

The Truth in Lending Act (TILA)

Invoking ones *CIVIL RIGHTS* is a powerful concept. Those who demand civil rights' protections are seldom taken lightly.

Adopting a *litigious mindset* also prepares you for the unexpected obstacles that may suddenly appear along your path to cleaner credit reports. In this respect, *litigious mindset* means taking this task seriously—seriously enough to keep detailed notes, receipts, etc. that could be helpful if in fact you ever do decide to go to court in order to demand your rights (even though it's unlikely that you'll ever need to). A few things to keep in mind along these lines:

You'll probably never need to go to court.

Maybe you have no real legal standing at the start, despite your claims. Remember, a credit listing that a reasonable person would agree is "inaccurate" isn't always inaccurate in the strictest, legal sense.

On the other hand, your adversarial opponents (remember the context in which we use these terms) may well screw up as they scramble to figure out your beef. In other words, they may pull a credit report to "see" what you're talking about and in doing so may violate your civil rights (FCRA) regarding their "permissible purpose" related to such inquiries. Or, they may fail to answer your validation questions in a timely manner, which violates your civil rights (FDCPA, FACTA & FCRA) related to such matters, etc.

You are developing what we credit repair mavens most often call a "paper trail," which may prove useful later.

If you actually do end up in court, then you'll have a credible case. A credit correction law firm will sometimes escalate your case, or refer you to local counsel, but you'll ultimately get nowhere if you haven't kept good records.

*A litigious mindset* requires that you act professionally, seriously, deliberately, and assertively. Your actions are an attempt to protect your civil rights, which is no laughing matter. You are not interacting with friends or cousins when you're dealing with creditors and collection agencies, so don't fool yourself into believing that you'll achieve your goals by being overly-friendly. Professional-friendly is OK. Overly-friendly is not good.

Now here's what ISN'T part of a litigious mindset.

Some people think that embracing a *litigious mindset* requires acting like an S.O.B. (And, yes, the occasional expletive can sum things up nicely. You know what we mean.) Nothing is farther from the truth. Whatever you do, DON'T act like that.

Here's why. S.O.B.s aren't usually satisfied with just cleaning up a credit report. They REQUIRE the tradeline deletion, AND a monetary award of \$10,000, AND a formal apology, AND admission of wrongdoing, AND a brand new credit card, AND self-mutilation, etc. You don't want your adversary to believe that you are a "crank" who could NEVER be satisfied. Instead, you want your demands to be VERY clear and reasonable right from the start—whatever those demands are.

If you're using a credit correction attorney, he or she will probably state those demands politely. Picture the stance most often drawn by lawyers in a courtroom. They are matter-of-fact to a deadly degree. They don't beg. They don't threaten. They don't scream at adversaries unless they want to be admonished by the judge. They simply state their case, as strongly and as seriously as possible, and then they sit down. That's how you should behave. Cool and professional.

And never provide more information than was already sent by your hired professional. That probably means you should (depending upon the circumstance, since one paragraph in a book never fits all cases) probably terminate the phone call as quickly as possible. Again, it's very important that you not offer information, nor confirm nor deny the information the credit company has. It is not uncommon for credit companies and credit bureaus to call you with the express intention of getting you to deny your dispute of inaccuracy. Remember, your story sounds reasonable to you, but by telling your story you may very well be eliminating your rights. Let your professional handle your communications as much as possible.

Remember:

Whatever you do, don't follow-up a powerful letter with a chatty note or letter, whether by phone, email, fax, or post.

When you begin credit correction with a reputable credit attorney, you are engaging a legal process, and this takes time.

Keep in mind that you are not dealing with good friends. Let your real-life friends be your friends. Let your creditors and debt collectors remain your creditors and debt collectors.

Adopt the assertive stance of someone who is seriously protecting his or her civil rights.

Don't act like a *you-know-what*.



# **Do-It-Yourselfers, Deceivers, Discounters, and Damage-collectors**

Despite the endless blather being churned out by consumer advocate “experts” that “only time can cure bad credit,” there’s a small (but growing) corps of people who offer to expedite the credit correction and credit improvement process. But, they’re a mixed bag of competent professionals and loudmouth cranks. If you’re going to seek credit repair assistance, you’d better learn the difference, because these guys can either be a godsend or they can make your credit situation even worse.

## **Do-it-yourselfers**

In the age of the Internet, information is cheap (but you often get what you pay for). The World Wide Web is chock full of people who have styled themselves as experts in the art of beating the system. Truth is, they have many great ideas and have forged the way to empowering people to make a hobby of their personal credit score and credit history. It is encouraging to see that regular people can take control of their situation and manipulate the credit institutions to go to work for *them*, instead of the other way around. There are a couple of drawbacks to following the ranks of self-appointed consumer

information hobbyists. First, not all great consumer strategies are created equal. Many of these plans don't work or are greatly oversimplified. Second, even if the quality of the information is top-rate, it may be very tough to implement. Repairing your own credit, for example, is often amazingly time-consuming.

## **Deceivers**

Unfortunately, "credit repair" has become a dirty word in some circles. It's with great regret that we must admit that the bad rap has been, to some degree, deserved. In the early nineties, credit repair was a hotbed of fly-by-the-seat-of-your-pants, here-today-gone-tomorrow, businesses. Many credit repair operations launched willy-nilly into offering quick-fixes to credit problems. Some shouted from the rooftops that any type of negative credit, either accurate or inaccurate, could be removed with the snap of their fingers. Others claimed to have super-secret computer disks that would penetrate the credit bureau databases and mysteriously clear off bad credit listings. Still others offered to forge a new identity for any consumer who had destroyed their reputation. These dishonest fraudsters drew the ire of the credit bureaus and regulatory agencies and kicked off an era of bad blood between consumer advocates and every credit correction enterprise that could even loosely be deemed a "credit repair" operation.

A good example of bad credit repair is ICR/NCR (National Credit Repair), a skunky credit repair multi-level marketing company that worked its way to the Inc. 500 list in 2001. NCR's founder, Bernie Pavone, invented a compelling fairy-tale to convince people that his company had a super-secret computer program that could hack into the credit reports and remove virtually anything. ICR/NCR wasn't quite so bold in revealing to their marketers that Bernie had purportedly spent twenty-one months in federal prison for counterfeiting

and credit card fraud.

In marketing videos, Bernie crooned on and on about how their special computer program “searches for erroneous information and forces the credit reporting agencies to correct or remove them. There’s not a program on earth like this. It’s the only one of its kind.” All the while, NCR was sending out the simplest of dispute letters. There was no secret computer program and the FTC pointed out that it wasn’t “insured by Lloyd’s of London for \$15 million” as the company claimed. Rather, ICR/NCR was just another dispute mill sending out form-letter disputes.

In 2003, hungry class action attorneys dug into ICR/NCR and forced them into a multi-million dollar settlement under the Credit Repair Organizations Act, by accusing Pavone and his associates of exaggerating and lying about their credit repair services. ICR/NCR relented and settled with the class action lawyers, only to be hit at the same time by the Federal Trade Commission, who bled the company of the last million dollars of its profits. ICR/NCR and Bernie Pavone, now penniless, drifted away into the sordid history of credit repair.

Without the ability (or even desire) to separate the good from the bad, many regulators threw up their hands and gave up on all forms of credit correction, assuming that anyone who would dare help consumers speed their credit recovery must somehow be hurting the system. Little by little, the establishment is coming around to see the value of legitimate credit repair, but the dirty legacy of the years of credit repair deceivers still muddies the waters of the credit correction world.

### **Discounters**

As laws were passed and credit repair became an accepted, regulated industry, it became apparent to many that the best

person to offer credit assistance might be a licensed attorney at law. Since attorneys were already regulated by state supreme courts and were functioning as respected counselors to so many Americans, it made sense for those same Americans to seek credit improvement advice from their lawyers. However, certain difficulties arose. First, most lawyers don't know very much, if anything, about credit reporting, credit scoring and the multitude of laws surrounding the consumer's credit rights. Second, most lawyers are too darn expensive to be used for such a commonplace issue. At two hundred dollars an hour, most Americans couldn't afford to pay for their lawyer to learn about credit repair – and to conduct their disputes and negotiations – just to handle an inaccurate or unfair credit score. To meet that need, a vanguard of attorneys began to educate themselves about the credit reporting and credit scoring world. Those attorneys explored the world of technology and business systems in order to find a way to make legal representation of the average American that was both affordable and effective. If an average Joe could hire an attorney with the right credit knowledge at an affordable rate, then that attorney could probably help Joe straighten out his credit situation and return to creditworthiness.

During the mid-1990s, a few attorneys began to consider credit correction as an extension of their practice of law. One of the first to take a hard look at the ins and outs of credit reports was John Buckley, an Orem, Utah attorney. John saw that the informal dispute process established by the Fair Credit Reporting Act (FCRA) could provide Americans an alternative to suing the credit bureaus. At that time, very few people ever actually sued the bureaus. The majority just wanted their reports cleaned up. Before the emergence of credit correction attorneys like Buckley, people could either attempt to figure out the credit system themselves or take their chances with credit clinics, many of which were fly-by-night.

Buckley actually drew lessons from a few of the legitimate consumer credit guys of the day and applied their approaches to the practice of law. Within months, this attorney was representing Americans, from all over the country, with their credit bureau disputes. He began by sending letters on behalf of his clients printed on his own professional letterhead as most lawyers would. But he soon learned that credit bureaus often ignored his letters because they apparently believed they had the right to disregard third party disputes not written by the consumer in his/her own hand. Through their bizarre take on the law, the credit bureaus ignored (and some still ignore) a citizen's basic right to legal representation. So John Buckley had a decision to make. Although he could sue the credit bureaus each time they ignored a dispute in clear violation of law, his clients weren't interested in long legal battles. They simply wanted to fix their credit reports and move on with their lives. How would he handle this conflict between his desire to smack the bureaus on the nose and his commitment to serving his clients?

Ultimately Buckley decided to prepare the letters just as before, but with a difference: now he would write the letters in his clients' names directly. Credit bureau gridlock dissipated, and positive results began pouring in. Speaking to his consumer law focus, he gave his growing firm a lawyerly but dull name: "The Law Offices for Consumer Affairs." But after a few months, Buckley had second thoughts. The "LOCA" acronym, after all, is Spanish for "crazy," and "Consumer Affairs" sounded a little too much like a government agency. So, with a nod to the American Revolution and to his firm's revolutionary work, Buckley changed the firm's name to "Lexington Law Firm." After a few years in credit correction, Buckley returned his professional focus to real estate law and sold the credit correction firm to another lawyer.

By 2004, Lexington Law Firm had become the nation's

largest consumer practice, specializing in consumer credit correction. Salt Lake City attorney, John Heath, assumed the helm as the firm's Directing Attorney. Under Heath's stewardship, Lexington Law added individualized credit score coaching and direct-to-creditor legal interventions that have resulted in faster and even more effective results. Heath has also expanded the firm's range of practice with associate attorneys focusing upon family law, commercial litigation, mediation, business transactional work, and consumer litigation. Law firms from around the country have begun to formally associate with Lexington in order to provide regional legal services and a local credit correction presence. By 2007, Lexington Law had twenty-one attorneys from across the nation on its letterhead.

Today, Lexington Law Firm fulfills its mission in providing high quality, affordable legal services by blending traditional legal practice (research, representation, attention to each client's daily casework and other details) with sophisticated technology, including a highly interactive client site, electronic case tracking, and more. Like other large credit correction law firms, Lexington utilizes a staff of trained non-lawyer assistants and paralegals to help extend the reach of staff attorneys, making it even easier to provide regular communication and coaching (and still keep costs down).

Anything that can be done to increase the level of service while keeping fees to a minimum will only make credit correction legal representation more accessible to Americans. While not all attorneys share Lexington's zest for low-cost legal representation, the firm's results speak for themselves. During John Heath's tenure as directing attorney, Lexington has removed over two million questionable credit listings from its clients' credit files. That's hundreds of thousands of consumers who have enjoyed access to skilled attorneys and who have made great progress in getting their credit back on

track.

But the numbers don't tell the whole story. Since a low (and unfair) credit score is so devastating to a person's sense of self-worth, these low-cost attorneys serve as a *bridge* to building self-worth. If a person can take action and start *doing* something about their unfair credit, then they will probably feel better about themselves and about their standing as a citizen. As we discussed previously, sometimes these attorneys will find particularly galling cases of credit bureau, credit card or collection abuse – and they will launch court cases against the bad actors. But mostly these attorneys (these *discounters* of high legal fees) work within the informal system set up by federal and state laws and years of commonly accepted business practices, to provide the consumer with the results they really want: a better credit score more quickly. By giving the average American a way to work toward creditworthiness, the credit correction attorney presents the struggling consumer with a way to recapture their self-esteem and make another run at the American dream.

### **Damage-collectors**

But as heroic as the *Discounters* may sound, alas, they are not loved by all. The credit bureaus, credit card companies and collection agencies often hate them. By advocating for the consumer's rights, the consumer attorney forces the credit companies to work that much harder to prove their credit reporting against the consumer's claims. Working harder costs the credit companies more money. While it's easy to understand how the credit companies might have a hard time with the credit correction attorneys, it's more difficult to understand how *another* category of consumer advocate lawyer also dislikes the *Discounter*. The "Damage-collector" is a lawyer who likes to sue credit bureaus, credit card companies and collection agencies on behalf of wronged consumers. In short, the Damage-collector sues the credit companies and

collects court-ordered (or more often out-of-court-settled) damages from the credit companies for hurting the consumer.

This provides a fantastic service to consumers, but why would a Damage-collector dislike a *Discounter*? For starters, the *Discounter* and the Damage-collector compete for the same consumer – the person with bad credit who believes they have been unfairly treated. Whereas the *Discounter* will usually take on any mistreated consumer as a client, the Damage-collector will only take on a client with a case that is likely to win a large settlement. Cases with only marginally compelling arguments, and minimal damages (which is true of 99% of cases), are typically discarded by the Damage-collector. But there's something even more pernicious about the petty rivalry between Damage-collectors and *Discounters*: professional snobbery. Since the Damage-collectors perform the more traditional functions of a lawyer (court appearances, hard-ball negotiations and threats with big business and depositions) they look down their noses at attorneys who serve a larger clientele and provide more pedestrian (and often more effective) services such as writing letters on the client's behalf.

Unfortunately, getting credit repair assistance isn't a simple affair. You need to have some basic understanding of the credit world and your credit situation before seeking help. If you have a lot of time on your hands and you love new projects (and you tend to finish them), then a trip down the road of do-it-yourself might be just the ticket for you. In no case will you be well served by trusting a Deceiver. You'll generally know the Deceiver because what he offers you will seem gimmicky and too good to be true. A solid *Discounter* attorney is the right way to go for most people. Inexpensive but thorough legal assistance is usually the fastest way to take on your credit dilemma. But if you've been completely abused by some credit card company or collection agency and you think you have an excellent case before a judge (and

if you don't have any justly-earned bad credit AND you lost a bunch of money because some credit company screwed up), then you might just be interesting to a Damage-collector lawyer. Don't expect the Damage-collector to fix your credit within a speedy timeframe, though. Litigation takes time and you can rest assured that a Damage-collector will pursue the cash settlement as a top priority and the credit repair as icing on the cake.



# CHAPTER

# FOURTEEN

## The Ethics of Credit Improvement

One thing to note before we proceed: there are authority figures who would very much rather you NOT attempt to improve your credit score. In their minds, the credit score should be a natural and unchangeable measure of how you're doing in life. Some would say that you *shouldn't* be able to do *anything* to increase your credit score. Just keep paying your bills and your score might rise over time." (Or, at least, they *wish* that were true.) These powers-that-be, who would have you rollover and play victim to your credit score, include credit scoring companies, bankers, Experian, Equifax, (surprisingly, *not* Trans Union), a smattering of state and federal regulators, and oddly enough, several outspoken consumer advocates. They theorize that if everyone just left their credit score alone – and lived with the results of a low score for as long as the system dictates – that the population of credit users *as a whole* will benefit (even though YOU will be “benched” from the credit game). It's their way of saying, “Hey. Take one for the team. Just let your credit be what it is, forget about having credit for the next seven to ten years so that everyone else will have slightly better rates on their credit cards.”

You may buy that argument. It actually makes some sense when you look at it from the socialistic point of view. Karl

Marx and Lenin probably would have agreed.

On the other hand, you might be saying, “I don’t think so. That’s just NOT American thinking. I’m an individual and not hip to letting my family’s financial situation take a bath just so the collective population does a little better. Forget that. Let’s get working on my credit score.” If that’s where your head’s at, then here’s the good news: you have TONS of options and LOTS of opportunities at your disposal to bring your score up. Here’s the bad news: if you don’t take action, nothing’s going to happen. Your credit score may actually fix itself over time—a very, very long time. Typically, a bad patch of credit history (where your financial life went into the doghouse) will haunt your credit score for seven to ten years. That’s roughly one-fifth of your adult credit life or more down-the-tubes unless you go to work on it (or have someone do it for you).

You’ll have to answer the ethics question first: do I feel OK about disputing my credit? And there’s the other big question: will I lie to improve my credit score? These are very good questions, but it’s not quite so simple.

For starters, there is substantial disagreement between the law, regulators, court cases and consumer advocates regarding what constitutes an “inaccurate” credit history. In fact, just about every consumer who engages in credit improvement has a plausible version of events that would stump even old King Solomon. If a **judge** in a *divorce proceeding* orders that your spouse take responsibility for the bills, and then your spouse doesn’t pay them, is the negative listing on your report accurate? If you bought a car and then the auto dealership went back on the deal they said they’d give you, and then a negative listing appeared on your credit report, is **that** accurate? If you move and the credit card company fails to send the bill to the right address (that you gave them) or you

miss-pay the amount and they never send you notice that you're behind, are **those** accurate negative listing? If you lose your job and you call the creditor and they agree to take smaller payments, but then they report you're late anyway, is the negative listing they **mistakenly** reported accurate?

While these scenarios sound like the exceptions, they're really NOT. A huge percentage of those with negative credit have head-scratching ethical dilemmas similar to those real life scenarios mentioned above. What constitutes an accurate, negative listing? Nobody can agree and no one has picked through all the possible scenarios to determine which are right and which are wrong.

Instead, the United States Congress has provided a method to challenge, test and improve questionable negative credit listings. This method is provided by the Fair Credit Reporting Act (or FCRA), the Fair and Accurate Credit Transactions Act (or FACTA) plus a bunch of other alphabet-soup laws meant to protect consumers. (In reality, these alphabet-soup laws are designed to protect the banking system — in other words, your creditors — not necessarily the average American.) Basically, you have the right to dispute and test any credit listing that you feel might be inaccurate, misleading, unverifiable or obsolete. Again, we don't really know exactly what each of these terms means, since they've not been defined anywhere. Basically, you can challenge questionable credit listings, and if they're removed, they were probably wrong in the first place.

Here's where it gets crazy – in a good way. A large percentage of negative listings that are challenged (between 25-35%) are deleted by the credit reporting agencies each time they're **properly** disputed. Nobody really knows exactly why this happens, except, to note, the credit reporting system is packed with billions of bits of information and that mistakes are ram-

pant. Many negative listings, no doubt, are deleted because they're patently inaccurate. Others may be deleted because they're *arguably* inaccurate. Others, still, are probably deleted because the credit company who reported the listing isn't sure enough of its accuracy to go-to-the-wall with their contention. When those same allegations of inaccuracy are presented directly to the creditors themselves (banks, credit cards, collection agencies, etc.), they're just about as likely to remove the negative listings as they are to disagree with the consumer (again: when the contentions are presented properly).

It's a messy, unclear and incomplete system – much like our formal legal system. But within the messiness, fairness usually prevails. Many have compared challenging negative credit to pleading “not guilty” in a court of law. Once you've taken the stand that you're “not guilty,” then the creditor or the credit bureau must take steps to prove that you were actually “guilty.” Not surprisingly, they often fail, or are unable to do so.

Another factor to consider is that the credit reporting system isn't owned, supported or otherwise endorsed by the government. Credit reporting and credit scoring is a strictly for-profit enterprise. The reporting agencies collect your data, without your permission, through creditors, who then trade back to the credit bureaus in exchange for credit risk data. In short, your personal information is collected, sold and re-sold many times over, without your permission, in order to generate profit for the banks and credit bureaus of the world. Very few people have a problem with that system. As mentioned before, it serves as the basis of a very rich and rewarding credit system. But, when weighing the ethics of how responsible it is to cultivate a positive credit score, one must consider the fact that lots of people are making money with this system. Thousands are looking out for themselves in this sys-

tem. Why shouldn't you?

However, a line must be drawn regarding ethics, here. Despite the degree to which this system is for-profit, confusing and unclear, none of that justifies promoting a blatant lie. Each person must take an honest look at his or her credit and decide: was this fair and is it inherently accurate? If the answer is “no,” if the answer is that the credit score is NOT accurately representing your actual credit worthiness, then you have many options leading down the road of credit improvement. They're opportunities you should probably seize – for your sake and for the sake of your family.



CHAPTER

FIFTEEN

## The Seven-Year Ham

Here's how the story goes: once a woman helped her mother prepare ham in the kitchen. The daughter asked, "Mother, why do we cut the ends off the ham before we place it in the oven?"

"I'm not sure," the mother replied. "That's how your grandmother taught me to do it."

So, the daughter turned to the grandmother, sitting in a chair, watching the preparation of the meal. "So, Grandma, why *do* we cut the ends off the ham before baking?"

"Hmmm," answered Grandma, as she tapped her chin. "I'm not certain. As I recall, my mother taught me to do it this way and I always have."

Since Great Grandmother was in the other room, watching television, the girl went to her and asked, "Great Grandma, we're trying to figure out why we cut the ends off the ham before we put it in the oven."

"I don't know why *you* do it," Great Grandmother chortled, "but I do it because the pan I bought back in the Depression is too short for a normal-sized ham."

Sometimes we do things just because that's the way they've always been done. So, why is it that the credit bureaus wait seven years before removing negative credit from the credit report? Why is that the bottom-line basis for credit reporting and credit repair? There must have been extensive study bearing on millions of data points with piercing, professional analysis done by an army of statisticians, right? Wrong.

When the first version of the Fair Credit Reporting Act was enacted in 1970, a few lawmakers and their staff assistants must have remembered that seven is a lucky number, so they threw that into the act. More likely, those lawmakers were lobbied heavily by the big banks of the day to make the reporting period as long as possible. Why would anyone be interested in doing a crazy thing like that? Put simply, old credit report negatives mean just one thing to bankers: obscene profits. Old negatives provide a wonderful rationale for charging higher interest rates, but at the same time, such customers are far *safer* lending bets than those consumers whose negative credit history is brand new.

Once again, the longer you have poor credit, the richer the banking executives get, and seven years is a nice long time. The *fat cats* hope that you'll accrue another negative or two before the seven-year period runs out on the old ones.

For them, maybe seven years really was a lucky number. In any event, today, seven years certainly represents the "industry standard," impacting hundreds of millions of hapless consumers. But here's a reality check: There is no reason whatsoever to think that the seven and ten year limits are good indicators of a consumer's creditworthiness. It's not that seven years after a credit catastrophe, and ten years after bankruptcy, the consumer is magically reborn as a person ready to accept credit responsibility.

In fact, Dr. Bonnie Gution, adviser to President Bush on consumer affairs, remarked, "...it is our understanding that computer models that predict credit worthiness find most information that is more than two years old nonessential." Today, as proof of Dr. Gution's comment, some credit scoring models, such as the new *VantageScore*, developed by the credit bureaus to compete with the better-known FICO Score, are beginning to ignore credit information that is over three years old.

In the United States, credit reporting is entirely voluntary. Creditors aren't required to report their data to the bureaus for any length of time at all. In fact, they can and sometimes do—especially when coaxed by a good law firm—remove their negative credit report notations long before any seven year clock runs its course.

The FCRA was designed to protect consumers by imposing those arbitrary seven years only as a limit on creditors and credit bureaus. It may be hard to believe, but before that particular consumer protection statute was enacted, a person's credit history represented a permanent record in which credit report negatives NEVER expired. Potential creditors would look down their horn-rimmed glasses at a hapless applicant and intone, "Ok, Mr. Jones, but what happens when you slide back into the bill-paying habits you demonstrated just fifteen years ago? We must protect the First National Bank after all, so loan approval at that low rate may be difficult."

Even today, retired bank executives sometimes shed nostalgic tears about it all. Sadly, for them anyway, there's absolutely nothing sacrosanct, scientific, or legally binding about today's so-called seven-year reporting period.

Finally, consider this: The credit bureaus themselves practice "credit repair." They just do it seven years from the date of

listing. Others—as with their new *VantageScore*—are now “repairing” credit after three years. Why should you wait to “repair” your damaged and questionable credit until some arbitrary timeframe has elapsed? Why wouldn’t you begin just as soon as you can so that you will become creditworthy again?



## **Credit System Mythology**

Of course the companies that control our credit system don't want you to know these things. Why not? Probably because some of them comprise the world's most powerful banking interests, and they desperately need you to believe that the world is put together in a certain way. Otherwise, they won't be able to keep average Americans paying their Mercedes Benz payment.

Not knowing the truth, though, can cost a consumer tens or even hundreds of thousands of dollars during an average lifetime.

Where credit reports are concerned, there are essentially two sets of "truths." On the one hand, there is the fairly meaningless, happy patter creditors want you to believe, which you can find repeated in just about every credit-related book and Internet website. And then, of course, there's the truth.

Unfortunately, in order to truly embrace stark reality, we must first peruse the prevailing fiction. So we'll examine both here. This chapter aims to demolish the various social psychoses perpetuated by your creditors, and abusive debt collectors, if you happen to be acquainted with those, and will transport you to a veritable Valhalla of consumer mental health. Even

better, maybe you'll end up saving a few bucks.

Since one of this book's co-authors is a psychologist, we'll use the word "psychosis" to describe the craziness some of these large companies foist upon the public.

**Psychosis #1: The nature of credit bureaus.**

*Credit bureaus are official, perhaps even quasi-governmental agencies, and such vital American institutions work alongside your creditors to keep every adult citizen toeing the financial line.*

There's so much wrong with practically every word of this fantasy, that it's hard to know where to begin. To be sure, there isn't anything much official about the credit bureaus at all. Rather, the major consumer reporting agencies—Equifax, Experian, and TransUnion—are simply three large companies operating respectably within the private sector.

In fact, if you were so inclined, you could own a piece of Equifax and Experian yourself just by telephoning your stockbroker. (Forget about buying shares in TransUnion for now, though, as it's still privately owned.)

Sadly, too many creditors want Americans to believe that the credit bureaus enjoy an official, quasi-governmental franchise and will somehow punish consumers who dare to fight back against the creditor's sloppy reporting, usurious APRs, exploitative late fees, inexplicable surcharges, unethical debt collection practices, and worse. Such creditors want people to believe that challenging a credit report item is like questioning a courthouse record. Fortunately, that's just not so.

Contrary to the prevailing conventional wisdom, there are

no official bureaus. And while most Americans perceive their credit reports to have at least the same legal standing as their driving records, the truth is that the government has no role in producing them. Put bluntly, no law mandates a credit report's existence, and such documents may be considered to be no more than a list of allegations remaining to be proven.

**Psychosis #2: Your credit report is reviewed carefully.**

That used to be true.

Once upon a time in America, if you applied for a credit account anywhere, a bookkeeper in some dusty back room requested a credit report from your local bureau. In fact, in those days before the corporate titans took over, all credit bureaus were local. Then, every line of your file would be assessed, and if there was a problem, you might be telephoned or called in for more discussion. Lo, you might even be asked for a personal pledge attesting to your responsible intentions. Then a decision would be rendered, usually, but not always, in your favor.

The problem with that business model is that it isn't very "scalable" – meaning that it's hard to do for 300 million Americans. Scouring an individual's credit report takes time, and it also takes skilled human beings to render careful judgments. Unfortunately for fair decision-making, that's just not manageable if you want to extend credit to hundreds of thousands or even millions of people on a national scale. Automation, of course, must save the day, and technology hasn't yet allowed that to include an individualized reading and analysis of everybody's credit reports.

That's where the credit score comes into play. A seemingly wonderful solution, but credit scores actually intro-

duce a boatload of new problems.

Of course, technology should make it *easier* to include a bunch more data in the credit report than it does. The authors argue that we need **more** credit reporting in order to make the credit score more fair and sensible. If you've been paying attention, you've noticed scores of stories in this book that illustrate just how unfair and senseless the current mode of credit reporting and scoring can be. If we added a lot more data to the credit reports, we believe that the accuracy and reliability of the credit system would go way up.

So quash Psychosis #2 here and now. Of course creditors want consumers to believe that things haven't changed, that life is as quaint as it was decades ago when customer service meant "personal service," and that they actually paid attention to the report itself rather than treating potential customers as little more than impersonal credit scores. In fact, such mythology begs a mention of the next item on our list of consumer psychopathology (another gratuitous \$2 word from our resident psychologist):

**Psychosis #3: Including a credit statement alongside the baddies on your credit report is helpful.**

The first version of the FCRA provided the opportunity to post a "consumer statement" to the credit report, where you could write a short essay on why you really deserve credit.

What sheep they believe us to be. In the early 1970s when the FCRA first gave Americans the right to include such statements on their reports, life was different. Prospective creditors still actually perused consumer files with authentic human eyeballs. (Read Psychosis #2.) In those days of yore, a comment placed in the report by the con-

sumer herself might have made a difference at mortgage time.

No more.

Nowadays the consumer statements can only harm the credit report. First, as we've discussed, potential creditors essentially never read such personal statements, since the credit score is the only thing that matters. Secondly, those statements only make it more difficult to embark upon a credit correction effort later because most people confirm things that shouldn't be confirmed in their statement. For example, let's say a consumer attaches a statement that reads something like this: "These late payments were made only because I was suddenly laid off (or sick), but that unfortunate situation changed very quickly, and we have never been late with this or any other account since." That may sound reasonable, but unfortunately it says only this in reality: "NOTE: yes I really was late paying these accounts. Plus I'm not smart enough to have an emergency fund to cover basic minimum payments if something goes wrong financially. Therefore, I am a bad credit risk."

Even worse, let's say a consumer subsequently learns something about credit reporting and decides to engage a competent credit correction attorney to help confront such matters legally and technically. Whoops. Any new challenges will likely be dismissed because there's no need to even take another look: After all, the answer resides right within the person's statement admitting fault. Remember that extenuating health or employment circumstances are viewed as little more than lame excuses within the consumer credit industry.

For these reasons, consumer advocate old-timers practi-

cally always advise that the first items to be removed are those silly consumer statements if any were ever inserted.

**Psychosis #4: Negative items must remain for 7 years.**

That's sheer and utter balderdash. Even so, consumers hear it every day when they telephone creditors directly: "Sorry, by law that has to remain on your report for seven years." The next time you hear that statement, know this: The automaton posing as a customer service representative is either spreading lies or ignorance, neither of which is good for your situation.

Sure, creditors want people to believe the lie because they can charge higher rates of interest to those who have nasties on their credit reports. As far as they are concerned, the longer the stuff remains on the credit report, the larger their profits. The truth, though, is that nobody is required to report anything about any of us for any minimum length of time to anybody else. Put bluntly, laws like the FCRA only serve to place LIMITS upon how long items can remain on reports.

**Psychosis #5: Seeking help in repairing credit is unlawful.**

Such statements are the most insidious and sickest lies of all. In fact, this is the very same psychology a predator uses with his victim: "Here, I'm abusing you, but follow my rules. You can't talk to others about it. You can't ask for help. If you do request or receive help from someone else, you'll only suffer more damage in the long run. Keep to yourself. Remember that I'll tell lies about you if I wish. And if you have any problem with any of this, speak only to me about it."

The facts cut straight to our constitutional citizenship: all of us have a fundamental right to legal representation.

Whenever we're accused of anything, whether that accusation appears in the newspaper, on a rap sheet, on a credit report, or anywhere else, we are guaranteed the right to request assistance with both understanding and defending against such allegations.

Some credit reporting companies occasionally, and vaguely, suggest that using a third-party helper or even an attorney violates some law. Sometimes they'll send a letter to consumers who have challenged one or more items on their reports. The letter basically accuses them of having sought outside assistance with the problem. Note that they never actually come out and say plainly, "Using outside counsel is against the law," because it isn't. The specific wrongdoing is never spelled out, of course, but the effect is the same: by donning the cloak of officialdom, they hope to intimidate people into backing down and getting right back into line with all the other quiet people who are afraid to challenge such faux authority. Credit-correction legal clients are often instructed to simply send such correspondence to the firm, but even those attempting to address their credit reports on their own are well advised to simply ignore such letters.



CHAPTER

SEVENTEEN

## **And a Few More Credit Scoring Notes: Take These to the Bank**

We've talked quite a bit about leveraging your legal rights in this book, but something else bears mentioning: When it comes to your credit, no law protects you from sheer stupidity. In other words the Dumb Consumer Protection Act (DCPA) just hasn't been enacted yet. And to counter this breathtaking legislative lapse, with this chapter we'll detail a few misconceptions that – although they sound “reasonable” – cost consumers dearly.

Thus far, if you've failed to make notes in the margins, mark-up the pages, dog-ear sections for later reference, and so forth, you'll probably want to begin now. Heeding this chapter by itself could save you thousands or even tens of thousands (or more) of dollars that you surely would rather keep than push at your creditors.

First, as we mentioned in the previous chapter, some believe that if you pay off a collection or other charged-off account, it will no longer show on your credit report as a derogatory item. Were it true, that would be a fair and sensible thing indeed. Unfortunately, our nation's consumer credit system

isn't often set up to be either fair or sensible. In fact, such honorable intentions are always subjugated to sheer profit. An account will continue to show as having been charged-off or sent to collections even if you pay it entirely. Shocking, huh?

Now, it's worth saying this: Paying your debts is an honorable thing. And your authors agree that, generally, good things are returned in life to those who behave honorably. Just don't expect a single score point.

The truth is, in fact, quite unfair: It is the mere presence of a charge-off on the credit report that depresses a credit score – not its payment status. A charged-off account that's marked as "paid in full" will kill a credit score as quickly as an unpaid one. The creditor score doesn't know how to read. When the scoring program sees a note on a charged off tradeline that says "paid," that makes no sense to the scoring formula. The "paid" notation might as well say, "consumer is from Mars," for all it matters to the score program. For creditors, just the fact that an account is EVER charged-off, marks you as an incredibly high credit risk. Even though your repayment should add back a few points, it doesn't.

Even worse, some people wrongly believe that paying off a collection agency will set the ORIGINAL credit notation to "paid." In other words, let's say a Citibank charge-off appeared on a credit report, and Citibank subsequently sold the allegedly unpaid debt to ABC Collections. Now you have TWO tradelines on your credit reports that are marked as charged-off. Do the bureaus condense them into a single account? Why no! If they did, your credit rating would appear to be incrementally better, and the system would never err on your side. If they did, subsequent creditors down the road might have to give you an incrementally better deal on credit, and that wouldn't be a good thing. So both the original charge

off and the subsequent collection account remain.

And if you pay off the alleged debt's new owner (ABC Collections), the original creditor's tradeline (Citibank) remains frozen in time and will proclaim your current charged-off indebtedness until the seven-year reporting clock for that item expires.

Unfair? Of course! After all, you paid off the debt (with the operant word there being the "debt" – it was only ONE debt), but one of the tradelines will continue to show as unpaid until the end of its time. And once again, when it comes to credit scores, no good behavior goes unpunished.

Along the same lines, some people will reasonably believe that demonstrating fiscal responsibility by paying off installment credit would net a credit score reward. Uh, wrong. In another credit scoring quirk that benefits big banks, only REVOLVING credit repayment will increase a score. Banks don't want you to speed up the pace of an INSTALLMENT loan, for goodness sake. Paying off that car early makes you a far less profitable customer, after all.

And, yes, that goes for student loans. Let's take the example of two grad students. After graduation, Jane and Joe each owed \$50,000 in student loans. Jane struck entrepreneurial gold and paid off her student loans in full a few months after graduating. Joe, on the other hand, conducted his life the way practically all ex-students do: He decided to keep his unpaid student loans around like pets for a decade.

Assuming that their respective credit profiles are identical otherwise, whose credit score is higher? The reasonable answer would be Jane's, right? After all, she's the one who has demonstrated financial skill, intelligence, and – perhaps most importantly to banks – the willingness and ability to repay

her loans. Surely the system should spiff her a few extra credit score points. But, alas, that's not reality. Jane gets no credit (no pun intended) for her demonstrated fiscal responsibility.

With other factors held constant and equal, Jane and Joe's credit scores would be exactly the same. Let's just hope that Jane didn't forego another investment opportunity with a return-on-investment that would have exceeded the 5% or so that she would have had to pay in interest on those paid-off student loans.

Back in the days before credit scoring mysteries were widely revealed to the public, the conventional wisdom—proffered by those same conventional folks who brought you the conventional mortgage—ran something like this: If you have an unused credit card, the responsible thing to do would be to close the account. After all, it might be stolen. Or maybe keeping it around would be an invitation to impulsive financial irresponsibility. Other financial “experts” suggested that closing such unused accounts would impress potential creditors that you aren't the credit-seeking type.

And doesn't that all make good sense? Of course it does. Especially if honorable, responsible behavior was rewarded in this life far more than your potential contribution to a banker's end-of-year bonus. Unfortunately, that's not the way they stack the financial blocks.

Indeed, closing unused credit card accounts will practically always lower your credit score. The reason they give: your actions demonstrate that you haven't maxed your utilization ratio. Whatever! The real reason: Gosh, if you close those cards, you won't be able to become more indebted and pay interest on new debt. And, to add insult to injury, you won't be able to enrich the folks who invested in acquiring you as

a customer and who paid to emboss and mail out your beautiful platinum credit card. Shame on you! Dock those points!

Sound fiscal logic might suggest calling the bank and saying, “Hi, I’m calling about my \$20,000 line of credit. The truth is that I want to act responsibly and safeguard myself against impulse buying. Since I don’t need or want that much credit, please just reduce my line down to a more responsible \$5,000. Thanks!”

Um, no. For the same reasons discussed before, your credit score will go down if you voluntarily lower your credit limits. Once again, behaving responsibly is punished under the prevailing credit scoring systems.

Are you starting to get it? Think you understand? Just to review: Credit scores will punish bad behavior (like late payments and so forth), and that makes sense. But, and here’s the kicker, acting responsibly often isn’t rewarded, but more than likely punished. What sometimes looks like good behavior (paying off installment loans faster, closing unused revolving accounts, and so on) is really frowned upon by creditors because it isn’t good for their collective bottom line.

Just when you think you get it, the banks throw another monkey wrench into the works. Consider this: banks want you to be profitable for them, right? And using up your credit line surely makes you more profitable for the bank, right? So it would logically follow that maxing out your credit cards would be rewarded. But, once again, that’s where the logic breaks. In fact, your credit score will go down if you use your credit capacity.

But why?

A very likely reason is this: banks know that the more

maxed out you are, the more likely it is that:

You are probably reaching the limits of what you can possibly repay

You are a virtual credit prisoner now. And you can't so easily balance-transfer to a lower-APR card. Your low credit score gives your creditors an excuse at that point to jack your rates sky-high, and that's exactly what they do.

Your options are likely to be pretty narrow. When your credit lines go up, your score goes down and your ability to change cards is wiped out.

They've got you!

Finally, what's the real reason those "inquiries" depress a credit score? (Inquiries are those marks left on credit reports by potential creditors when you apply for new credit.) The stated reason runs something like this: The more "credit-seeking" a consumer is, the more likely that they desperately need the credit, and the higher their potential non-payment risk.

Somehow, though, that just doesn't square with what happens when a credit approval takes place. More available credit provides more opportunities for irresponsible indebtedness, and surely that contributes to the non-payment risk. But no! The credit score rewards all that extra credit. It only docks points on the application side.

Hmmm. Why is that?

Here's a possibility: When banks see that someone, over the course of a year let's say, is shopping for credit, they know that they've got a fish on the line. Why not figure out ways to charge them more for the credit they seek? The depressed score on the application side will likely result in a higher awarded APR and in a more profitable client as a result. And

once the APR is set and the card is awarded, the score can safely be raised again (as a result of the lowered utilization ratio when the new credit line is added to the mix) without risking the bank's profit.

The more you study credit scoring, the more it appears that the whole thing is designed, pardon the vernacular, to screw the consumer royally. Of course, there are reasonable-sounding explanations as to why each of these approaches to credit scoring improves the "predictability of the risk model," but isn't it strange that each of these rather nonsensical scoring methodologies raises the credit score? Why isn't the credit scoring program ever dumb to the consumer's advantage?



# **The Credit Killers: Five Situations that Make Credit-Worthy People Seem Unworthy**

## **Divorce**

Probably the most common cause of credit catastrophe is the age-old curse of marital meltdown. When two people split up, the emotional upheaval, combined with: the added stress of divorce expenses, a double household, child support, child care and a lack of clarity about who should pay which bill, almost always leads to credit score catastrophe for everyone involved. Typically, though, only one of the former couple is truly responsible for any one debt. In some temporary orders, and in most if not all divorce decrees, the judge usually assigns each debt to only one person. From that point on, the other party has no idea if the bill's being paid or not. In fact, since the couple generally moves apart, there's no way for one party to check on the other party's payment habits. In some situations, one spouse may even default on the bills that he has been ordered to pay, leaving the other to suffer the fallout of his often malicious inactions. Even with a decree of divorce entered by a court, creditors generally hold both husband AND wife responsible for ALL joint debts, and often creditors hold them responsible for debts that *weren't* joint

debts. It doesn't matter a lick what the judge said, if both parties are cardholders (or even if both parties have used the card at some time) the creditors will try to collect from **both**.

The credit report fails to accommodate even the simple fact that the judge has entered an order of the court assigning the debt to one of the two parties. Sure, the creditor may have both the husband and wife on the hook. But does that mean that the credit score should weigh both the same? It's ridiculous to penalize a spouse who is paying all their court assigned bills on time and in full because the other spouse jumps off the deep end. It's very common to see one former spouse file for bankruptcy just to free themselves of the debts incurred and signed for *by the other person in the failed marriage*. Sometimes, bankruptcy is the only way to truly finalize a divorce! The credit scoring system is blind to fairness in a divorce. Regardless of whether or not the person was responsible for the debt, regardless of whether or not the person was paying their portion of the debts, and regardless of whether or not the person was even informed of the default, the credit score takes none of this into account. Not only does this insane system hurt the divorced couple, but it takes them out of the system of credit. If a good person, who keeps her eye-on-the-credit ball and carefully makes all of her payments toward the debt she owes, is then tossed out of the credit system because an ex-spouse defaults on his obligations and becomes a deadbeat, doesn't that hurt the credit card companies? Isn't she still a good credit risk and a good customer who now is lost?

In Carla's family, hard work and discipline were a big deal. As a young woman, Carla went straight into college where she pounded out a bachelor's degree in record time. Then she went on to graduate school where she earned an advanced degree as well. Carla took great pride in her achievements and saw herself as proof-positive that, with some hard work, the American dream was available to anyone.

Several years after grad school, Carla and Stan met and married. With starting a family in mind, the couple found a nice home in a quiet neighborhood, and they set their sights on having children.

For the next few years, the couple worked hard to make the house their home. They did all the things homeowners normally do: they bought appliances—such as a washer, dryer and a water softener—and they spent a little money and put “sweat equity” into their unfinished basement. The basement was beautiful and everything was ready in the home for children. They had used a little credit, but not too much. Carla and Stan kept track of their bills and made sure that they could make all their payments with room to spare.

Carla got pregnant and it looked like everything was moving forward according to plan. But, in a cruel twist of fate, Carla miscarried and the couple lost their baby. The emotions ran high during those times, and both Carla and Stan battled with their dashed hopes. Depression crept into the marriage. Not long after the miscarriage, the strain was too much and Stan left. It looked like their marriage was doomed and that divorce was inevitable.

Bad turned to worse when it became apparent that Stan was heading *off the reservation* in a big way. He was unwilling to pay his part of the bills, and Carla had to struggle desperately just to keep up. Though their debts weren't overly large, Stan shocked everyone by declaring bankruptcy and leaving Carla holding the bag. Though Carla was a decidedly self-sufficient woman, she wasn't in a financial position to take on the house payment *and* all the other financial obligations entirely on her own. Regardless of the fact that the judge had ordered Stan to pay his fair share, it was clear that bills were no longer his primary focus.

At first Carla was late on her payments to her creditors. And, as time wore on, Carla had to set aside some loans in order to pay other loans that were about to be charged-off. She became further and further behind on her mortgage payment. Despite all her efforts to sell the house and juggle bills, Carla's lender eventually foreclosed on her house.

Having lost her home and her good name, Carla went into a depression. She had always thought of herself as a woman of integrity – as a hard-working person who always paid her own way. Now she was faced with another reality. According to her credit report, she was a loser. Nothing she could do or say would convince her creditors otherwise. They weren't interested that the judge had assigned those debts to Stan in the divorce. They weren't interested that Carla had done everything possible to carry for her ex-husband's debt. And, they weren't interested that Carla was a good person with a good job and an outstanding education. All that anyone in the world of credit knew of Carla was her credit score. Fifty-seven. Carla was reduced to that. When she logged onto the credit scoring website, it revealed that her score of fifty-seven meant that she was a "D-." All her life, she'd never earned anything less than a "B." Now she was almost an "F."

### **Job Loss**

When a person loses their job, there's often a time lag before re-employment. Unemployment insurance may kick in, and sometimes there's severance pay, but that isn't usually enough to pay the bills for the time it'll take to find new employment. And, even then, the new job doesn't always pay as much as the old one, since seniority has been lost. Other factors enter into the equation as well: job loss is often followed by a move, bills may be sent to the wrong address, and job loss also can lead to other financial stressors such as marital problems.

Job loss frequently leads to damaged credit. Simple right? That would seem to make sense. But, when you take a closer look, it really doesn't make sense at all. Consider two imaginary limo drivers at work in Boston, Massachusetts. They both drive the same type of limos and even drive some of the same Boston businessmen around town, but they work for two different limo companies. Jim works for AAA Limo Co. and has been there ten years. Bob works for Acme Limo Co. and has worked at Acme for ten years, too. Unbeknownst to everyone, the accountant at AAA Limo clears out the company bank accounts, packs up and heads to Jamaica with a suitcase full of embezzled cash. AAA Limo, without money to make payroll, closes its doors and Jim loses his job the next day. It's likely that both Jim and Bob had the same amount of debt. They both owned their homes and they were probably both living pretty close to paycheck-to-paycheck. The only difference between the two is that Jim worked at a company with a crooked accountant and Bob worked at a company with an honest accountant. Because of that difference, and that difference alone, Jim goes late on his debts and has to start over, at the bottom of the ladder, at another limo company. Jim's credit score plunges to around 530 while Bob's credit score is still flying high at 775. And, for the next seven years, Jim's credit will stink compared to Bob's. Both Jim and Bob were EXACTLY the same credit risk. In fact, now that Jim's got a new job, he's just as likely as Bob to honor his debts and pay his bills. But regardless of that, Jim looks like a loser when you read his credit report, and Bob looks like a saint.

How can that make sense? How can the credit scoring models really claim to be good predictors of credit worthiness when they can't even tell that Jim and Bob could be twins—that there's no fundamental difference in their willingness and their commitment to pay their bills on time? Only their momentary circumstances are different, and those circum-

stances were totally out of their control.

Similar to the story of Bob and Jim is Jake – a real person. Jake is a young professional who graduated with a master's degree a couple of years back. Like most other students, Jake paid for his schooling with student loans.

After graduate school, Jake was hired by a good company that offered great benefits and a salary that was sufficient to pay all of Jake's expenses and cover his loan payments. Things were looking good for Jake.

Then, after a year at this job, Jake was approached by an uncle who begged him to join the family business at an even higher salary than Jake had been earning. Everything looked great to Jake, especially the higher salary. Convinced that he was making the right move, Jake took the family job and moved up in the world.

As it so many times happens, Jake and his uncle didn't see eye-to-eye on how the family business should be run. Jake's family members belittled Jake in front of the office staff and things around the office were tense. After several months of suffering with his uncle's abuse and the ongoing disagreements, his uncle fired him.

Jake, like so many Americans, was basically living paycheck-to-paycheck. While he was employed, he had enough to meet his needs, pay his student loan payments and enjoy a few extras. But now, while searching for a job, Jake was in dire straights. In order to get by between jobs, Jake relied on his credit cards and ran up several thousand dollars. In order to make his payments, Jake would do balance transfers or juggle credit card payments by making payments with other credit cards.

After a couple of months of this, and while he still job-searched, Jake began to fall behind on his bills. Thirty day, sixty day, then ninety day late notices began to pile up. Then collection notices began to show up in his mailbox. Jake's credit was being ravaged.

After five long months of searching, Jake found a new job that paid plenty to cover his bills and debts. But, after that much time, there was no way to recover his credit rating. One bad employment decision had cost Jake his perfect credit, and without some kind of professional help, Jake's credit score wasn't going to get any better for a long, long time.

### **Health Crisis**

What could be worse than having a life-threatening accident or disease? Strange that you should ask, because many people who face a dire health crisis must also face credit meltdown at the same time. Sometimes, when the planets align, there are safety nets that catch an individual when a health crisis strikes. Health insurance—when the insurer decides to be cooperative—and disability insurance, often takes the financial sting out of an injury or sickness. But, just as often, the safety net rips and leaves the individual in a state of financial free-fall. Insurance companies can delay payment or reject claims just to buy time before they have to cough up the cash for medical treatment. During that time lag, the person's credit score is trashed due to collection accounts that pile up like used bandages. Medical bills can be obscenely expensive and are routinely so big that the average person could never pay them back in their lifetime. If the hurt or sick person doesn't have coverage, or if their coverage fails, then a health crisis can mean a crushing debt load until the day that person dies if they are alone, or the debt could be expected to be paid by their family members. What's truly bizarre is that a health catastrophe is treated just like any other debt by the credit score. Consider two people – one person is a forty-

five-year-old gambling addict who racks up twenty thousand dollars of debt on his Chase Visa during a horrible run in Vegas. The other person is a nineteen-year-old girl who gets hit by a car in a hit-and-run, crossing the street in front of her house on the way to buy milk. The girl goes through a week in the hospital before finally returning home with a broken leg, four broken ribs and a broken collarbone. She also comes home with a \$20,000 medical bill because her only job was as a nanny to the couple next door, and they couldn't provide her with medical insurance. As far as the credit score is concerned, the gambling addict and the young nanny are exactly the same: losers. There is plenty of information on the credit report that would indicate that the nanny's situation is far different from the high-roller's. But no one has ever bothered to teach the credit score to read the clear and obvious indications that the girl's debt is medical and the guy's debt is unsecured spending. How is that fair or sensible? The two people aren't remotely the same credit risk. The nanny will go back to paying her bills just like she always did. The gambler is a huge credit risk and not even his good friends should loan him money until he gets his addiction under control.

Maggie and Dallin loved their jobs. They both worked for a California water park, and the golden-haired couple got to spend their days together in the sun. During the first years of their marriage, they enjoyed their good jobs, good health and a steady income. With all that going for them, they thought it'd be a good time to start their family. When Maggie got pregnant, everything seemed to be in order, since the water park offered good health insurance, and the couple figured they had nothing to fear from the high cost of having a baby.

What Maggie and Dallin didn't know, was that the employee leasing company used by the water park was teetering on the edge of bankruptcy. When their little girl was born, the cou-

ple didn't expect for a second that their financial life was about to be ruined. The cost of the birth was \$18,000, and the insurance company paid the bill in full, but they disbursed the money to the employee leasing company that signed Maggie and Dallin's paychecks. Days thereafter, the employee leasing company declared bankruptcy and closed their doors. The hospital never got paid.

When the bills began to arrive at their apartment, Dallin was mystified. Why hadn't the insurance company paid the bill? By the time they figured out what had happened to their insurance money, the medical bills had already gone to collections. There was no possible way that a young couple like them could come up with \$1,800 much less \$18,000. They sat by helplessly as their once-perfect credit score was destroyed by a series of medical collections.

Nothing about Maggie and Dallin had changed. They both were the kind of people who paid their bills (and they had always paid on-time). They still had the same jobs at the same water park, and they joined the new health insurance plan as soon as it became available. Regardless, according to their credit reports, they were now a bad risk and not worthy of the trust of their creditors.

### **Military Service**

As the wars in Iraq and Afghanistan smolder on, we are beginning to experience the full brunt of an epidemic of citizen-soldiers who are listed as "losers" by the credit scoring companies. There is almost no way to prepare oneself to leave the country for one to two years. During that time, our men and women in arms leave their husbands, wives, children and their careers to fight in our defense. While terrorists are shooting at them and exploding bombs alongside roads in Iraq and Afghanistan, those same terrorists are not shooting at us and are not exploding bombs in the streets of our home-

towns. We owe them our military men and women a great debt. And yet, we have allowed their credit to be destroyed. While we pour money into these dry and dusty places half a world away, our own soldiers' homes are being foreclosed and their cars are being repossessed, often in boldfaced violation of the Soldiers and Sailors Relief Act. Who cares about scoring and risk modeling and technical accuracy while such a grave injustice is being committed? How are our young men and women supposed to keep their minds on preserving their own lives while they're getting messages from home that bill collectors are hounding their families? It's not just that our soldiers deserve our pity or our sympathy. These strong young people are victims to no one. However, we do owe them a heavy debt as a society, and they deserve our vigilance on their behalf. We must compel our congressmen and women to protect the credit ratings of our citizen-soldiers as they serve our country. So much goes wrong with the credit system the moment a soldier leaves the United States, that it often becomes impractical, if not impossible, for a soldier to keep their credit affairs in order. Communication lines extending into an undeveloped third world, foreign country become stretched and strained and the credit card companies frequently send bills and notices to bad addresses. Soldiers often drop balls they never even knew they were supposed to catch. Unfair and inaccurate credit reporting abounds as the credit cards and banks fail to grapple with the soldiers' absence, and the citizen-soldier's credit score plunges.

When Bill finally left the Navy after serving our country for two years, he found out that the Navy had overpaid him. Not to worry, he was told, it was their mistake and he wouldn't have to pay them back. Bill left the Navy feeling like his "loose ends" were tied up and he could go about his life. Unfortunately, Bill was wrong. As sometimes happens in the military, promises made by one department weren't reported to the other departments. The collections department of the

Navy began to pursue a refund of their overpayment as soon as Bill was discharged.

After Bill left the Navy, he moved several times. Even though Bill always informed the Navy of his change of address, the collections department never got word, and they sent all the collection notices to his old apartment. Bill had no idea that he owed the Navy anything. Eventually, the collectors working for the Navy reported the “bad debt” to the credit bureaus, and Bill’s credit score went from 780 to 580 overnight.

One day, while applying for a small credit line, Bill discovered that, veteran or not, the Navy had mistakenly destroyed his good name.

### **Natural Disaster**

The waters of hurricane Katrina washed away homes, property and the dreams of thousands. Not only were homes devastated and insurance companies destroyed, but also thousands of jobs were vaporized in the torrential rains and winds that smashed against the Gulf coast. Many of these same people, who had our support and were the recipients of our contributions to the Red Cross, carried on into lives drowning in bad credit. While no one can be reasonably held accountable for a hurricane, the credit scoring system couldn’t help itself. These people were punished, en mass, for living in the path of bad weather. The credit devastation takes many forms during a natural disaster. Businesses are wiped out and both the business owners and their employees are left to find work in an area that has been destroyed. They must either move away from their homes or dig a new career out of the rubble. Mail is lost, bank records are destroyed, checkbooks are carried downstream and notices are never delivered. Even the most scrupulous and responsible people find it impossible to keep their finances in order. None of

these immediate concerns even takes into consideration the damage to life and health. Death and injury follow in the wake of a natural disaster, and when it comes to focusing on survival of the body or survival of the credit report, most people choose the well-being of their families.

On August 29, 2005, Katrina, the sixth strongest hurricane in recorded history, made landfall along the Gulf Coast of the United States. The hurricane caused severe destruction from Alabama to Louisiana. In New Orleans, a disaster of biblical proportions was precipitated by the catastrophic failure of the levee system that protects the city. Nationally, pictures of desperation filled the airwaves. Images of looting, heroic rescues and refugees are forever burned into the American consciousness.

Clara, a Louisiana resident, had worked hard to get her credit score up so that she could qualify to buy her own home. She had hired a credit correction attorney to work with her, and through hard work and careful bill-paying, Clara's credit score reached 620 – just enough for her to get her own place.

Then came Katrina. The storm wiped out Clara's home, her job, and placed many of her family members in the direst of financial straights. All of Clara's financial resources went into the survival of her family and herself. When the debris was finally cleared away, Clara's credit score was down in the four hundreds.

While Clara hasn't given up on her dream of good credit, she knows about the road of hard work ahead she'll have to travel before she'll be able to reach a place of creditworthiness again. But, it seems a little ironic, while Clara's heart hasn't changed a bit, that a storm could sweep through and make her *appear* to be a worse credit risk than before. Can a hurricane really change a person's trustworthiness?



# Circumstances Mean Squat. Why Not Measure Character?

What's interesting about the five Credit Killers listed previously, is that they have *nothing whatsoever to do with a person's character*. They *only* measure circumstances. Therefore, our credit scoring models really do nothing to measure how honest or trustworthy or good a person may be. They simply measure the stuff that's happened to a person. How can the stuff that's happened to a person be a basis for grading their good name?

Currently, the credit system measures just a few things. In order to give you a credit score, the system tracks and measures:

The number of credit accounts you've had.

How long you've had credit.

How many times you've been late.

How much you owe compared to how much credit you have.

How many times you have applied for credit in the last

while.

And the number and kinds of super-bad listings (collections, bankruptcy, etc.).

That's basically it. The rest of the notations on your credit report are pretty much ignored by the scoring models.

The purpose of credit scoring and credit reporting is very simple: it's to decide whether or not you can be trusted with credit (and how much to give you). In fact, nobody would dispute that definition. In order to figure out whether or not you can be trusted, **ONLY** the six things listed above are considered. Of all the *thousands* of character traits, facts about your life and facts about your history that *could* be considered, the credit system considers only those six.

Let's imagine that the credit system was an online dating service. If you haven't used an online dating system, just imagine a computer program that asks tons and tons of questions and then provides your answers to people who might be a good date for you. The dating service may ask questions such as: "How tall are you?" or "Are you religious?" You and many others answer dozens and dozens of questions. Then you read each other's answers and decide if you should email someone who sounds interesting to you and ask for a date. Actually, an online dating service is a lot like the credit scoring system. Your data is provided to the credit card company that checks your answers to see if you're a good match for their card.

If the online dating services were like the credit system, you would have to decide whether or not to go out with someone based on their answers to the following questions:

How many times have you gone out on a date in your life?

How long since you started dating?

How many dates were followed by second and third dates?

Do you go out with a lot of people?

How many people have you asked out recently?

How many dates have ended badly?

Based on the answers to those questions, and those questions alone, you must decide with whom you'll go out. You can't ask how tall they are, what they look like, what kind of work they do, what life philosophies you share, do they like pina coladas or getting caught in the rain, etc. It's probably safe to say that, based on those six questions alone, you could probably end up with some pretty horrific match-ups. Just imagine the number of Danny DeVito-looking guys who would get hooked up with super-models under that system and vice-versa. It would be a complete bust.

Likewise, the credit reporting and credit scoring system is really just a bean-counter's attempt to put lipstick on a pig. There is so little data (and that data is usually so inaccurate) that it's no wonder that bad credit decisions are made. Clearly, more information would be better!

Here are the kinds of things that could be considered in a more sensible and complete credit system. Again, we think that more credit reporting and more credit scoring would be a good thing. Here are just a few of the many issues that should probably be added to the credit scoring matrix:

### **Drug Abuser/Alcoholic**

A person who is engulfed in substance abuse is probably a bad credit risk. Regardless if the person's a cocaine abuser in a \$200,000 a year job or an unemployed alcoholic, that person should be denied credit (and probably

offered treatment).

Jennifer loved her small businesses. She and her husband had worked tirelessly to build a cooking supply store and a rental property that brought in great income. On top of her entrepreneurial passions, Jenn worked for the state. For twenty years, since she turned eighteen, Jenn's credit had been stellar. She could get anything she wanted with credit, but she still held back just to make sure that even in a crisis, she had enough money to cover all her bills and then some.

But all Jenn's preparation came to nothing when her husband spiraled into a pit of self-destruction and violence. Over a short period of time, it became clear that he had become a raging alcoholic. The alcoholism exploded across their lives in a series of disasters: DUIs, the loss of his license, and ultimately domestic violence. After a single evening of physical abuse against Jenn and her children, Jenn acted fast to get a restraining order against her husband of fifteen years. Nothing would ever be the same.

Without his help, the businesses began to falter and Jenn scrambled to keep the family on an even financial footing. To make matters worse, Jenn discovered she was pregnant with their fifth child. She knew that she would have to take time off from her job with the state, and she knew that she wouldn't be receiving income during that time. Her husband was paying no support whatsoever, and Jenn knew that disaster loomed ahead, just as certainly as the coming of her baby.

She scrambled to sell the rental home and the cooking supply shop. Luckily, she sold both, but there still wasn't enough money to avert financial disaster. With five chil-

dren and no income, Jenn was reduced to seeking welfare and food stamps while on maternity leave. As soon as she could, she returned to her job and began rebuilding. But, her credit was destroyed and it would be a long, long way back.

It's pretty clear to see that Jenn's husband had become a truly bad credit risk. Considering his DUIs and the restraining order, who would want to extend him credit? But Jenn's a very different story. Her pregnancy combined with the meltdown of her husband turned a very reliable, very productive citizen into a "deadbeat" as far as her credit score was concerned. Does that really make sense? Once the smoke cleared and Jenn was standing on her own two feet again, was it really fair or rational that her credit score and her former husband's credit score look exactly the same? Should a lender consider her the same credit risk as an out-of-control alcoholic?

### **Recent Criminal Record**

Someone who has committed a crime is probably a bad credit risk. The crime might be a crime of passion, white-collar business crime or even a drunken brawl. In any case, the commission of a crime would probably be indicative of a willingness to break the rules. Oddly enough, the credit reports and credit scoring models don't even consider criminal behavior when providing a credit score.

### **Job Stability**

Even good people often change their jobs, but sticking with the same line of work could be a good indicator that a person has turned to a life of responsibility. Bouncing between a number of jobs could be a sign that a person is still finding their way in the world, and that they're a marginal credit risk. While some loan applications ask for

“time at current job,” the credit score (which will almost entirely determine loan acceptance or denial) doesn’t consider your time on-the-job or how many years you’ve spent in your career.

Mitch actually worked as a credit counselor, which made it all the more ironic when his credit rating tanked after his divorce. You might be surprised to hear that Mitch actually handled his divorce in textbook fashion. Both he and his soon-to-be-ex-wife worked out a friendly arrangement regarding finances, and Mitch was very careful to make sure that all the bills and payments were carefully divided between the former couple. Mitch made sure to close joint accounts and get his name off the bills that she was to pay. He had seen far too many clients’ credit scores destroyed by sloppy divorces. He was not going to let that happen to him.

But Mitch forgot to take her off his insurance. One night, after an injury, his ex-wife rushed to the emergency room and presented *his* insurance card. The injury wasn’t all that serious, but the deductible was billed to the address she had provided – her apartment.

The first Mitch heard of the debt was months later when collectors finally skip-traced him and started to hit him up for the several hundred dollar deductible. Shocked, Mitch paid the debt immediately. Still working for the same great company he had been employed by before, Mitch didn’t have any problem paying the debt from his savings. But, paying the collection account actually *hurt* his credit score. Not only did he now have a collection account on his credit report, but it was a very *recent* collection account. His score plunged about two hundred points and Mitch was in just as bad of shape as the most troubled of his clients.

Mitch's debt load hadn't increased. Mitch had the same good job. Mitch was paying all his bills on time. Why would he be considered a bad credit risk? Shouldn't his job stability and great previous history cancel out this sudden and uncharacteristic collection account?

### **Military Service**

Our men and women in the armed forces don't always pay their bills on time, to be sure. In fact, serving in the military frequently leads to debt trouble. When a National Guardsman is pulled away from his home and career for six months—that turns into twenty-four months of active duty in Iraq—there will often be problems with family finances. But, these people are true citizens of our country and have shown that they know how to commit themselves to a task. If nothing else, serving our country honorably shows character. To date, the credit scoring models have never so much as captured information regarding military service. For all the credit card companies know, former vets could be the best credit risks in America.

### **Civil and/or Public Service**

While we're not comfortable with credit scoring models that offer preferential treatment to race, religion, career choice, etc., we *are* comfortable giving preferential treatment to some careers such as military and public service (we already do that in a hundred ways). If a person agrees to serve the common good, then it's likely that the person is also a person of honor and is a good credit risk. And yet, nobody has ever done a study to see if policemen and firemen are better credit risks than the average and should be awarded a higher credit score. No one cares to see if teachers and professors deserve a credit boost. In all likelihood, these people who accept low pay in exchange for a career that benefits society, are also the kind of people

who are stable and pay their bills on time. Would it be smart and right to give them a leg up on their credit score? Could this also serve as another motivation, another perk, to becoming a civil servant or going into a public service career? Could the credit scoring methods we use *also* become tools for creating good in society, while ensuring higher returns for the credit card companies at the same time? This is the sort of win-win creativity that has been completely absent from our credit scoring system – to all our detriment.

There are few jobs as thankless as that of an elementary schoolteacher. Without a passion for children and a desire to make a difference in the community, it's hard to see why our teachers would work so hard for so little money. But some stalwart men and women do pay the price to be educators. They go through many years of schooling and then they brave the difficulties of the classroom, all to follow their dream of being a contribution to our society.

After twenty years serving as an elementary school teacher, Betty left teaching to enjoy a well-deserved retirement. Betty's income was fixed, but sufficient for her simple life, living in a little condo and enjoying the pleasures of her golden years. But then cancer struck and Betty spent two years struggling against the disease that threatened to take her life. In a stroke of unfairness, the hospital failed to properly apply a medical bill to Betty's insurance. The collection agency quickly moved to get a judgment against her while she still fought the cancer. On the day of the court hearing, when Betty could have defended herself and likely defeated the judgment, she was too sick to get out of bed.

When, thankfully, Betty beat the cancer and went into remission, she returned to a world where her credit score

had been devastated by the collection account and the subsequent judgment. Betty's income is still stable and provides plenty of room for Betty to get by. Like other civil servants and public service workers, Betty is a solid citizen with a reliable income and good benefits. She's not likely to run out on her debts, and her income can be counted upon year after year.

But Betty's credit score paints her as a bad risk – someone who can't be relied upon to pay her bills. Nothing could be further from the truth, and anyone who knows Betty and her history would attest: when she's not fighting for her life, she's a great credit risk and worthy of trust.

### **Paying off Debt**

When someone pays off a debt, that's a huge credit accomplishment. Reducing your overall debt load and closing down open lines of credit should mean something to your credit score, right? Wrong! Actually, paying off cards and closing them hurts your credit score. Getting out of debt can amazingly make your credit score drop! What could be dumber than that?

In John Heath's legal practice, many clients are on a program where they watch their credit score closely while John works on their credit inaccuracies. Collection accounts have proven to be some of the more stubborn questionable items to remove from the credit reports—so clients are often tempted to pay them off.

Joe, a client of Lexington Law Firm, had an old collection account of dubious accuracy. Despite coaching to the contrary, Joe thought it *must* improve his credit record to pay it off.

There are ways to pay off a collection account and there

are ways *not* to pay off a collection account. Joe took the latter and simply sent out a check. He was shocked when his credit score actually dropped after paying the collection. The collection had been almost three years old, which means that its impact on his credit score had begun to go down. His credit score had partially recovered from the collection listing simply because time had passed. But, when Joe paid the account in full, it actually re-aged the collection account on his credit report and brought the “date of last activity” up to the date of payment. The credit score then automatically calculated the collection account as though it had just occurred. The act of paying a collection account made it look to the credit score as though the collection listing was brand new, and Joe’s score took a nosedive.

### **Paying off Debt that Went Bad**

People go through rough times. When someone’s in the middle of a financial crisis, it’s probably not the best time to loan them money. Sometimes we do it as friends, but we know that it’s a bad investment. So, perhaps we can forgive the credit card companies for not wanting to loan to someone when they’re in the middle of a financial crisis. But what about when that same person has recovered from the crisis and they’re paying off the debt they owed. You would think that paying off old debt, especially debt that had gone to collections, would be a bright, shiny star on the credit report. You would be wrong again. Paying off old debt actually makes your credit score far WORSE than it was before! You’re actually *better off never paying that old debt back*. What rocket scientist came up with that plan?? The credit report should lavishly reward people who pay off old debt. Nothing could be a better indicator of good character than someone who declines bankruptcy, works hard and then pays back old creditors. Why not reward that kind of character? Why not give

people a strong incentive to pay the money they owe?

In 1993, Stephen and Michelle Snyder declared bankruptcy after his small, desktop publishing business failed. The young couple started off despondently, but then they kicked into high gear.

Stephen and Michelle were committed Christians and their interpretation of the Good Book led them to decide that they should pay off their creditors, even though their bankruptcy had been successfully discharged, and according to the law of man, they didn't owe anything to anyone. After working hard to rebuild their financial life, improve their credit rating and re-acquire the basic necessities of living, they began to make partial payments to the companies they had once owed. The couple started their own business and began to make serious progress.

Strangely enough, the couple's business focused on coaching people, like themselves, who had declared bankruptcy. Stephen wrote several books and began a seminar series on how to recover from financial disaster. While all this was taking place, the couple chipped away at their old, discharged debts. Within a few years, the old debts were gone and Stephen and Michelle's consciences were clear.

But the credit system did nothing to reward them. There were no glowing "gold stars" on their credit report, nor did their former creditors even thank them. In fact, other than to feel better about themselves, there was no reason whatsoever for Stephen and Michelle to pay back all those tens of thousands of dollars.

### **Paying Your Taxes**

Another sign of honorable citizenship and stability is the

payment of income taxes. A good citizen pays their taxes and they do it in a timely manner. The credit reporting system doesn't track tax payment, even though this agreement could probably be struck with the government and with the public. The credit reporting system does notice when there's a complete and utter meltdown in tax payment. After years of not paying your taxes, the IRS will eventually file a tax lien against you, and that will show up as a devastatingly bad mark on your credit report. But, what if each year, the IRS reported to the credit bureaus that you had honorably and in a timely fashion, paid your taxes. If NOT paying your taxes results in a big negative adjustment to your credit score, then PAYING your taxes should result in a positive bump in your credit score.

### **Avoiding Bankruptcy**

Bankruptcy is a godsend (or used to be) for many Americans in dire trouble. However, some people elect not to file for bankruptcy and tough it out. These same people eventually work their way around to paying their debts off in time. The credit score, though, doesn't recognize a person's willingness to do the hard thing and to pay back their creditors. On the contrary, working your way out of overwhelming debt almost always extends the credit damage longer than would a bankruptcy. The credit scoring system actually rewards those who take the easier way out. Why not give people a good reason to work their way out of debt instead of giving them every reason to jump ship? If Americans had a chance to work their way out of that debt, and then if they got a strong credit score boost as they paid off those old creditors, then bankruptcies would certainly decline. Instead of giving good Americans the "carrot" of financial recovery, the credit card companies and the politicians they control opted instead to whack Americans with the "stick" by making bankruptcy far more difficult.

### **Choosing a Chapter 13 Bankruptcy over a Chapter 7**

A Chapter 13 Bankruptcy is the kind of bankruptcy you file when you want to pay your creditors back. A Chapter 7 Bankruptcy discharges all of your debts at once, leaving you free as a bird. The Chapter 13 Bankruptcy gives you some protection from losing your house and your car, but you will go on to make reduced monthly payments to your creditors over an extended period of time. It's a tough, long road, but many people like the idea of buying some time so they can pay back their debts. Unfortunately, it makes very little sense, most of the time to file a Chapter 13. There's no advantage whatsoever to your credit score to chose a Chapter 13 over a Chapter 7. On the contrary, the Chapter 13 could even screw your credit score up for longer than a Chapter 7, since the *tradelines* that were included in bankruptcy could continue reporting for seven years *after* your last payment, which will be a long, long time after the bankruptcy filing. Once again, taking the harder, more honorable road does you no good whatsoever.

Melissa had finally decided that there was no way out of her debts. Due to the loss of her job as an esthetician, there was no way she could pay her bills. Bankruptcy was the only solution, so she sought help from a bankruptcy attorney. But in all of Melissa's life, she had never let a debt go unpaid. Even when friends loaned her a dollar or two, Melissa made sure to remember to pay them back.

Melissa didn't want to dishonor her debts – she just needed more time to find a job and get things in order. Some of her creditors were threatening to levy garnishments against her paycheck, and Melissa knew that she couldn't start work with that hanging over her head. So she filed for bankruptcy, but she chose a Chapter 13 bank-

ruptcy so that she could get into a payment program and pay her creditors back.

Chapter 13 bankruptcies aren't usually the best way to handle debts if your only concern is your credit score. Because the debtor ends up in a long repayment plan, the "included in bankruptcy" listings sometimes re-age with each payment making the Chapter 13 hang on the credit report longer than ten years.

But to Melissa, the questions of ethics drove her to file a Chapter 13 bankruptcy. In an ironic twist of fate, Melissa's attorney was sloppy in how he filed the bankruptcy papers. The lawyer failed to properly identify her debts, so much of her monthly payment piled up in an escrow account with the court. Without her knowing it, several of her creditors weren't receiving even the reduced payment plan amounts. These creditors took harsh action and reported their accounts as "charged off" and sent some to collections.

Instead of her credit report showing a tidy Chapter 13 bankruptcy and a few "included in bankruptcy" items, her credit report became a complete disaster. It showed the bankruptcy plus a whirlwind of "charge offs" and collection accounts.

So much for "doing the right thing."

### **Making Partial Payments**

Collectors are happy to accept whatever payment you can give them. But the truth is that you're not doing your credit score one lick of good by making partial payments.

While paying whatever you can pay might feel good to you, and might make you feel like a better credit risk for some future creditor, it means nothing to them. In fact,

making partial payments actually prolongs your bad credit agony by extending the seven-year reporting limit every time you send in that thirty dollar check. Sacrificing to keep your repayment agreement as much as possible shows character and a willingness to pay prices in the name of honor. But the credit score doesn't calculate honor when it spits out your number.

### **Working with Creditors and Collectors**

Right now, there is absolutely no reason to answer the phone when a collector calls. Some may argue that answering that creditor phone call is the right thing to do. You owe the money and you agreed to pay it back. Why not answer the phone and work out some kind of agreement? At least you could answer the phone and explain your situation. In truth, today, there is no good reason to talk to a collector. You can call them yourself when you feel like paying. The system provides no incentive to get on the phone with creditors when things turn bad for you.

Talking to American Express right after you lose your job, and setting up an agreement to pay what you can will not preserve your credit report in the slightest. Taking calls from creditors does your score no good at all. That seems silly. Shouldn't the system give a person a good reason to respond with *honor* and talk to the bank when they call? Credit card companies and collection agencies could easily report to the credit bureaus that the person is actively communicating with them at the same time that they report the late payment. Since staying in contact with a creditor is a good sign that a consumer intends to repay the debt, the credit scoring model could adjust the negative impact of the late payment by reducing its severity and also how long the late payment remains on the credit report (or is considered within the credit score) because the person opted to stay in touch. This would not only provide a clearer picture of how the consumer is a

good person in a bad situation, but it would also give the debtor a very good reason to handle the debt responsibly even after a financial crisis. If creditors are so committed to their financial returns, why don't they institute credit scoring policies that encourage answering their calls and paying them back?

### **Mitigating Circumstances**

The credit score can't tell if someone stopped paying their debts because they went into a coma or if they went to jail. There is absolutely NO method of allowing for mitigating circumstances in the credit reporting/credit scoring system. If there were, the credit scoring companies could produce truly precise scoring models that did a much better job at guessing who would pay and who would not—and that would make the credit cards companies a LOT more money. But credit scoring today is about as dumb as a bag of hammers. It's better than nothing and it's still the best the world has to offer – but that doesn't change the fact that the credit score can't tell the difference between someone who's embezzling money from their employer and someone who preaches from the pulpit on Sunday. In fact, the embezzler probably has a better credit score than the pastor.

The credit scoring companies could easily establish an office of the credit ombudsman (an *ombudsman* is a neutral third party responsible for investigating and resolving complaints). This office could generate a humungous manual to dictate credit score adjustments to be handed out when a person proves a mitigating circumstance. This office would not be saddled with subjective decision-making. Instead, the ombudsman's office could refer to its ten thousand page adjustments manual and make credit score adjustments any time it receives a bona fide and validated report of circumstances which indicate

that the credit damage was, to one degree or another, out of the person's control. For example, if Jane Goodworthy called in and explained that her recent spat of late payments was due to a job loss, then the office of the credit ombudsman could request a letter from the previous employment (which was terminated) together with unemployment data and a letter of employment from the new employer. After consulting the ombudsman's manual, the office could issue Ms. Goodworthy an adjustment: her credit score would remain low for six months. At that time, if Ms. Goodworthy could bring all her accounts into good standing, then the late payments would be expunged and her high credit score would be returned.

This may sound like a rant *against* credit reporting, but it's NOT. This is a plea for *more* credit reporting. We have the computer systems and the electronic storage systems and the business know-how to make the credit reporting system better and more accurate. The credit system should *expand* the role of credit bureaus and increase the level of the sensitivity of credit scoring models.

When the credit bureaus and credit scoring companies are questioned about the rampant errors in the system, they shrug and say "garbage in, garbage out." That's quite true, in fact (but probably not as true as they've been willing to admit). The entire credit reporting system is based on measuring circumstances over character, and the circumstances are transient information on which to base a credit risk assessment. The circumstances can be vaguely indicative of character, but they largely fail to tell an accurate story. One need only speak with a few dozen consumers with bad credit to realize that most have come by bad credit honestly, rather than through a lack of personal responsibility. A bigger and better credit scoring system could read deeper and collect even more information in order to paint a more accurate, more sensitive pic-

ture of a person's character.

Back in the 1960s and 70s, credit reporting and credit scoring were in their infancies. Credit bureaus were guarded fortresses that procured information about you and your family in a very *Gestapo-like* fashion. Credit bureau employees would often carefully record what they found from knocking on doors and speaking to your neighbors. At that time, the credit bureaus based many of their risk assessments on circumstances that should not have mattered, such as one's sex, race, religion and political affiliation. Imagine being assessed for a car loan on the basis that you are a single, Hispanic, male, Roman Catholic, Democrat. How would this make you feel? For many this was the reality. If you did not fit the "norm" (white, male, Republican, Protestant) you did not get the loan. Thankfully, society has evolved past this type of behavior. The shameful use of any of these criteria is now not only laughable but it is actionable and simply wrong. Today, we laugh because we see how clunky and unreliable the credit decision-making process was then. Likewise, when our children look back at how backwards and uncreative our credit scoring system is today, they'll laugh and shake their heads. But for today, we don't have to lie down and simply endure the frequently nonsensical credit scoring system. We have rights that can be exercised in order to force some sensibility into the system. We can make the system acknowledge our credit worthiness by putting up a good fight and by convincing the credit bureaus and our creditors (as we work hard to improve our credit) that we're probably not such a bad risk after all. Until that day when someone invents a more just, more rational and more accurate credit scoring system, we will keep on leveraging our rights, under the law, to yield fairness and force the system to recognize our true level of credit worthiness.



## CHAPTER TWENTY

# The “Screw the Consumer” Decade

The noose is closing slowly around the American consumer’s neck. Literally.

Surrounded by a stack of bills and her checkbook register, a pretty 18-year-old freshman at the University of Oklahoma hung herself in her dorm room. No sooner had Mitzi Poole begun attending college, than she began to receive a deluge of easy credit offers. Mitzi opened up several cards and began to charge away. But when the bills arrived, a powerful depression set in and Mitzi couldn’t see a way out. Even though her debts only totaled \$2,500, she decided that she couldn’t cope with this newfound terror: credit card debt. Tragically, Mitzi didn’t reach out to anyone. She carefully laid out her bills and her checkbook on her bed, and then she ended her young life.

The well-loved mayor of a small, New Jersey town, David J. Dwork, secretly racked up consumer debt and eventually destroyed his credit rating. His messy personal finances eventually bled over into suspicions of corruption (without any serious evidence ever found), but that was enough to lead the Mayor into despair. In an effort to spare his wife some of the distress, Mayor Dwork left her and his small town to deal with the question of what they could’ve done. Too proud to

ask for help, he ended his life in his mayor's office at the barrel of a gun.

In 2007, a Tennessee appeals court decided that the MacDermid family could sue Discover Card for the death of Mrs. Nina Kay MacDermid, who allegedly took her own life after being harassed and threatened illegally by Discover Card bill collectors over the course of several weeks. Mrs. MacDermid had a history of spending sprees and mental illness. But this didn't stop Discover Card from issuing her credit and then relentlessly collecting. According to the case, the collections agents of Discover illegally threatened her with going to prison and other false threats if she didn't pay her bill. Reeling from the specter of her husband discovering her bad credit and inability to deal with her debts, she overdosed on sleeping pills.

These examples are just a few among scores of Americans literally dying from debt and bad credit. A 2007 Harris Poll found that *one-third* of consumers in the U.S. feel like their financial situation has worsened in the past year, and one-third felt like they can't get a grip on their debts.

Sure, consumer groups have been mewling about the fall of the American consumer and about how debt is out-of-control for decades. But something serious has shifted. Something dark and desperate is engulfing the average American, and we're failing to hear them. We used to give those cries of desperation a voice – we measured their anguish by counting the bankruptcies and foreclosures – a decibel-meter of failure and pain.

Today, however, the special interest lobbies have stripped away our ability to even hear the pain. We have lost the canary in the coal mine, and now we walk its caverns without a clue as to how deep we're descending.

In 2005, the United States Congress, at the behest of credit card giants such as MBNA, made bankruptcy all but impossible for the middle class. Bankruptcies plunged, but not because the financial health of the nation improved. Removing the emergency relief valve did nothing to reduce the pressure on anyone, (including the companies that backed the amendments to the bankruptcy laws). On the contrary, regular Americans plunged even deeper into desperation – many now without the option of bankruptcy.

Then, the market for sub-prime mortgage collapsed in 2007. In an orgy of ill-advised lending, the housing lenders of this country provided credit to those who were living right on the edge of solvency. When interest rates rose, and when the bubble of housing values trembled, tens of thousands of sub-prime borrowers defaulted on their mortgages and this form of lending collapsed. All of this made headlines, but what didn't necessarily make headlines were the entire neighborhoods of middle-class homeowners who lost their homes to foreclosure. Thousands and thousands of Americans are loading up their possessions in their cars and driving across town to move their families into apartments. While we watch the numbers of foreclosures go ballistic, what we're not seeing are the faces of the children who are changing schools and their parents who are abandoning the American dream of home ownership amidst self-esteem-crushing failure.

The numbers of the fatalities of spirit surge upwards every day, like the tickers that measure the dead and wounded in foreign wars. But with the credit and debt casualties, we've lost the ability, and perhaps the will, to measure them. Bankruptcy, for many people, is a lost option. Foreclosure is so rampant that the data is almost impossible to digest. We have no idea how much suffering is going on out there – but we know that it's bad. It's very bad and getting worse.

The American people need options. They need direction. They need to be heard and they need their self-esteem back. Grandiose legislation, ham-strung by the banks and credit card companies, will do nothing for those Americans in need. That legislation is part of what got us here in the first place. Middle-America needs someone on-the-ground: someone smart and knowledgeable who will listen and who will care, someone who has the power and the leverage to take the consumer-friendly laws and policies that are laying around unused, and put them to work. America needs cheap, committed attorneys and legal professionals to pick up the many tools available and carve out a second chance for the average American to prove that he and she are worthy of another shot at the American dream.

So where do we go from here? How can Middle America afford assistance with their financial problems when there are so many credit and debt casualties spoken of above? Many people simply cannot afford an attorney. Attorneys are ethically bound to provide legal services in exchange for a reasonable fee. In many locales, a reasonable fee translates into \$200.00 or more per hour. Even bankruptcies now cost as much as \$1,500.00 or more. A credit dispute that may take ten hours could cost more than \$2,000.00.

Are those fees reasonable? Would an average consumer consider spending \$2,000 just to fix a mistake that's someone else's fault? When a consumer is living paycheck-to-paycheck, where are they going to get \$2,000.00 to pay an attorney? And how are they going to be able to pay that as an up-front retainer?

The American Bar Association (ABA) has recognized the need for affordable legal services and assistance for middle-income consumers. In several articles, the ABA has pleaded

with its members to provide affordable legal services to the average American. In answer to the ABA’s request and the needs of Middle America, *Discounter attorneys* have recognized that there are problems with the affordability of legal services. In answer to these problems, these *Discounter attorneys* have also recognized that they can serve a wide range of clients with credit report correction problems at a reasonable price. By leveraging technology and cutting-edge business practices, these attorneys have developed services for a completely affordable monthly payment, often under \$90.00. The monthly fee is paid only after services are performed. Through the efficient use of technology, these attorneys provide professional services that are not “scrimped on” but are effective, well thought out services, with an underlying logical and reliable strategy.



CHAPTER

TWENTY-ONE

## **The Path of the Smart Consumer**

Again, this book isn't a rant against using credit. Credit is a terrific thing and it has worked miracles on our economy and our lives. But the system is nonsensical and clearly slanted in the credit companies' favor. It takes a very smart person to take advantage of credit without being taken advantage of by the credit companies. Or it takes a person with smart help.

In fact, few of us pull it off . . . even attorneys can be taken for a ride. When John Heath (the attorney spoken of in another section, and a co-author of this book) was young and had just passed the bar exam, he received a call from one of his student loan lenders. John had racked up some student loans on his way through law school, and since he had taken a starter job working for Legal Aid, helping disadvantaged people, he had placed his loans on temporary deferment. The lender called John to inform him that he was in default on his student loan. John knew that his loan was in deferment and what the lender said couldn't be true. The phone agent told him that there was nothing he could do and hung up the phone. Within a couple of days, John received the first of many collection letters telling him that he was late on his student loan payments. Each time he received a letter, John called the lender to correct his account and accurately note his deferment. Each time the agent would say that nothing could

be done—this after John had waited on the phone for an hour or more to speak with an agent. Finally, after many months of this run-around, John spoke with someone with the ability to figure it out. Apparently, John’s student loan had been sold, and the new company had failed to accurately note the agreement of deferment. John was instructed to contact the original student loan company and to get a letter proving the deferment.

John, now confident that the end was in sight, called the original lender and asked for the letter. They denied his request, saying that the new lender already had this information. The agent hung up when John tried to explain that the new lender did not, in fact, have that information. Brimming over with frustration, John called again and tracked down a supervisor. He informed him that he was an attorney and wouldn’t hesitate to bring a lawsuit if he didn’t get the verification he needed. The supervisor perked up and finally sent the verification of the deferment.

Pleased with the progress he was making, John copied the verification and sent it off to the new student loan lender. He followed up with another call just to make sure they had straightened it all out. The agent confirmed that they had received the verification and that his account was now showing “current.” Mission accomplished!

What John didn’t know was that the lender had already reported that John was over six months late on his student loans to the credit bureaus and that clearing the matter up had done nothing to salvage his credit rating. Six months passed and John took a new job three hundred miles away from his hometown. He and his wife were excited to move to a new place and buy their first house. But all their dreams came crashing down in an instant when they discovered that John’s credit score was abysmal due solely to the misreporting of

the student loan company. The mortgage broker called to tell them that his credit report was showing a 120-day late payment.

John's blood began to boil. He told the broker that he had fixed that problem months and months before. The broker offered the services of a "friend" in the "credit repair" business. John reluctantly paid the friend \$1,000 up front to fix the problem. After paying the money, a few days later, the late payment vanished from the credit report. John and his wife could move in. All was well.

John let a few months pass before he pulled a copy of his credit report, just to be absolutely sure everything was good. Low-and-behold, the 120-day late payment had re-appeared. John's heart sank. Would this *ever* go away? Again, he picked up the phone, with a lump in his stomach, and began to call the credit bureaus and the student loan company all over again. For months, he called and wrote, wrote and called. Finally, after pouring dozens and dozens of hours into that one error, his credit reports came up clean. It had taken one year from the day John had first heard of his "late payment" problem, to the day John was finally able to fix it. Shortly thereafter, John began to look for a way to become part of the solution in the lives of people with similar frustrations. John found Lexington Law Firm and dedicated his legal career to the pursuit of creditworthiness among deserving Americans. Looking back, John noted that if he had only had the chance to hire someone experienced and knowledgeable like Lexington Law in the first place, he would have avoided countless hours and months of frustration.

There are volumes to learn about the path of the smart consumer – countless books, blogs and bulletin boards are dedicated to the intelligent use of credit and the credit system. You have the power to make yourself into just such an expert.

Or, if you would prefer, you can tap into the experience and wisdom of others who have walked that path before you.

In either case, you have options. There is no good reason to pour money into the pockets of the shareholders and executives of the banking and finance industry.

The power is yours to take action and step onto the path of the smart consumer.



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We live in a time of mind-boggling opportunity, and consumer credit is truly the gateway to the good life. At the same time, credit is the financial crack cocaine that regularly drives American families to destruction.

In this sobering, and oft-times hilarious book, a trio of credit experts draw a map for getting the most out of the credit world without risking the pitfalls. The credit corporations, from credit card companies to collection agencies to credit bureaus, have cleverly set the playing field for their maximum advantage – now it's time to turn the tables and make credit work for you rather than the other way around.

### About the Authors

**John C. Heath** serves as directing attorney of the largest consumer credit law firm to ever exist. Lexington Law Firm has represented well over 200,000 clients in restoring their creditworthiness over the last three years alone. On top of John's own personal credit correction journey, he has dedicated his practice of law to learning everything there is to know about credit correction and the world of consumer debt.

**Dr. Randy Padawer** is a clinical psychologist whose research interests range from personality testing to consumer behavior. After racking up considerable debt while earning his doctorate, he began a personal sojourn into credit repair and became the pre-eminent Internet blogger on the topic along the way. Profiled in Smart Money Magazine, he co-authored The Motley Fool's best-selling "FICO 850" e-seminar and consults to Lexington Law and others regarding consumer debt and credit scoring.

**Jayson R. Orvis** began studying credit and debt in the early 1990s as a paralegal and consultant to the first attorneys to provide credit correction service in the United States. After authoring the e-book Credit Restoration, he continued to study the secrets of credit scores and credit maximization. Today, Jayson provides consulting services to numerous law firms and credit correction firms nationwide, including Lexington Law.

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