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# CASES

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## *Reducing Debts at Credit Solutions of America*

Doug Van Arsdale began Credit Solutions of America (CSA) in 2003 in Richardson, Texas with 5 employees.[1] Now headquartered in Dallas, Texas, his company has more than 1000 employees, operates in several states, and has tens of thousands of customers enrolled in its debt reduction programs. Company revenues in 2007 were $77,354,088, double its 2006 revenues of $40,333,517. When Doug Van Arsdale founded CSA he used his own funds, and developed its programs, processes, and procedures on his own. In 2007, the company won the prestigious J. D. Power and Associates award for "An Outstanding Customer Service Experience." Why is it that such an outstanding company, so devoted to serving its customers, had been sued or was being sued by the Attorney Generals of eight states for customer fraud?

CSA is part of the "debt settlement" or "debt management" industry. Debt settlement companies help consumers who have accumulated a large amount of debt and who are now unable to continue making monthly payments on their debt and who also cannot pay their debts off in full.[2] One option for such consumers is to file for personal bankruptcy in a federal court. Filing for personal bankruptcy stops all collection efforts by creditors and allows a judge to have the debtor's assets sold to pay off as much of his debt as possible, and then to issue a court order that eliminates any remaining debts. When a debtor reaches the point of bankruptcy, he or she will usually have little or no assets left, so creditors often get nothing. Bankruptcy, in effect, allows a person who has been overwhelmed by debt to have his or her debts forgiven and to start over with a clean slate. However, bankruptcy has some long-lasting serious consequences. The bankruptcy will stay on a person's credit report for ten years and during that time it will be almost impossible for the person to get a loan, a credit card, buy a home, buy anything on credit such as a car, get life insurance, and will make even getting a job difficult. Because of these serious negative consequences, most debtors are reluctant to file for bankruptcy and will first try to find some other way to settle their debts. That is where debt settlement companies come in.

There are several different kinds of debt settlement companies. Some companies provide traditional "credit counseling," which consists of showing their customers how to put together a budget and a plan for paying off their debts, and helping them work with creditors to reduce their interest rates or their penalty fees. Other companies provide "debt consolidation loans" which provide the customer with a single loan that they use to pay off all their other debts, but that allows repayment over several years so that each month's payment is low enough for the customer to afford. A third group of debt settlement companies provide "debt management," which consists of negotiating directly with the customer's creditors on behalf of the customer, and trying to convince the creditors to reduce the customer's monthly payments to an affordable level, usually by making the pay-off period longer but sometimes by forgiving part of the debt.

But these options seemed inadequate to Doug Van Arsdale. Before he founded CSA he had spent nine months researching and studying the industry.[3] He discovered, he said, that there was a need for an "effective alternative to both bankruptcy and consumer credit counseling." The main problem, he said, was that "In our society, most customers with debt problems are treated poorly [and] I saw that consumers needed someone who was exclusively on their side." So he decided to establish a different kind of debt settlement company, one that would provide more vigorous help to consumers who were being swamped by their debt.

CSA initiated a fourth category of debt settlement companies. This fourth category consists of companies that engage in an aggressive kind of debt relief that tries to *force* creditors to reduce the customer's debt. Companies in this category work primarily with customers who have unsecured debt, i.e., debt that is not backed by an asset—like a house, a car, or shares of stock—that the creditor can repossess if the customer cannot repay the debt. Since the main form of unsecured debt is credit card debt, most of CSA's customers have credit card debts that they cannot repay and whose monthly payments they can no longer afford. A person must have at least $6,000 of unsecured debt to become a customer of CSA.

Companies like CSA operate by suggesting their customers stop making all monthly payments on their unsecured debts.[4] CSA tells its customers that although it cannot legally advise them to stop paying their creditors, the CSA "program" will not work unless they stop making payments. Customers are instructed to open a savings account and each month deposit there the money they would have used to make their payments. They must also agree to let CSA handle all contacts with their creditors from that point on. After several months of failing to make their regular payments, the customer's debts go into default and the creditors begin demanding their money, calling and writing letters trying to collect, and even threatening to sue. After a period of time, the debt settlement company, CSA, contacts the creditors and negotiates a substantial reduction of the loan, perhaps suggesting that if the loan is not reduced the creditor may not get any of their money back because the customer may file for bankruptcy. Although creditors are unwilling to discuss reductions when they are getting their monthly payments, they are more open to doing so when they are not getting any money from the customer anyway—which is why this kind of debt management works only if customers stop making payments on their debts. In many cases, creditors at this point will agree to a settlement, i.e., agree to reduce the debt, perhaps by 30 percent, but very often by as much as 40 percent or even 60 percent, depending on the circumstances and the skills of the negotiator. This part of its program is a feature that Van Arsdale's company often advertised on its web site:

> Debt settlement specifically reduces your current outstanding total balances 40–60% ... A typical settlement can be accomplished within 36 months or less with a lower monthly payment than any other debt resolutions option ... More than 200,000 people from every walk of life have entrusted us to help them become debt free. Credit Solutions is the industry leader, managing more than $2.25 billion of debt for our clients.[5]

If the negotiations are successful, the customer's debt is reduced to a level he or she can manage but without the negative consequences of a bankruptcy. The customer uses the money he or she has been putting in a savings account to make a beginning lump-sum payment to the creditor and then usually gets back to making monthly payments. Often the reduced debt is low enough for the customer to pay off in a matter of months.

In return for its services, CSA charges a fee of 15 percent of the total debt the customer wants reduced, and the customer pays this fee in three large payments made in the first three months and then in smaller monthly installments spread over the next fourteen months. CSA takes these monthly fees out of the savings account the customer opened when he or she first stopped paying creditors. CSA starts drawing its fees out of the customer's savings account at the beginning of the program, which is right when the customer stops making monthly payments on his or her debts, but before the debts have defaulted and so before CSA begins to actively negotiate settlements. CSA does not start to negotiate with creditors until several months later when the creditors are anxious to get at least some of their debt back, and the customer has saved up enough money to make the initial lump sum payments creditors will demand.

Customers sign up with CSA by calling one of their salespeople. The company, in fact, has twice as many people working on sales as are working to resolve their customer's credit problems. The company gives its sales people a "script" to follow when talking to customers, although the company also advised salespeople that: "We are NOT EXCLUSIVELY SCRIPTED! Formulate your own artillery of rebuttals! Don't be a robot! Be creative!"[6] The sales script tells sales people to explain that CSA's debt settlement is better than debt consolidation or credit counseling and that debt settlement can "dramatically reduce your debt and get you out in 3 years or less."

If a customer asks "Will I get sued?" the script suggests a response: "We want to reassure the client that there is nothing that can happen that we will not try to assist them with." If a customer asks "What is this going to do to my credit?" the script suggests asking "What's your current credit score?" which will distract the customer from their own question since most consumers will not know their score. The salesperson can also say, "After you're out of the program, your score will be as good if not better than it is now ..." If the customer asks, "Can you guarantee that my creditors will settle with you?" the script suggests answering: "We guarantee our service fee because we know that your creditors will negotiate settlement with us. (Let them know that we are currently building relationships with as many creditors as possible.) Some creditors actually set aside certain days of the week just to work with us. Notice, we do not say we "don't guarantee," but rather tell them what we can and do guarantee."

Doug Van Arsdale felt that his company was able to provide help right when indebted consumers were at their lowest. "That's where we come into play and ultimately make a difference," he said.[7] Moreover, the company had even become a helpful resource for the creditors themselves. "Working with us on behalf of our mutual clients is very beneficial to them," he noted. "They save time and money that would have been spent on ineffective collection efforts."

The methods CSA uses to get creditors to reduce their customer's debts puts considerable stress on the customer. When a customer stops making his or her monthly payments, creditors start calling constantly, sending threatening letters and adding "late fees" and other penalties to the debt; then creditors may turn the debt over to a collection agency that is even more aggressive and harassing. Eventually the customer is threatened with lawsuits, or the creditor gets a court order that allows it to "garnish" (to take) part of the customer's wages. The creditor also will report the customer's failure to pay his or her debt to a credit agency so the customer's credit rating falls which makes it much more difficult for the customer to get credit again. In the extreme, the creditor will actually sue the customer. Nevertheless, although the process can be traumatic, the final outcome can leave CSA's customers satisfied.

One of CSA's satisfied customers, "Tiffany of Orlando," posted a comment about her experience with CSA on *ConsumerAffairs.com*, a web site that collects comments about debt settlement:

> I lost my job ... and joined Credit Solutions in June 2009 after trouble paying all my credit card bills.... The first six months of the program was the hardest. I was receiving creditor calls, letters, etc. since I [had] stopped paying my monthly credit card bills.... Then, after 6 months an offer came in from a credit card I owed over $5K on ... and I was able to settle my first account for less than half of what I actually owed. A few months later I paid off two more accounts ... so I personally think it has been worth it.... Plus I have already saved twice as much as their total service fee ... It is not easy, and yes your credit score will be destroyed, but in my situation, it seemed like the only way to get out of debt. Paying the rent and buying food for the kids seemed more important than my credit score at the time.
>
> Tiffany of Orlando, FL Feb. 9, 2010[8]

Another satisfied CSA customer using the name "Anonymous" posted this comment on a different web site entitled "Pissed Consumer":

> I used Credit Solutions to eliminate my debt and it did work and I was able to get out of $10,000 worth of credit card debt in just less than a year. They are horrible to try to get a hold of.... They are a bit unorganized ... I was told to close my accounts. I was just told to call them when I had saved a specific percentage of my [debt] balance, and they would try to negotiate at that point. I saved, and called, and it did work out, even though the card balance had gone to lawyers, they still negotiated a better deal for me. I felt they did their job on that one, but my other credit card company just offered me a deal about 6 months into the program for half the balance and I took it ... So ... they did help me, ..., but there definitely are some frustrating customer service factors.[9]

Yet for each satisfied customer that posts a comment on web sites dedicated to customer complaints like these, there seem to be ten to twenty CSA customers that are extremely upset with the way the company treated their credit problems, with what they perceive as inaction on the part of CSA, with the fees they paid CSA for work they felt did not merit the fees, or with the fallout of CSA's methods. On *ConsumerAffairs.com*, one customer calling himself Jamie wrote:

> When I was in college I first started to use credit cards. A credit card with a $25,000 dollar credit limit was easier to find in college than a keg party.... I was way over my head, and way immature to understand debts and to use credit wisely. I could no longer pay my bills ... Credit Solutions states they can easily help you. All you have to do

> is stop paying your bills ... Then when they go to collection agencies you can settle it for pennies on the dollar! All you had to do was pay Credit Solutions ... What did they do? Nothing.... All they do is take your money. After the creditors were trying to sue me, I had to finally do what Credit Solutions was paid to do. Start calling and talking to them to set up payment plans. I finally just paid off all my credit card debt. However I am still upset that this company talked me into such a stupid, idiotic way to work through my debt.
>
> Jamie of Pittsburgh , PA Dec. 21, 2009[10]

Another dissatisfied CSA customer posted this comment on *ConsumerAffairs.com*:

> When I signed up with Credit Solutions they told me not to answer or talk to any of our creditors, that they would work with our creditors. We have paid Credit Solutions over $4000 dollars and my credit is worse than when I enrolled in their program. I am being taken to court and received a writ of garnishment from one of my creditors.... I now am filing for bankruptcy because I am so behind and in debt that this is the only alternative I have to protect my family from living on the streets.... Creditors are garnishing my wages [and] I cannot support my family when my livelihood is being taken.
>
> Bruce of Alamosa, CO Feb. 21, 2009[11]

A student left this distressing comment on *ConsumerAffairs.com*:

> I enrolled in Credit Solutions in July of 2008. I was a student, trying to make ends meet. I thought Credit Solutions was a life saver. Finally be debt free ... I could finally get a better student loan and didn't have to hold 2 full time jobs anymore just to pay min. payments on a credit card.... What they don't tell you is when you're waiting for things to be settled your credit hurts even more. All my credit cards were put in collections. I would get harassed everyday by creditors. When I would contact Credit Solutions they would say that they were handling it. I finally ... contacted all my credit card companies, they NEVER RECIEVED ANYTHING FROM CREDIT SOLUTIONS!!! I paid for nothing ... I went from owing $1700 on one credit card to $2600! I'm a 21 yo med student ... I can't qualify for any loans because of this ... My future and dreams are ruined.
>
> Nicole of West Palm Beach, FL Jan. 2, 2009[12]

The "Debt Consolidation Care Forum," which provides a web site for comments, opened a forum entitled "Credit Solutions—Is it a scam company?" and quickly received over a hundred posts. Some were favorable to the company, like that of the writer who had almost finished paying off his debts and who "had nothing but good things from them." But most comments were negative, including one from a writer who signed up with Credit Solutions and then was harassed daily by debt collectors and threatened with lawsuits until "I was near suicidal."[13]

Many of CSA's dissatisfied customers lodged complaints with the Better Business Bureau. In the middle of 2010, the Bureau noted on its web site that it had received more than 1,400 complaints about CSA during the previous 36 months. According to its report on CSA posted on the Bureau's web site, "customers complain that paying the company fee and following the debt negotiation program does not reduce debt, as stated by company representatives. As a result of the program, customers complain, they have an increase in debt, due to late fees or additional interest and negative credit reporting."[14]

Many dissatisfied customers also lodged complaints with state officials. By 2011, the attorney generals of Texas, New York, Oregon, Idaho, Florida, Illinois, Maine, and Missouri had all filed lawsuits against the company on behalf of state residents. Some of the lawsuits alleged that CSA had engaged in deception by promising, but failing to deliver, 60-percent debt reductions. The company was also accused of engaging in fraudulent business practices by getting its customers to stop paying their debts knowing that this would lead to late fees and other financial penalties including lower credit ratings, but failing to inform them of this. And CSA was accused of making its customers pay fees when in fact it was doing nothing for them. Oregon banned CSA from doing business in the state for three years. Idaho ruled that debt settlement companies could not operate in the state unless they were non-profits, which disqualified CSA.

CSA had several ready defenses against such accusations. Many customers who complained were probably just unhappy with the stresses of going through the early months of the CSA program when creditors first start calling because they are not being paid. But this was an important and necessary step toward getting creditors to agree to debt reductions, and customers knew that they would have to endure this period. CSA helped customers through this period by asking them to not contact creditors and to let CSA handle all contacts and letters with creditors. Those customers who complained that the company had not negotiated any debt reductions for them were perhaps also referring to those first several months of the program when CSA deliberately does not do any negotiating with creditors. And when customers said that they were paying CSA yet CSA was doing nothing for them, perhaps this was because CSA required customers to begin paying its 15 percent fee from the first month, when the company deliberately refrained from engaging in any active negotiations with creditors.

CSA did not hide that although it said on its web site and in its discussions with customers that debt reductions could be as much as 60 percent, not all customers received such large debt reductions. However, CSA never promised customers that they would receive reductions of that magnitude. The company only agreed to try to negotiate a reduction, and such reductions could, but need not, be as much as 60 percent of the customer's debt. And in fact, CSA was regularly able to negotiate large reductions of 60 percent for many of its customers. While there were customers whose creditors would agree to reduce their debts by only a smaller amount, the creditors of other customers were very open to negotiating significant debt reductions with CSA.

Finally, some customer complaints came from customers who had not adhered to their agreement to not contact creditors. Instead of letting CSA handle all creditor contacts, some customers contacted creditors before they should have and had thereby interfered in the negotiations that were involved. When customers became impatient and contacted creditors on their own, they often did so prematurely and so CSA was not able to get the kind of concessions from creditors that waiting longer could produce. Any actions a creditor took, such as filing a lawsuit or garnishing a customer's wages, could be done away with as part of CSA's negotiations with the creditor provided the customer was willing to be patient. Even late fees and other financial penalties creditors tacked on to a customer's debt could be removed during negotiations.

Nevertheless, many customers complained that even though they had followed all of CSA's instructions, and paid all its fees, in the end their debts were not reduced or were reduced by less than they had paid CSA. In New York, the state Attorney General said that Credit Solutions had enrolled 18,000 New York customers yet the company had settled the debts of less than 2,000 of them. Evelyn Mazzella, a New York customer of CSA said "I ended up paying them a couple of thousand dollars, but they only settled one card" with Best Buy, an electronics retailer.[15] In 2009, customers also complained that when they had trouble trying to both pay CSA's fees and save up enough money to make the lump sum payment required in any potential settlement, the company gave them a list of useless suggestions including: "Refinance home," "Get a second mortgage," "Baby sit," "Sell plasma," "Ask for a raise," "Get off the station before your usual stop and walk," "Cut down your drinking," "Drink tap water," and "Buy frozen."[16] Other customers complained that CSA salespeople did not tell them that any money deducted from their debts would be counted and taxed as income by the IRS, nor that for seven years the deduction would appear on their credit report as a "charge-off," a negative mark that would reduce their ability to get future credit. Many credit experts pointed out that when consumers got in trouble with their credit card debts, they could go directly to their credit card company and negotiate a reduction themselves without the help of CSA.

Doug Van Arsdale, who remained CEO of Credit Solutions in 2011, said in a statement that Credit Solutions of America (CSA) "subscribes to the highest ethical standards" and remained focused on its customers.[17] The company, he said, "treats them with respect and assists them with getting their lives back in order, regardless of their situation."[18]

## Notes

1. *State of Texas, Plaintiff, v. CSA-Credit Solutions of America, Inc., Defendant*, case no. D-1-GV-09-000417, Filed 09 March 26, in the District Court of Travis County, Texas, 261st Judicial District, Plaintiff's Original Petition., p. 6; revenue data and information on Doug Van Arsdale is from the web site of "The American Business Awards," accessed January 30 at *http://www.stevieawards.com/pubs/awards/403_2591_19325.cfm.*
2. Federal Trade Commission, "Facts for Consumers, Knee Deep in Debt," accessed January 13, 2011 at *http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre19.shtm.*
3. All Van Arsdale quotations from "Ernst & Young's Entrepreneur of the Year Finalists," *D Magazine*, [online], June 11, 2008 [From D CEO, July 2008], accessed January 30 at *http://www.dmagazine.com/Home/2008/06/05/Ernst__Youngs_Entrepreneur_of_the_Year_Finalists.aspx?redirected=1.*
4. *State of Texas v. CSA*, op. cit., p. 2.
5. Ibid., p. 7.
6. Ibid., pp. 8–12.
7. Quotes are from "Ernst & Young's Entrepreneur of the Year Finalists," *loc.cit.*
8. *ConsumerAffairs.com*, accessed January 30 at *http://www.consumeraffairs.com/debt_counsel/credit_solutions.html#ixzz0xejZbTyl.*
9. *PissedConsumer.com*, accessed January 30, 2011 at *http://credit-solutions-of-america.pissedconsumer.com/helped-me-out-but-have-mixed-feelings-20080722128582.html.*
10. *ConsumerAffairs.com*, Ibid.
11. Ibid.
12. Ibid.
13. See *http://www.debtconsolidationcare.com/settlement/credit-solutions-scam.html.*
14. Better Business Bureau, "BBB Reliability Report for Credit Solutions," accessed January 30 at *http://www.bbb.org/dallas/business-reviews/debt-relief-services/credit-solutions-in-dallas-tx-90005445.*
15. David Streitfeld, "2 Firms Accused of Fraud in Debt Settlement," *The New York Times*, May 19, 2009.
16. Ibid.
17. "Cuomo Targets Debt Settlement Companies," *CNYcentral.com*, May 8, 2009, accessed January 17, 2011 at *http://www.cnycentral.com/news/story.aspx?list=190258&id=297298.*
18. Quote is from "Ernst & Young's Entrepreneur of the Year Finalists," *loc.cit.*