

Mitigation Without Litigation

**A Step-By-Step Guide to Settling Your Credit Card Debt and
Avoiding the Hassle of Litigation**



By the Staff at Second Wind Consultants, Inc



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Foreword

For the last three decades, the abundance of available credit has defined many people's lifestyles. Applying for one credit card would result in a slew of other pre-approved credit card offers arriving in your mailbox. Young adults would receive a credit card offer on their eighteenth birthday, or as soon as they arrived at their college campus. People no longer carried cash, but rather carried a 2-inch thick stack of credit cards in their pockets. Frequent flyer miles, cash back, rewards programs, and discounts gave incentives that were attractive to the average consumer. Our country solidified its standing as a credit based society. Times were good.

Through 2007, the economy was thriving, the stock market was breaking records, real estate values were through the roof and continuing to climb, unemployment was low and the small business world was expanding. It seemed as if the good days were upon us and would never end. Banks were extending credit to anyone with a pulse, and through the earnings made from interest (your hard earned dollars), they made record profits.

But then all of a sudden things changed in 2008. The economy slid into a recession, which threw off the whole equation. Banks who lent to the sub-prime credit market were experiencing high default rates on their loans. Lending and investment then ceased. The small business world took a huge hit with vastly reduced revenues. Unemployment and rapidly depreciating real estate values resulted in a mass of foreclosures. Many looked at their IRA or 401K only to see a fraction of what they projected the balance to be.

This was the reality for most people after the financial crisis of 2008-2009. The government stepped in and temporarily "solved" the problem by throwing trillions of dollars at the banks and corporations to support them. They created programs to "help" struggling homeowners but after all the efforts made, most of the financial aid went to corporate interests and not to the struggling middle class worker or small business owner. So here we are today, the corporations have taken the money and made record profits (again) while you continue to struggle to pay your ever-growing bills and taxes. Wall Street and Washington win again while you are left holding the bag.

The intention of this guide is to help you if you are one of these struggling middle class workers or business owners strapped with debt. This

is NOT a scheme to “get even” or “stick it to the banks.” This is a guide for those who are serious about becoming debt free and also do not have the ability to pay the full balances they owe in a reasonable amount of time.

While settlements are not for everyone, they provide a way for debt reduction without having to liquidate one’s assets through bankruptcy. Read this guide in full and be sure you know all of your options and all of the risks associated with debt settlement before you do anything. Please also understand that this is a trying process, which requires sacrifice, patience, organization, and execution. It will not be easy, but when done successfully will give you a new lease on life. You can achieve a debt free lifestyle without the pain and long-term repercussions of bankruptcy and by saving the high fees associated with debt settlement and consolidation companies.

Some debts are fun when you are acquiring them, but none are fun when you set about retiring them.

-Ogden Nash

1.) Introduction

Do you receive repeated collection calls from collection agencies representing your credit card lenders? Are you afraid to answer your phone? Do you frequently find threatening letters in your mailbox?

Sound familiar? You likely had the funds in previous years to be able to carry some credit card debt in a manageable fashion. However, at some point something changed. You lost your job, your spouse lost their job, your small business closed, your investments took a dive, etc. You were able to pay the minimum monthly payments for a few months, but the debt kept rising due to penalties and interest, and suddenly you found yourself in default. Creditors are calling constantly, your credit score takes a hit, and the letters with threats of legal action start arriving at your door. You now are left with very few choices... YOU NEED A PLAN.

Second Wind Consultants, Inc. has been resolving debt issues for over thirty years. We work with small businesses all over the country to preserve assets and to eliminate debt. We offer a bailout opportunity to small business owners that they would otherwise not receive. Our mission is to save America, one family at a time, and we achieve this in the small business arena every day. However, to further our vision we found it necessary to offer a guide, which will lead the average consumer through an unsecured workout on their credit card debt. Thousands file bankruptcy every month due to high credit card balances. If only this information had reached them earlier, they may have avoided bankruptcy and instead taken affordable losses. Fortunately, you have chosen to tackle your credit card debt using our settlement strategy. This guide will give you the information necessary to be successful.

This guide will lead you through the fog of credit card debt whether you have one card with a high balance or \$200,000 worth of debt on dozens of cards. We will explore all of your options, explain the risks involved in settling credit card debt, and will also detail successful strategies that will allow you to keep productive communication with all of your creditors. Taken together, this guide will assist you in a final settlement.

We will fully explain the very same process used by most credit card settlement companies. These companies will charge anywhere from 15-30%

or more of the total debt as their fee. With the help of this guide, you will avoid those fees and achieve settlements that are far better than those experienced by most of these agencies and their representatives. This will take time, patience, organization, and the ability to budget funds for settlement but will save you thousands and allow you to finally leave your credit card debt behind you.

2.) Who is the Ideal Candidate for a Credit Card Workout?

Depending on a number of financial factors, credit card settlement may not be the correct avenue for you to take. Before proceeding with settlements, you should evaluate your own personal financial situation and look for areas of exposure and risk. When in default, all creditors have rights to collect on the debts owed to them. They will use a number of legal tactics to collect; given a debtor has any valuable assets exposed. We will explain this in more detail later. However, before considering debt settlement any further it is important you understand your own personal financial standing so that you can identify areas of exposure that creditors would look to collect on. Only then will you know the precise risks of continuing on with this process.

ATTACHMENT 1 is a personal financial statement, which you should complete. If you have ever applied for a business loan or for a personal mortgage you have likely filled out one of these forms. This form weighs the value of all assets against the balances of all liabilities to help calculate your net worth. With few exceptions, any assets with exposed equity will be considered vulnerable to creditor attack. Equity in an asset is determined by the value of the asset beyond any encumbrances or liabilities. The purpose of this examination is to determine where your personal assets are exposed.

Assets protected from collection: 401K accounts, IRA accounts (some states), real estate protected under homestead exemptions (some states), and certain trust accounts. You can find a resource for understanding the various asset protection provided in your home state here: (<http://www.creditorexemption.com/>) Please read the disclaimer provided on the website. Second Wind has not verified the information and does not endorse the author. We have found this information to be a good guide for the general laws in each state.

Areas for concern: Equity available on real estate not protected by homestead, investment accounts, high savings accounts, CDs, cash, autos owned free and clear, educational savings accounts, and high income from W-2 wages.

The amount of protection for real estate, against wage garnishment, and for retirement accounts varies by state. Resources are available online which details the level of protection in your state, however these laws are subject to

change, so it is suggested that you discuss these matters thoroughly with your accountant or attorney to understand them completely.

Most credit card settlements do occur without any aggressive collection action from the creditor. It is common practice to have the debt sold repeatedly to different collection agencies that will each try to collect on the debt. Due to the sheer number of defaulted creditors, and the legal fees and time costs associated with forced collection, most collection agencies and creditors will resort to solely calling and mailing collection letters to the debtors. There is a possibility that if a debtor has an asset that is easily liquidated, the creditor may move forward with forceful collection, so evaluating your personal financial situation is critical.

If after evaluating your personal financial statement you realize that you have valuable assets that a creditor may be able to reach, you might just be better selling the asset and paying off creditors. If your creditors will have the ability to get the value from your assets anyways, there is no reason to do a workout right? Once you have completed this exercise of financial review and are comfortable with your fact pattern, please read on.

3.) What are my other options?

At this point you have come to terms that you have a problem and are taking the time to build a strategy to get you through your debt problems. Before moving forward, you should understand exactly what your other options are. Unfortunately, when you are in default there are not many options available to you so it is best to be prepared well ahead of time. Here is a brief overview of what your current options are.

- **PAY YOUR DEBTS IN FULL**

Perhaps this seems a little obvious, but for many people it is not an option. If you are able to make payments and have a solid income, there may be an opportunity to call your creditor and have them stretch out your payments and lower your interest rate until the debt is paid in full. If you have been making your regular monthly payments, a creditor may be reluctant to give you any flexibility since you have been performing as agreed and they are earning great interest off you. If the terms you are on are too difficult to meet, you may need to default in order to get the creditor to give you any alternative payment plan otherwise they will not work with you. Be prepared to lose your credit availability with this creditor if you plan on defaulting and paying them off over a longer period of time.

Remember, even if you are able to pay minimums on a credit card, this will take you years to get out of debt. Most people do not understand this simple concept of compounding interest. Look at the chart on the next page for a clear understanding of how long it will take you to pay off your credit card debt if you are only paying minimums. It is critical you have excess funds every month that you can apply to paying your principal balances. If you are only able to make these minimum payments, it might not make sense to pay off your credit cards this way since it may take you the rest of your lifetime to pay them off!

Card	Balance	Interest Rate	Minimum Payment (Interest + 1% of Balance)	Total Interest Paid	Months to Pay off	Years to Pay off
Bank of America	\$10,000	18%	\$250	\$14,423.30	342	28.5
Chase	\$8,000	15%	\$180	\$9,479	313	26.1
American Express	\$12,000	14%	\$260	\$13,501	351	29.3
<u>Totals:</u>	<u>\$30,000</u>			<u>\$37,403.30</u>	<u>335</u>	<u>27.9</u>
<u>Total Paid:</u>	<u>\$67,403.30</u>					

- **IGNORING YOUR UNSECURED DEBT COMPLETELY**

We never advise that anyone take this option seriously, but unfortunately people do. Due to the fact that credit cards seldom collect forcefully, many people find a strategy of turning off their phones, erasing their voice mails, and throwing out collection letters. In the short term this may work, however the long-term effect is always negative. One day these people will try and get a new job only to be turned down due to an active judgment on their credit report, or they try and sell their home only to find that a creditor attached a lien that prevents a sale, or they get a paycheck from their employer with wages that have been garnished. This strategy of “kicking the can down the road” or “burying your head in the sand” may alleviate your current stress, but one day the problems will resurface.

- **BANKRUPTCY**

Bankruptcy can and will often wipe out all of the unsecured credit card debt you have, however there are many risks with bankruptcy. While we do not practice bankruptcy law at *Second Wind Consultants, Inc*, we can from our experience detail some of the risks associated with bankruptcy. They include but are not limited to; risk of real estate liquidation, severe credit score damage, long-term payouts, and complete personal asset liquidation. Bankruptcy can be messy and puts your fate in the hands of a bankruptcy trustee rather than keeping control in your hands. If you are honestly

considering this option, then you should consult a bankruptcy attorney who has experience in your jurisdiction.

- **HIRE A DEBT SETTLEMENT COMPANY TO SETTLE YOUR DEBTS**

A quick search of the Internet will produce thousands of debt settlement companies who are willing to settle your debts on your behalf. While there are a few of these companies who are quite skilled at debt negotiation, many of them will not act in your best interest and will charge you thousands of dollars for their services.

The typical structure of these companies is to charge anywhere from 15-35% of the total debt you enroll in the program. They set up a monthly budget and lead you to believe these savings are for settling your debts. However, most of them will collect their fee out from these savings over the course of the program. Luckily the Federal Trade Commission ("FTC") has passed regulations in 2010 that prevent these settlement companies from taking the fees before any settlements have been finalized, this is still money that is being set aside for their future projected fees (before the FTC regulations were passed these companies took non-refundable payments along the way). Furthermore, these programs only aim for settlements that meet the industry standard, which ranges from 40-50% of the debt owed. These high settlements plus the high fees result in clients repaying the majority of the debt they started with (60-80%). This guide aims to show you their process. Listed below are ways these companies deflect creditor calls and how they set up a savings fund for settlements. You can duplicate their process and not only do better than they do, but you will also save thousands in fees.

4.) Overview of The Settlement Process

There are three main steps you need to take in order to successfully settle your debt. They are briefly outlined below and in much more detail further in this guide.

Deflect collection efforts – Change your phone number and mailing address.

Services such as Google Voice are free services online that will give you a voicemail box and phone number. If you change your number with each of your cards to this new voicemail number, the majority of the collection calls will come to that number and will allow for each creditor to leave you messages and you can sort through them quickly due to the voice transcription Google voice offers. This allows you to be free of the constant attack from collection calls but also be able to check the messages on a daily basis and return the calls that require immediate attention.

Under the same strategy, you can set up a post office box and change your address with your cards so that all collection letters are sent to a PO box and can be separated from the rest of your mail.

Start Saving – Debt settlement requires cash

Setting up a savings account that is located in a bank that you do not owe money to (for example, if you have a Bank of America credit card in default, do NOT keep your savings in Bank of America). Work within your monthly cash flow and begin saving funds in this account for the sole purpose of settling your debts. When cash is available for settlement, you can then begin your negotiations. This process will be detailed more, later in this guide.

Start settling

Now that you have funds to settle, start making offers, collecting the necessary data, and paying the settlements. Following these steps will allow you to mimic the programs available from third party debt settlement companies and also to avoid their fees. With the knowledge you will retain from the rest of this guide you will also be able to achieve a better settlement than the industry average these companies achieve.

5.) Creditor's Rights & The Legal Process

While all of your creditors are owed money and have the right to attempt to collect on it, they are bound by the legal system as to how frequently they can contact you and how exactly they can forcefully collect. This section will describe the most common vehicles and course of action that collection agencies use. If you would like to learn more about creditor right and collection, please read the attached copy of the Fair Debt Collection Practices Act (**ATTACHMENT 2**). The major vehicles used in forceful collection of a debt are listed and described below.

Judgment - Once a debt is charged off, a creditor can file a lawsuit to obtain a judgment. A judgment is a final ruling by a court that deems a debt legally owed. The court now recognizes the debt as valid. A creditor with a judgment can now use judgment remedies such as attaching a lien to real estate, levying bank accounts, or garnishing wages.

Attachments / Liens - After receiving a judgment, a creditor can attach or lien a property which makes their previously unsecured debt secured. In the case of real estate, if a creditor attaches a lien, the real estate cannot be sold without the creditor being compensated.

Garnishments and Levies - After receiving judgments, a creditor can levy a bank account that they know the location of or move to garnish wages. While this seldom happens, it is an option available to any creditor with a judgment. There is a certain level of protection against garnishment in certain states. Please review the consumer protection laws with an attorney in your area for more information.

For a full overview of the restrictions controlling creditors, and the legal process, please review subsection 811 of the Fair Debt Collection Act.

How to respond

It is possible that one or more of your creditors may pursue the legal route of collection. Luckily this will not hinder your ability to settle your debts. While you may want to review your options with legal counsel if you were to be sued, it may not be the best option to engage an attorney unless you believe there is a real reason why you are not responsible for the debt. In most cases, you are responsible for this debt and there is very little defense

you can make, so engaging an attorney is a waste of money. Listed below is advice on how to handle this situation if they were to occur. Please keep in mind that each financial situation is different and this is not to be taken as concrete legal advice. Additionally, you should also keep in mind that aggressive legal action by unsecured creditors is very rare. You should be aware of all the risks but remember that in most cases you will not be pursued to the fullest extent of the law and you will always have the opportunity to settle.

Judgment – If a creditor pursues a judgment, there is little reason to fight this action. You borrowed the money and cannot afford to pay the debt. You have broken the contract, not them. There is little to no defense you can have that will prevent a creditor from obtaining a judgment. Here are your options:

- Answer complaint and fight judgment: Will not solve anything, as in the end they will most likely obtain a judgment against you. There is no doubt the money is owed and we cannot defend against this in any way. Attorneys will put time, energy and money into fighting the judgment, which may work at delaying the inevitable. In the end this is a waste of resources, which could be used to settle the claim. If there is a REAL reason why you believe you are not responsible for the debt, then you should explore obtaining legal council and fighting the judgment.
- Do nothing, settle: Let them have the judgment, even consent to it outside of court, then try and settle. Negotiate a short payoff with the plaintiff's attorney and put an end to it. When a settlement is reached the court will dismiss the case against you.
- Do nothing, don't settle: They will obtain the judgment anyways, no sense fighting it right? If you do not have the resources to settle before the judgment is granted, don't panic yet. You still have an opportunity to call the attorney and settle the claim even after the judgment is granted. If you are able to reach an agreement the judgment will be market satisfied. A judgment can last 10 to 20 years in some jurisdictions and very often a creditor will obtain one and not exercise any further action. You will have plenty of time to call the judgment holder and offer them some money to settle it.

Attachments / Liens – If a creditor attaches to your real estate, they have the ability to foreclose against you. Any available equity that is obtained through the foreclosure will be used to satisfy the judgment. If there is no equity in the home and they attach a lien that is unsecured (their lien position has no equity value to it) they may decide to just keep the lien in place until the home value goes up or until you pay down higher priority mortgages. If a creditor is moving to attach a lien against your home you can call the attorney and try and negotiate a settlement in lieu of the lien. Each situation is different and you should consult with an attorney if a creditor is trying to attach a lien to your home.

Garnishments and Levees – Wage garnishment is unfortunately impossible to avoid once in place. Any creditor garnishing your wages should be prioritized for settlement so that the garnishment will cease once a settlement is reached. Many states offer protection against wage garnishment especially if you are head of household. You should educate yourself on the laws regarding wage garnishment in your state so that you know what to expect. We have found an online resource that is very accurate which is linked below. We have not verified all the data on this site so please use it as a general guide. Please consult with your attorney on the actual laws in your jurisdiction. Laws regarding wage garnishment can change.

<http://www.fair-debt-collection.com/state-wage-garnishments.html#22>

The “Right of Offset” allows banks to take funds out of debtors’ accounts if they are delinquent on a debt to the same bank. By keeping your funds outside of banks you owe money will significantly impede the ability for a creditor to levy your accounts. They will not be able to levy your account unless they have your banking information. Be sure to keep your banking information away from creditors unless you have a settlement agreed to and you are simply delivering funds.

6.) Building Settlement Funds

Perhaps the most important aspect of pursuing a settlement with a creditor is having the ability to build settlement funds. Unless a disciplined savings strategy is created and implemented, the settlement process is doomed for failure. Obviously, the more aggressively one saves funds, the sooner they will reach their goals of eliminating unsecured debt.

The Savings Strategy

Another term that is used so frequently is budgeting. We hear this term everywhere when it comes to personal finance however, how many people actually have a budget that is measurable and trackable? Not a lot of people do. To succeed in debt settlement you must create a personal or family budget and follow it to the best of your ability. A family should remain disciplined by creating financial goals together and keeping each other on track. Below is an example of what your personal or family budget may look like. Complete **ATTACHMENT 3: “Smith’s Family Budget”** which we have provided in this package to help analyze what your income and expenses are. Delete the figures already inputted in the spreadsheet and replace it with your own data.

There may be line items on this worksheet that may not apply to you and other expenses you may have that do not appear on this worksheet as well. Over the course of a month, write down all your expenses and categorize them at month’s end and insert them into the worksheet to give yourself a complete and accurate estimate of all your expenses. You can find a worksheet on the second tab named “Expense Tracker.”

As you can see in the sample expense sheet provided, the Smith family has approximately \$1,176 left over each month after paying their basic expenses. These will be the funds they will eventually use to settle all their outstanding credit card debt.

Make Savings “Automatic” and Safe

The Smith’s have one main bank account owned by John and Sue jointly, which they pay all their bills out of. This bank is where they hold their deposits and have a mortgage, but it must NOT be a bank that they owe any

unsecured debt to and want to settle. They should set up a new account in their names at the same bank and set up reoccurring monthly transfers to the new "settlement account." The money in this savings account should be immediately available. Do not put it into a CD or any other account that prevents the money from being available at any time. Most banks offer online banking services where you can easily set up a recurring transfer which you can do monthly on a day of your choosing. If in a given month you have spent less than your budgeted amount, congratulations, put any excess funds into savings, as this will only bring you to your goal faster. This process completes and automates the savings process so you can raise money towards your future settlements and get there in a measurable amount of time.

Living Within your Budget

People accumulate unsecured debt for many reasons, but for the most part it's because they lived far above their means and funded a lifestyle they couldn't afford without credit. Many others accumulated unsecured debt because of a failed business, a lost job or medical issues. In these situations if income has not returned they may never have the chance to save any money to settle their debts. Settling your own debts does require financial discipline and very often also requires a lifestyle change. The Smith's budget described above is often not attainable for many people wishing to settle their debts. Unless you can really change your life so that you start saving money, a settlement program may not ever work for you.

Once you have decided to settle your credit card debt it is imperative that you honestly evaluate all your monthly expenses and eliminate any unnecessary purchases. It's only fair right? Why should a creditor take less than what they are owed while you continue to live a lifestyle you cannot afford? This is a time to look within the budget you have created through this program and examine each line item very carefully. Do you have a premium television package that you really don't use? Do you eat out every meal when you know you should be cooking or packing lunches? Do you choose to drive an expensive car when you can trade it in for something with much lower payments? For most individuals it is difficult to make any of these lifestyle changes. If you are unwilling to be flexible and give up some of the luxuries you have, it will take you a very long time to build enough funds for settlements or never become a candidate for settlement at all.

7.) Dealing with Your Creditors

If you are reading this manual you are likely already receiving many collection calls from creditors on a daily basis. Whether you have been answering all the calls, avoiding them, or perhaps you already changed your phone number, you likely are confused as to how you should be handling your creditors. In this section you will find general strategies for handling creditors no matter where you currently are in the settlement process.

Deflecting Collection Calls/Challenge the Debt

One of the downfalls of credit card self settlement is having to handle constant calls from creditors. Third party settlement companies promise consumers that they can eliminate creditor calls altogether, this is simply false. The “Fair Debt Collection Practices Act” attempts to protect consumers from unfair and deceptive collection practices but the act still often gets violated. There are strategies you can put in place to reduce the number of calls received.

The “Fair Debt Collection Practices Act” gives you the right to request that the creditor stop all further attempts to communicate with you (S805c). You can find a sample letter (**ATTACHMENT 4**) attached of what you would send to your creditors to make this request. This letter also challenges the validity of the debt, which is a good idea to do for each creditor. Sometimes a creditor will make an error and collect against the wrong person or be collecting the wrong account and their amounts may not be accurate. Request that they give you proof that the debt they are collecting on is truly yours before you begin negotiating with any creditor.

After sending this letter you must record any attempts made by the creditor to reach out to you so that it can be reported against them. As your creditors make violations and these are documented, they then get penalized. Your creditors only rights going forward would be to notify you of any legal actions or other remedies that they will be taking against you. The idea here is to get them to stop calling you when they want and set yourself up to speaking with them only on your terms.

Another strategy would be to determine ahead of time what phone number you want them calling you on and what address you want them to

send letters to. Your priority on your first phone call is to get your main contact information changed to that of your choosing. We recommend setting up an account through Google Voice (google.com/voice). This service allows you to send calls to a new phone number where you can get transcribed messages that creditors leave. Through this service you can eliminate creditor calls and only call back creditors when you determine it is necessary. You can totally eliminate them from reaching you when they choose. However, if you do not return their calls they will likely keep your old numbers on file and try reaching your there. Even after taking all these recommended actions, creditors may continue to violate your request to stop contacting you, so be consistent in your communications with them and continue insisting they stop calling even if they are in violation.

Tracking and Follow Through

By deciding to settle your own debts you already realize the advantages of self-settlement. However, the biggest disadvantage, which convinces people to hire settlement firms is time restraints. Rearranging your personal finances as well as talking to creditors does require a time commitment. Before you make a single creditor call, get yourself organized by setting up a proper tracking system so that you can be as efficient as possible. We are providing a sample, "tracking sheet" you can use to track and manage your debts as you go through the process (**ATTACHMENT 5: "Creditor Tracking"**). By having this in front of you when you speak to creditors, you will avoid having to search for information regarding your account and will be able to track all your previous progress. Many people have many accounts and settlements are often difficult to manage from memory. Additionally having the information in front of you will allow you to stay motivated and focused on reaching your goals if you are continuously looking at them.

8.) Keeping a “Positive Settlement Mindset”

Okay, so you've altered your lifestyle and decided you are going to put money away and live within a set budget. You have sent letters to your creditors asking that they cease communications and prove the validity of the debt. You are organized so that you can record new information and be prepared to handle your creditors in a timely fashion. Good job, you are halfway there. The final and perhaps most important element before making that first settlement call is to adopt the proper mindset or attitude for handling creditors.

Having the “Positive Settlement Mindset” means specifically that you remove all emotion from this process and think of it as a positive long term experience. Easier said than done, another reason why third party settlement companies can often be far more effective than you at handling your debt if you cannot control your emotions. The third party is not the one who owes the debt. It is not their financial security at risk. It is easy to negotiate on another's behalf because they are not suffering the consequences. You need to understand your own emotional state and realize that unless you look at your situation objectively, you are bound to make poor decisions in the settlement process.

To get into the spirit of the settlement process, narrow it down to a matter of dollars and cents. Look at the amount you owe and look at what you can realistically obtain by saving. Each card company has their own settlement standards, you will hear more about this in the following sections. The objective would be to offer and eventually settle for an amount within that particular card company's settlement threshold. Settlements have nothing to do with your morals, interest rates, penalties and late fees or bank bailouts, they have everything to do with pure dollars. How much money can you obtain and what is the absolute minimum a company will settle for? Where both ends meet is what the process is all about.

Settlement is mainly about pure dollars, however selling your story to your creditors is certainly beneficial. Before making a single call, write down exactly what your personal and financial hardships are so that you can relay them quickly to your creditors. Keep the stories simple, but add a personal touch. Many creditors will request a financial hardship letter with accompanying financials, so have this ready. Here is an example:

Creditor: *Sir, you are now 60 days past due with an amount due of \$583.24, will you be able to pay this today?*

You: *No ma'am. I would like to but my financial situation does not allow me to do it. The business that I own is struggling right now. I'm in default with my business lender and they are on the verge of putting me out of business. I haven't taken a paycheck out of the company for three months so you can see I really cannot afford to pay you anything. I need time to either turn the business around or I may end up in bankruptcy if I can't solve these problems. Any money I get will go to my business lender. I'm sorry.*

Creditor: *But sir, you are also obligated to us and we will need payment shortly to keep this out of legal.*

You: *Ma'am, I understand but if you were in my situation you would do the same. I'm just trying to focus on paying my mortgage and putting food on my table. I understand I owe the money, I'm not hiding from it, and the reality is I just cannot pay right now. I'll be in touch when I can. I would also request that you stop contacting me regarding this debt. I need to focus on my business and these calls are a distraction to me. I will be sending a letter with this request as well.*

Creditor: *I understand sir. I will note your account that you are giving a formal refusal to pay and further action will be taken against you.*

You: *I understand. I am not refusing to pay; I just cannot do it right now and would request you stop communicating with me. Thank you. Good-bye.*

Telling the creditors about your personal hardship will sometimes be received sympathetically. Other creditors hear these stories all day long and are not very interested, however overall it serves two main purposes. First, if you end up dealing with the same collection agent, you can appeal to their emotional side early and can leverage this for a low future settlement. If you have done a good job building your case the creditor will advocate on your behalf to their client or to management. These collectors also typically earn a percentage of the settlement amount and any settlement puts money on their paycheck. Secondly, by communicating your financial hardships to your creditors they are more likely to refrain from legal action. There is no guarantee that a creditor will not sue you when you are pursuing a settlement,

however the chances are extremely small that any legal action will be taken against you if you communicate properly with your creditors.

The First Call

Chances are if you are reading this you have already had to handle a creditors phone call. Hopefully you have handled the call as outlined above. If not it's ok, you have many opportunities still to settle and you have likely done no damage. These calls can be very uncomfortable and stressful for someone doing this for the first time. If you are following this guide you will send a letter to your creditors requesting that they cease any phone communications. Hopefully this has worked but if they violate this request and continue to call, here is how you handle these first calls.

As stated in the sections above, your main goal on the first call to your creditor is to get them to stop calling you at undesirable times on your main phone number or better yet, they stop calling altogether. Additionally this first call is simply to reassert that you have sent them a certified letter requesting that they cease communications with you and that you need them to prove the validity of the debt. You can tell them that you are attempting to settle the debt for less than what is owed and when you get the funds to settle, you will be in contact with them. You must eliminate as much emotion as possible, be courteous, simply relay information. This strategy is designed to get your creditors to stop calling you when it is inconvenient, and puts yourself in a position of power when you speak with them only on your own terms.

Remember, settlement is mainly about pure dollars, however, selling your story to your creditors is certainly beneficial. Be prepared with all the facts you want to relay and stay calm. Here is an example:

Creditor: Hello is Mr. Smith Available?

You: Speaking.

Creditor: Mr. Smith this is Karen from Acme Bank. This call may be recorded for quality assurance, Acme Bank is a debt collector and any information obtained on this call will be used for that purpose. Sir, you are now 60 days past due with an amount due of \$583.24, will you be able to pay this today?

You: *No ma'am. I would like to but my financial situation does not allow me to do it. The business that I own is struggling right now. I haven't taken a paycheck out of the company for three months so you can see I really cannot afford to pay you anything. I need time to either turn the business around or I may end up in bankruptcy if I can't solve these problems. Any money I get will go to my business lender. I'm sorry.*

Creditor: *But sir, you are also obligated to us and we will need payment shortly to keep this out of legal.*

You: *Ma'am, I understand but if you were in my situation you would do the same. I'm just trying my best. Karen, I need you to check your records because I did send a letter to Acme Bank on June 5, 2011 requesting that you cease communications with me on this number. I also requested that you validate this debt. It has been 40 days since I sent this letter and my request has not been met and you continue to call me. These are my rights under the Fair Debt Collection Practices Act and I expect you to abide by these laws.*

Creditor: *I understand sir. I have no record of this request in my system. The fact remains you are past due and we will need some payment immediately before this account is escalated.*

You: *Please update this request in your system. I will take a record of this phone conversation and I will send another letter requesting the same. If you continue to violate my rights I will make a formal complaint with the Federal Trade Commission, Goodbye.*

Again, try and keep the conversation short. Collectors can have all different personality types. Many will be difficult to speak with and are trained to intimidate debtors and make them feel guilty while others will be extremely sympathetic and kind. Keep this initial conversation simple and easy until you can get over your fear of speaking with creditors. Once this call was made it would have hopefully achieved two things. First, the account has been updated that you have requested they cease communications with you and they will be sending you validity of the debt. The creditor having spoken to you and notating that in their system is important in that they will have a record that there has been communication with you.

Account Maintenance

You have made your initial communication with all your creditors. Whether you have spoken with your creditors on the phone or just sent the letter we have provided, by now the amount of daily collection calls you receive has gone down and you are experiencing some peace. It is now time to continue to build funds and simply maintain your account.

What does it mean to maintain ones account? This is a very simple concept but one very few individuals follow. Account maintenance is the act of remaining in regular contact with your creditors so you remain informed about where you are in their collection process and so that you do not appear as though you are avoiding the debt. Also, this is the time to relay information to them about your difficult personal financial situation. Creditors are used to dealing with people who duck and hide from them. Most debtors avoid phone calls and never call back. If ever spoken to, they hang up on collectors, curse at them or deflect blame on to someone else (predatory lenders, the government, Alan Greenspan). If any progress is ever made between creditor and debtor, the debtor forgets to follow through and does not call when they say they would or meet any other deadline whatsoever. So if you behave this way with a creditor, why would the representative accept a low offer from you or advocate a request on your behalf to their management?

Do not get confused by what I said earlier in the guide and the last paragraph. Requesting that your creditors cease communication is not for the purpose of ignoring them forever. You have a right to make this request; this is intended to give you peace and the power to reach out to them only on your terms. You still need to communicate regularly so that you can stay informed on the status of your account

Never underestimate the power of keeping promises, especially with creditors. Each conversation is recorded and they certainly input it in their records that you reached out to them regularly. Doesn't this look a lot better than some one's account that has no action for months? This will help build your credibility for when you move on to the settlement stage. No creditor likes to give low settlements to those who have ignored them, been disrespectful or failed to return phone calls. Let's say down the line you receive a very low settlement offer but you need to split it into three payments

over three months. Would a creditor have faith that you will perform on these three payments when you haven't succeeded in returning simple phone calls? What if you were courteous to the collector and even perhaps told a joke or two? What if you asked them how their day was going and addressed them as sir or ma'am? What if you actually talked to them with respect? Again, for most creditors this is very rare for them to experience. Many creditors will use the same internal department or collection agency to collect on a debt from beginning to end. You may deal with the same representative for months; it will pay dividends to get them to like you.

Another part of account maintenance is using stall tactics to give you the time necessary to raise cash. I know, this goes against much of what was previously written, but unfortunately this is a reality of your situation and you will need to bring balance to the settlement process. You do not have access to immediate funds; you have no choice but to drag out the process so that you can save the money necessary to settle. Part of account maintenance is the process of monitoring where your account stands with your creditors so you know how much to offer for a settlement later on and so you are aware of your delinquency status.

Monitoring the process is an important part of settling your debts. You will learn in the following sections exactly why this is so important, but overall settlement is a function of time and dollars. You must stay informed on how much time you have to make a settlement then you will understand how much you should offer. This will all be discussed in depth later on.

9.) The Settlement Life Cycle

In this section, we will discuss working with creditors and credit collection representatives in order to achieve the best results and get the lowest settlements possible. We will walk through this process from the first day you enter default so that you know what to expect and how to work towards the settlement you desire.

Before Default

You have thoroughly examined your financial condition and determined that you are a candidate for self-settlement. You have put together a budget and made a commitment to saving a certain amount of money each month. You have put together a tracking sheet of all your creditors and their contact information so you can be organized. Now you are prepared to miss your first payment. Default occurs 30 days from when your payment was due. Don't panic when the phone starts ringing after only a few days of being in default. This is quite common and you should react to it by implementing the necessary steps described in the above sections. Use the template provided with this guide to send letters to all your creditors to request that they cease communicating with you immediately.

Any type of financial planning requires a road map. Now that you are in default you need to continue to refer to this road map so you can stay on course. In the sections that follow you will learn that each creditor has their own general settlement criteria. For example, Bank of America will very often settle for 20% of the balance owed once the card is 150 days in arrears. Knowing this, if you are intending on settling your Bank of America card, you need to look at the total balance you owe today, factor in interest to see what the balance will be in 150 days and plan to have available 20% of the card balance on that day so you can make the settlement. You need to implement the savings strategy described in the previous sections and tie it in with creditors' typical settlement criteria. **ATTACHMENT 6** provides settlement benchmarks for all major creditors (this is based on our experience but could vary based on their own internal policies, which are subject to change).

30-90 Days in Default

Each creditor is different in regards to how long they hold onto an account before they charge it off to a collection agency, but a general rule of thumb is that for the first 90 days an account is in default, it will not be charged off, and the creditor will demand the balance in full. This is usually the most difficult period when creditors will be calling you the most. They understand that statistically speaking, when a debtor falls 90 days or more behind on a debt, the likeliness that they can become current again is very small. They focus most of their energy on collecting on these individuals in the first 30-90 days so that they don't lead to a "charge off." A charge off is the declaration by a creditor that an amount of debt is unlikely to be collected. The credit score implications for this declaration are harsh. During this period it is too early to get a low settlement with your creditor. This is a time for you to note any violations your creditor makes to the FTC and continue saving cash for your future settlement.

When creditors call you during this period they may threaten to take legal action against you. Don't be scared of these threats, as creditors will never take legal action against you this early in the process. Many collectors will insult you and try and make you feel guilty and discuss the morality of not paying. Stay strong, ignore these threats and stay focused on your goal. Do not discuss settlement with them at this point. It is better to wait until they bring up this option. As far as they should be concerned, you are a debtor in a difficult financial condition. You do not want to appear as though you are educated on settlements and that you have a long-term plan of settling. It may be more difficult to succeed if you seem very savvy. Sometimes the best policy is to say little and appear uninformed.

90-120 Days in Default

During this period you are mainly continuing to handle the account as you did during the 30-90 days of default period. Monitor your account every week or two to see where your creditors currently stand with this file. After 90 days it would be okay to ask your creditors if they offer any type of settlement programs. However you need to do this in a delicate and uninformed manner. Here is an example of a conversation you might want to have with your creditors after 90 days of being in default:

You: Hello this is John Smith account number 5346732193287632.

Creditor: Thank you for calling John, what can I do for you today?

You: I have an account with you that is past due. I'm in a difficult financial situation right now and haven't been able to make a payment since the business that I own is struggling. However I don't want to ignore this debt. What can I do?

Creditor: Well John your account is past due and you currently need to pay \$900 before this account gets escalated to legal.

You: Well I don't want that happening. Is there any other option? I heard your company could offer settlements for certain accounts. Would I qualify for a settlement and if so how much money would I need?

Creditor: Yes, we could offer you a settlement of 80% of the outstanding balance.

You: Oh sorry that is too much money. I don't have it. I will try back later if I can come up with more to offer you. Thanks, have a nice day.

In the above conversation you achieved a few things. First you continued to remain in contact with your creditor and demonstrated that you are not ignoring the debt. You also asked them for a settlement and you've found out that they are already offering you an 80% settlement after 90 days. This is great news because you can see that they creditor is already lowering their expectations of what they can get from you. Keep this going and eventually the settlements will get much lower.

120-180 Days in Default

This is the critical stage in the settlement cycle. It is the period when you usually get the lowest settlement offers from your creditors. It is also the period when you are still in negotiations directly with the creditor. When you are in this period of default you should call your creditors weekly and offer them a settlement. The best strategy is to choose a figure you want to settle for that is slightly less or equal to the creditors known settlement benchmark, and then stick with it.

For example, in the above conversation after 90-120 days in default your creditor offered to settle with you for 80% of the card balance. If this was Bank of America, we know that they will accept settlements as low as 20%. So during this period I would continue to call Bank of America and offer them 20% of the balance. Communicate to them that this is the maximum amount that you have and you cannot offer anything more. Time is your friend, and as you move further in default their settlement standards will drop.

As you approach the 180-day mark; your creditors might threaten you with legal action. They will say that your account is now in “pre-legal status” or that your file has been “escalated to the legal department” and that you will be hearing from their legal team shortly. There is always a possibility that the creditor may file a lawsuit against you, as they have this right and you are the one in violation of the agreement. However, it is very rare at this stage and the creditor is always more wise to settle with you than to pay a lawyer to litigate against you.

After 180 days in default the creditor typically will consider your account to be “charged off” meaning they are deciding to take a loss on collecting on your account and writing the debt off their books for tax purposes. It does not mean however that they will stop pursuing you. After the debt is “charged off” the account is handled in a number of various ways, which are described later. There are many unknowns after the account is charged off so you are best to try and reach a settlement directly with the creditor before the 180-day mark.

At this late stage in the settlement process your creditors know that the odds are very low that they will recover any significant amount from your account if you are this deep in default. If they do not settle with you now they have a few decisions regarding how they handle your account from here. Hopefully you have made a deal by now, but if not the next sections will outline what happens next. If you are getting offers of 20-40% of the total balance it may not make any sense to hold out for a lower figure (unless you don't have the funds). Settle the account if you have offers in this range and move on to the next account.

After 180 days

If 180 days have passed and you were not able to make an attainable settlement with your creditor, do not panic, the next section describes what will likely happen next. In each of the cases you should handle the debt the same way you did above, you will likely just be dealing with new people:

They Pass the Debt on to a Collection Agency

A third party company will contact you and inform you they are collecting on the original creditors debt. Okay, no problem. First, ask them to verify who they are and that they either are the direct owners of the debt or that they are working on another creditors behalf. You will not know the details of the deal between the collection agency and the main creditor, but usually there are two different types of arrangements. Either the collection agency purchases the debt from the original creditor (usually for 10% of face value or less) or they hire the collection agency to collect the debt for a contingency fee. If the collection agency purchased the debt directly from the creditor you will likely have greater success and you are also dealing directly with that small firm. In these cases you can usually speak directly with a decision maker and will be able to plead your case more effectively.

If the agency is working off a contingency fee, they will still need to take any offers and pass them along to their client, the original creditor. The agents working for the creditor typically earn a commission for the settlement they obtain or of any money collected. They obviously want to earn the highest commission, thus settle for the highest amount possible, however, they also realize that if no settlement is ever reached they earn nothing. This is why it is so important to plead your case with these collectors so that they go to bat for you and so that they can advocate your case with their client. Be friendly with them, keep a consistent hardship story and continue to tell them that the amount you are offering is the best you can do. At this point if you want to add additional drama you can tell them you will need to consider bankruptcy if an agreement cannot be reached. Some creditors will feel threatened enough to settle by this, some will not. It is worth trying out.

It is often difficult to predict exactly what will happen if your debt has been taken over by a collection agency. You can contact them and try and make a better settlement than with the original creditor but often the agency

will start over and be looking for a higher figure. You may have passed on an offer from your original creditor for 50% of the balance and now the collection agency is asking you to pay 80% of the balance. You are basically starting from the beginning and this can be very frustrating and time consuming.

They Pass the Debt on to an out of State Attorney

This is not a bad thing. If you get a phone call or a letter from an attorney's office collecting on the debt look up the law firm online and look at where they are located and what they say on their website. If they are from a different state than the one in which you reside, do not panic. This is likely not a real attorney's office. Very often a collection agency hires an attorney or partners with one so that they can use their name and legal qualifications. They can say they are a legal firm and they threaten to take action against you. This is a very effective strategy on many uninformed debtors who get frightened and pay whatever they can to prevent legal action against them.

However, you should know that an out of state legal firm is really like any other collection agency. Unless they are local to you, that firm will not take any legal action against you unless they are licensed to practice law in that state. Do not take their threats of legal action seriously. Do not insult them or tell them that you know their threats are not serious. Simply continue to try and offer a settlement until they agree to something within your acceptable level.

They Pass the Debt on to a local Attorney

Although this is very rare, it usually means the creditor is ready to take legal action against you. To hire a local attorney costs the creditor's money and usually does not result in a large recovery so it is usually avoided. However, if they do decide to hire a local attorney it is because they have reason to believe you have valuable assets or the ability to pay them back in full. You can try and call the attorney directly and make them an offer to settle but often they have instructions from their client to obtain a judgment and will go through with it. At this point if you are interested in avoiding a judgment you need to meet their desired settlement target. Very often deals are made with these attorneys and you should continue trying to reach a deal in the same way you have been through this entire process. If you have been

formally sued by your creditor and do not know how to handle it any further, you should consult with an attorney. But as stated in previous sections, even the best defense attorney will likely not be able to help avoid a judgment since you borrowed the money and have breached the contract. Any money spent defending the judgment is money you could be offering your creditor for a settlement. You should mention this when making an offer to the attorney. That you cannot afford legal representation and rather than paying for a lawyer you would much rather just pay this money towards a settlement.

They Do Nothing

Yes, this actually does happen. The original creditor charges off the account and you never hear from anyone regarding the debt. It does not mean you no longer owe the money, it just means the creditor does not see a recovery so they chose not to go through the process of collecting on you anymore. They might just close the file and put it aside for the future, but they rarely forget about you completely. If you are building funds to settle, call the original creditor monthly and try and settle the account. Even if the creditor takes no further action, it is best not to just leave it alone. The account balance is still growing with late fees and interest. In the future the creditor could even resurface years later and try and collect on this account. If you left a \$10,000 debt at 20% interest sit for 5 years, the debt would grow to \$24,883.20! If a 50% settlement becomes available on \$10,000 this would amount to a \$5,000 savings. If you declined the settlement offer and allowed the debt to accumulate you will end up paying \$7,441.60 more if you had reached a 50% settlement after 5 years. As you see waiting does not pay off.

10.) *Finalizing the Settlement*

Letters of satisfied debts

Before sending any payment to a creditor, always request a settlement statement. The settlement statement should include the offer that they have agreed to accept, as well as acknowledgment that once payment is remitted to the creditor, you will be absolved of your debt and will be released in full from any liability associated with that debt. A sample acceptance letter is provided at the end of this guide so you can see exactly what the wording should be (**ATTACHMENT 7**).

Once payment is sent, follow up to make sure that payment has been received. Your settlement is not complete until you receive additional documentation attesting to the fact that your funds were accepted, and that you are released from any further liability associated with the debt. You should also request language specifying how the debt will be reported to the credit bureaus. When this is all over you would be best served having a “paid in full” reported on your account. However, settlements typically will be reported as “Settled” or “Settled in full.”

Making your settlement payment

Once a settlement is reached, creditors generally accept payment in one of three ways. Cashiers checks, electronic wire transfers, and check by phone are the most common ways that payment is remitted. Have the funds readily available and in an account separate from your normal checking account. As this guide had said in the beginning you should have another account set up which is dedicated just to saving and paying for the settlements. I would recommend paying out of a checking account in which you keep a \$0 balance. When you have the settlement agreement completed and documented, transfer funds from your savings account into this payment account and write a check or set up a transfer from there. This way if a creditor ever continues pursuing you even after a settlement (which is illegal but could still happen) they will not know the account where you keep all your funds.

Make sure you do not default on your settlement payment. This angers creditors more than anything and if you pay by check it is even considered

illegal if you bounce a check (check fraud). If you do not think you will be able to make the payment, pass until you have the funds available. If you get a settlement and fail to uphold your end of the deal, you may lose another opportunity to settle. What you should do instead is request that you are allowed three payments in order to make the full settlement (or more if they will allow it). Many creditors will give up to six months to pay the settlement, so if you need more time it is better to request it than to fail to deliver the funds as promised.

1099-Cs & tax liability of debt forgiven

If you have completed a settlement and the amount of debt forgiveness was greater than \$600, you will receive a 1099 for the amount of debt forgiven. In the eyes of the IRS, forgiveness of debt is like earning income and you will be responsible for paying taxes on the debt as if it was ordinary income. When negotiating a final settlement with a creditor you can request that the debt be taken as “settlement in full” and request they not issue you a 1099-C. Sometimes a creditor will agree to this, however it is not standard practice.

There is an exemption from this tax to help debtors who are not in a strong financial position. This is known as the insolvency exemption. What this means is that if you were insolvent at the time that your debt was forgiven by your creditors, you will not be responsible for paying taxes on the amount forgiven to the extent you are insolvent. You are considered insolvent if the amount of your liabilities is greater than the fair market value of all your assets. If you have \$200,000 in assets and \$250,000 in liabilities, you are insolvent by \$50,000. You are allowed \$50,000 worth of debt forgiveness before you are responsible for paying taxes on the amount forgiven. You would be responsible for paying taxes on any debt forgiveness value you receive above \$50,000.

In order to use the insolvency exclusion for forgiven debt, an IRS form 982 must be filed with your yearly tax return to prove to the IRS that you were insolvent at the time of debt forgiveness. If you believe the insolvency exemption applies to you, consult with your accountant on how to properly file your return to take advantage of this exemption.

Helpful Hints Along the Way

Although I've outlined the life cycle of the settlement process there are many wrinkles along the way that you should be made aware of before you begin. Only someone who has dealt with debt settlement regularly would know the following tips. You will hear many unfamiliar phrases from creditors and may be asked many uncomfortable questions. You might also have questions on how the settlement must be documented and finalized. The next section will help you be prepared for all these possible scenarios and for helping you put your deal to an end.

“Universal Default”

When you decide to workout your credit card debts, do NOT pick and choose which ones you want to workout and which ones you want to keep. In the future a creditor will look at your credit report when you are discussing a settlement with them. If you are offering them 20% of their balance yet you are current on two other credit cards that have just as substantial balances, why would they ever settle with you for such a low amount? They won't.

You need to also keep in mind that when you are in default with one credit card company, the other card companies could lower your credit availability or even shut you off if you default to other card companies. It makes no sense to keep some credit cards going since you will likely lose your account with them anyways.

Rounding the offer

When presenting a settlement offer to a creditor, although you want to base the offers on a predetermined percentage of the outstanding debt, never use the exact figure that the percentage gives you. Instead, round the number up or down to make it a round number. The purpose of this is that if the creditors know you are basing your settlement off of an exact percentage, it weakens your case when you tell them that the amount you are offering is all the funds you have available. They will know you are calculating settlements and that you know what you are doing.

Creditors will do the math in order to figure out the percentage of your offer. If they see that it is exactly 20% or 25% of the outstanding balance, they

will be more reluctant to settle, knowing that you are basing your settlement off of bench marks instead of available funds.

Don't be greedy when it comes to small debts

When presenting a settlement offer to a creditor there are several important factors that need to be taken into account, the size of your debt is one of these. If the outstanding balance that you are trying to settle is \$500 or less, you will have a difficult time getting a settlement lower than 50%. If you owe \$1,000 or less to a creditor, you will find it difficult to get an offer less than 40% accepted. If you have cards with such low balances, try and make a few settlement offers, but don't get greedy. When you have a 60% offer on \$800, just take it and move on. If you try and force your 20% settlement and you fail, you will waste more time for a very small amount of savings. Focus your efforts on the large balances where the lower settlements equal a much larger savings.

Promissory funds from friends, family, and benefactors

When making a sizable settlement offer to a creditor, never reveal the source of funds. First, this is none of their business and if they really want to obtain your personal financial details they can sue you and go through the discovery process to see if you have any assets. Until then you are not obligated to give them any information. If they ask you where the funds are coming from and if they are available now, tell them that you have a family member who is lending it to you. They will sometimes request you provide them with proof of funds by sending a bank statement or snapshot of a bank account. They might request this in order to really see if you have the money but the majority of the time they are looking to obtain your banking information. They can later use this information in order to attach or levy a bank account and you are better off not making this any easier for them. Simply tell them the funds are not coming from your account and that you cannot provide proof. Don't fall for any of their tricks and reveal any private bank information.

Objections and questions from a creditor

Conversations and negotiations with creditors are never one sided. You have your story of hardship, your funds for settlement, and your settlement

goal. If you falter from any of these you will not achieve your settlement goals. Never change your story, creditors take notes on all of their conversations and will question you if your story changes. You have to have credibility when speaking with your creditors, and let them know that you are not budging from your offer. Remember your hardship story and stick with it.

Politely disengage then move on to other creditors

If you're not getting anywhere with a creditor, do not lash out at them, politely disengage and move onto your next call. Often times people become very frustrated when creditors are uncompromising and unwilling to accept settlement offers. Taking your frustrations out on your creditors is the worst thing you could do in that situation. Remember, you want to make friends with them and get them to work with you in resolving your debt problems.

“You must be current before a settlement can be accepted”

This is a line that I hear very often. You are dealing with a collection agency and you are close to the 180-day charge off date. You have been discussing a settlement figure of 30% with your creditor for a few weeks and they are ready to accept the funds and send you an acceptance letter. The representative tells you that they agree to the settlement but in order to qualify for the settlement you need to pay your past due amount before the settlement letter is sent. “Send us the past due amount of \$854.73 and we will accept the settlement amount and send you your letter.” DO NOT SEND THE PAST DUE AMOUNT! This is a dirty trick they are playing on you and if you make the payment your account will be brought current and you will need to start the settlement process over again. Refuse to pay the past due and continue to push for the acceptance letter. Tell them you will not send funds unless it is for a full satisfaction of the liability.

“We will repossess your things?”

I've heard this one a few times and it sure could scare some people. A creditor will tell you they will move to repossess the items you purchased with their credit card. They say they will go through the statements and take those items. These types of statements are meant to scare you because people tend to get attached to those things they buy. Rather than giving them up they would rather send anything they have. Remember, a credit card is unsecured

debt. They cannot take the items that were purchased with the card. The debt can only become secured after a judgment is obtained and they pursue remedies against your home or other assets. Until then, it's all just hot air.

Use the Bankruptcy Threat Sparingly

Many clients I talk to think they are being very clever by threatening bankruptcy with their creditors. They think that if they tell their creditors enough times that they are going to file a bankruptcy if they do not accept an offer, they will be able to scare them into any type of offer they want. It doesn't work as well as you would imagine.

Bankruptcy is a process by which the creditor and debtor are treated fairly. The debtor reveals all their assets and if there are any available, they are distributed appropriately to all the creditors. If there are assets available, the creditors would get some portion so many creditors welcome this process. In most cases if you are a debtor with no assets your credit card debts will be completely extinguished, but at least the creditor can be sure that they got what they deserved. If you continue to say that you will file a bankruptcy but then do not do it, a creditor will see right through your threats and possibly believe that since you are not filing a bankruptcy, you may have some assets you are hiding. Seldom use this threat, and only speak of it as if you are truly exploring this option. You can use phrases such as: "I cannot obtain the 50% you are asking from me to settle. Are you sure you cannot accept \$2,500 since it is all the money I have? I can't obtain those funds, so I may need to file a bankruptcy. Is there anything else I can do?"

11.) Life After Debt Settlement

Now that you have settled your credit card debt, you can look back on this experience and learn a few lessons about responsible debt management. Hopefully you have cut down your personal expenses and plan on living within your means going forward. You should have a new perspective on debt and how to manage it in the future so that you are never in this situation again. Unfortunately through this process your credit score has been ruined so it is time to build it back up. The rest of this guide will show you how to rehabilitate your credit and also how to begin instilling proper debt management going forward.

Rebuilding Your Credit

Working out your credit card debt will have a detrimental effect on your credit score. As you will be in default with your creditors throughout the process, your credit score could potentially go down several hundred points. Even after you have settled with your creditors, your credit report will indicate that you have settled with your creditors and this mark will continue to hurt you for some time.

The good news is that you can dispute some of the detrimental marks on your credit report, which will begin to improve your score. This combined with responsible debt repayment habits going forward will raise your score much faster than if you had filed a bankruptcy. Here are a few steps you can take to improve your credit score:

Using a Credit Repair Service

There are many different services that offer programs to rebuild credit. Second Wind Consultants has looked at many of these programs, but we do not endorse any one specific company. Be careful when selecting one, as some are good legitimate firms while others will do little to improve your score. It is our recommendation that when looking into credit rehab services, you take into account several aspects of the programs. First, non-profit credit counseling services are better than for-profit, as they are not profit driven and charge fewer fees. Second, look at the company's website and make sure that they are registered and recognized by organizations such as the better

business bureau, and the National Foundation for Credit Counseling. Finally, if they ask for a large up-front fee, run in the other direction!

Before enrolling in any program, make sure that you have had a free consultation, read through all of their documentation, and understand what you are getting yourself into.

Rehabilitate your own credit

Just like how you just completed a self-settlement of your credit cards, you can also do your own credit rehabilitation. The credit repair services that you may find have a very simple process that you can easily duplicate on your own. Keep in mind, the process is not 100% effective and any company that guarantees success is one you should be skeptical of. Here are the steps you need to take in order to remove any derogatory marks on your credit report.

Basically what the credit repair companies do is challenge any derogatory credit marks you may have on your report in the hopes that the challenges will not be responded to, and thus, the negative marks will be removed. The government, to ensure consumers that their credit is being properly reported to the three main credit-reporting agencies, passed the Fair Credit Reporting Act. The act allows you to challenge any reports that you believe are inaccurate and then the credit bureaus must conduct an investigation into your request. They have to contact the original creditor and research the dispute and respond to your request within 30 days. As you would expect, very often the credit bureaus receive no response to their inquiries with the original creditor and fail to report back to you within the 30-day period. When the investigation fails to reaffirm the negative mark is in fact true, the negative mark gets removed from your report by default.

Sometimes their process works and the derogatory marks will remain, however if you are lucky enough not to get responded to in time, you win, and your credit will improve when the negative marks are removed. Here are the steps to follow to enable this process:

1. Write a dispute letter detailing each of the accounts that you believe are inaccurate. See the dispute letter included in this guide (**ATTACHMENT 8**) to give an idea of what type of language must be included in this letter. Keep in mind you will need a legitimate reason for why you are disputing the

derogatory mark. This could be that the wrong settlement terms were reported, the wrong charge off amount was reported, the date of last activity was inaccurate etc. Frivolous disputes are quite common and if the credit-reporting agency flags your inquiry as frivolous, it will be dismissed.

2. Send supporting documentation to help you substantiate your claim. This could be a settlement letter with your creditor that outlines how the settlement is to be reported.

3. Send the dispute letter with supporting documentation via certified mail. Keep records of when it was sent so you know when the 30-day clock starts.

4. Follow up with the credit-reporting agency if you have received nothing after 30 days. Give a small buffer of time in case the response is in the mail on the way to you, but don't forget about it. Request that they send you a report on the results of the investigation.

5. Repeat the process for all negative marks on your credit report.

Secured credit cards

A secured credit card is a credit card that requires collateral to be put down against the credit line. For example, a secured credit card may require you to initially pay in as much as \$1,000, which is held as collateral in exchange for a \$1,000 line of credit. If you build up a good payment history, the creditor will reward you by adding to your credit line without additional collateral.

Most secured credit card companies report to all three credit bureaus, and if you continue to use the card responsibly, over time your credit score will rise. It should be kept in mind that this is by no means a quick fix, and it could take several month of good credit history with your secured credit card before you see any difference in your credit score.

Make sure with that with your new secured credit card that you keep your balances low and pay the full balance off at the end of every month. This will reflect well on your credit report and rebuild your score.

New credit offers

As soon as you start to rebuild your credit, you will begin getting offers in the mail for credit cards. Although it will be tempting to enroll and use them to “rebuild your credit”, this could easily lead you down the path to the same situation you were in to begin with. Choose one or two cards with the lowest interest rates and small credit limits. Use the cards sparingly, and pay off your balance in full each month. If combined with a secured credit card and credit counseling, you can bring your credit score back to a healthy level within months.

You should also remember that as you receive offers in the mail this does not mean that you have qualified for that particular offer. Any new credit card offers will require a “hard inquiry” into your credit before you officially get a card offered to you. Each time you allow a creditor to make a hard inquiry to your credit, it lowers your score. It tells creditors that you are trying to obtain credit and if you continuously do this it will demonstrate that you are either desperate for credit or you are getting rejected by multiple other creditors. Be very selective in what creditors you allow to conduct a credit inquiry so that you don’t lower your score and get rejected by the creditor.

Time

The time that it takes to go through this process and settle out your debt depends on many factors. The amount of debt, the number of different accounts, the specific creditors you owe money to, and the collection firms that the debt is charged off to all play a large role in the length of time it takes to settle an account.

Even if the settlement process is stretching on longer than originally anticipated, don’t get frustrated. Always keep in mind that you have the upper hand in negotiations, and that eventually you will settle on your terms. The banks you owe money to spend thousands of dollars to collect your debt, and have an incentive to accept a settlement offer. Even if you think you will never achieve your settlement goal, have faith that you will get there eventually.

In the same way, time will heal your credit. As long as you avoid a bankruptcy, nothing resulting from a credit card settlement will affect you for

more than seven years. Often you can rebuild your credit fast enough so that this time frame is shortened. Learn to live without credit and implement the recommendations provided in this guide.

Final Words

Dealing with the mistakes of your past can be extremely stressful and discouraging at times. For those who stay focused and motivated there is light at the end of the tunnel and tens of thousands of dollars that can be saved. Through this experience you have hopefully realized some important lessons on debt, money and lifestyle choices and you will commit to never repeating the mistakes of your past again. I wish you be best of luck when taking on this challenge of working out your debt and encourage you to share your experience with others so that they can achieve the results you have. Please feel free to contact us here at Second Wind Consultants, Inc if you have any further questions or comments regarding this guide.