

THE DEBT RESISTORS' OPERATIONS MANUAL

JOIN THE RESISTANCE!

THIS OPERATIONS MANUAL—WRITTEN BY AN ANONYMOUS COLLECTIVE OF RESISTORS, DEFAUTERS AND ALLIES FROM STRIKE DEBT AND OCCUPY WALL STREET—is for all those being crushed under the weight of debt.

IT AIMS TO PROVIDE SPECIFIC TACTICS FOR UNDERSTANDING AND FIGHTING AGAINST THE DEBT SYSTEM SO THAT WE CAN ALL RECLAIM OUR LIVES AND OUR COMMUNITIES. IT CONTAINS PRACTICAL INFORMATION, RESOURCES AND INSIDER TIPS FOR INDIVIDUALS DEALING WITH THE DILEMMA OF INDEBTEDNESS IN THE UNITED STATES TODAY AND ALSO INTRODUCES IDEAS FOR THOSE WHO HAVE MADE THE DECISION TO TAKE COLLECTIVE ACTION.

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a project of
STRIKE DEBT /
OCCUPY WALL STREET

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SEPTEMBER 2012



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PRODUCED AS A COLLABORATION BETWEEN
Members of the Strike Debt assembly / strikedebt.org
Occupy Wall Street / occupywallstreet.org
Common Notions / commonnotions.org
Antumbra Design / antumbradesign.org

PREFACE

This operations manual—written by an anonymous collective of resistors, defaulters and allies from Strike Debt and Occupy Wall Street—is for all those being crushed under the weight of debt. It aims to provide specific tactics for understanding and fighting against the debt system so that we can all reclaim our lives and our communities. It contains practical information, resources and insider tips for individuals dealing with the dilemma of indebtedness in the United States today and also introduces ideas for those who have made the decision to take collective action.

The system of mafia capitalism has made it difficult, if not impossible, for us to meet our basic needs, whether we have debt or not, whether we pay it back or not. We recognize that it is not easy to fight this system, that it is not easy to withdraw consent from a financial world gone mad. Make no mistake: the odds are stacked against us. Laws surrounding debt lending, collection and buying are notably complex, designed to keep debtors confused and afraid. This manual is not designed to provide legal counsel; it is a political act of mutual aid. We are not lawyers; you may want to consult one before doing anything that you think might be illegal. Look seriously into any of the options we present before taking action. Be smart.

As with any operations manual, this is a living document. We don't claim to have all or even most of the answers regarding debt. To produce this manual, we have reached out to our networks to the best of our ability. Some sections barely scratch the surface and in fact deserve their own book-length treatment. Researching debt has uncovered many connections we didn't expect, and we know there are types of debt we haven't addressed. It is our hope that readers will have their own strategies to contribute to future versions of this manual. The contributors envision this first edition not simply as a document that *we*

have made for *you*, but rather as the beginning of a project that we will *all* build together—a collectively written manual for collective action. An online version will be updated frequently and available at strikedebt.org. Any ideas, plans, tips, corrections, resources, schemes—legal or otherwise—should be sent to DROM@riseup.net; anonymity is the norm by which we operate.

Because there is so much shame, frustration and fear surrounding our debt, we seldom talk about it openly with others. An initial step in building a debt resistance movement involves sharing the myriad ways debt affects us, both directly and indirectly. You are encouraged to share *your* experience at Debt Stories, occupiedstories.com/strikedebt. Remember, you are not a loan!

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INTRODUCTION: AN ODE TO THE DEBT RESISTOR

Everyone is affected by debt, from recent graduates paying hundreds of dollars in interest on their student loans every month, to working families bankrupted by medical bills, to elders living in “underwater” homes, to those taking out payday loans at 400% interest to cover basic living costs, to the teachers and firefighters forced to take pay cuts because their cities are broke, to countries pushed into austerity and poverty by structural adjustment programs.

Everyone seems to owe something, and most of us (including our cities) are in so deep it’ll be years before we have any chance of getting out—if we have any chance at all. At least one in seven of us is already being pursued by debt collectors. We are told all of this is our own fault, that we got ourselves into this and that we should feel guilty or ashamed. But think about the numbers: 76% of Americans are debtors. How is it possible that three-quarters of us could all have just somehow failed to figure out how to properly manage our money, all at the same time? And why is it no one is asking, “Who do we all owe this money to, anyway?” and “Where did they get the money they lent?”

At the same time, we keep hearing about financial capitalism: the fact that most of the profits on Wall Street no longer have much to do with producing or even selling anything, but are simply the fruits of speculation. This is supposed to be very complicated—“Somehow they have just figured out a way to make money out of thin air; no, don’t even try to understand how they do it”—and very distant from our everyday concerns.

In fact, bankers *are* allowed to make money out of thin air—but only if they lend it to someone. That’s the real reason everyone is in debt: it’s a shakedown system. The financial establishment colludes with the government to create rules designed to put everyone in debt; then the system extracts it from you. Overseas it operates through

financial scams that keep cheap goods flowing into the United States in a way that would never be possible if not for the threat of U.S. military power.

Here at home it means endlessly making up new rules designed to put us all in debt, with the entire apparatus of government, police and prisons providing enforcement and surveillance. Instead of taxing the rich to generate money to build and maintain things like schools and roads, our government actually *borrow*s money from the banks and the public pays the interest on these loans. As we've learned through scandal after scandal, this process is riddled with fraud, rigged from the start to steal money that should be going to social necessities. Financial capitalism is mafia capitalism.

We gave the banks the power to create money because they promised to use it to help us live healthier and more prosperous lives—not to turn us into frightened peons. They broke that promise. We are under no moral obligation to keep our promises to liars and thieves. In fact, we are morally obligated to find a way to stop this system rather than continuing to perpetuate it.

This collective act of resistance may be the only way of salvaging democracy because the campaign to plunge the world into debt is a calculated attack on the very *possibility* of democracy. It is an assault on our homes, our families, our communities and on the planet's fragile ecosystems—all of which are being destroyed by endless production to pay back creditors who have done nothing to earn the wealth they demand we make for them.

To the financial establishment of the world, we have only one thing to say: We owe you nothing. To our friends, our families, our communities, to humanity and to the natural world that makes our lives possible, we owe you everything. Every dollar we take from a fraudulent subprime mortgage speculator, every dollar we withhold from the collection agency is a tiny piece of our own lives and freedom that we can give back to our communities, to those we love and we respect. These are acts of debt resistance, which come in many other forms as well: fighting for free education and healthcare, defending a foreclosed home, demanding higher wages and providing mutual aid.

The fact is, most debtors dare not reveal their names nor show their faces. Those who struggle to stay afloat or who have fallen into default are told that they are failures, inadequate and abject, and so they do not speak out. There are literally millions of people who cannot pay the enormous sums that the financial elites claim they owe. They are the Invisible Army of Defaulters. Instead of a personal failure, refusing to pay under our current system is an act of profound moral courage. We see our situation as connected, and we can look for ways to step out of the shadows together. The *Debt Resistors' Operations Manual* is an attempt to assist this invisible army and all other debt resistors in this struggle.

I. CREDIT SCORES AND CONSUMER REPORTING AGENCIES: SURVEILLANCE AND THE VICIOUS CYCLE OF DEBT

Having a credit score is like having a tattoo of a barcode on your forehead, and the tattoo artist is like a consumer reporting agency (CRA). It's actually perverse—we all agree to be watched, located, defined, classified and evaluated. And if we don't? Financial banishment—we're thrown to the credit wolves and loan sharks.

This arrangement creates a caste system fueled by fear and exclusion. Financial surveillance is a corrupt and impersonal machine, not a system that genuinely determines people's trustworthiness. Can't make a credit card payment because of health costs this month? It's recorded. Got laid off and couldn't pay tuition? It's recorded. Tried to pay a mortgage fee with an already-low checking account? It's recorded.

And who records all of this? The agencies, bureaus and companies that are watching over us: Equifax, TransUnion and Experian; ChexSystems and TeleCheck (to name only the biggest). This chapter is about how these agencies control us—their methods, their mistakes, their profits—and how we can maintain dignity despite their power.

WHAT IS A CREDIT REPORTING AGENCY?

There are three major national credit reporting agencies—Equifax, Experian and TransUnion—as well as many smaller ones. In 2009, the big three CRAs had combined revenues of more than \$6.7 billion dollars.¹ These agencies collect your information from creditors, store it and send it out to those who request it in the form of a “credit report.” They also compile it into a

“credit score” or “credit rating,” a much simpler number that allows for the ranking of people.

These agencies started in the 1950s as regionally based companies that would track the personal details of your life—when you got married, if you got a ticket, or if you committed a crime. Before technology allowed for the tracking of massive amounts of data, these companies could only compile information about a particular type of credit—like your regional banking history or your mortgage—so data was not shared across industries.

Over the last forty-five years, however, CRAs have come to play a crucial role in our ability to get access to even the basic requirements of life in our society. If you need anything more than just a small purchase—heating, gas, a phone line, medical care, education, personal transportation, insurance—someone has to scan your “tattoo.” A number comes up on a screen. This person can see the screen and you can’t. If they say your number is good, then you can go ahead and buy what you need. If they say the number is bad, things will become a lot more difficult for you.

And the reach of CRAs is expanding: recently, a new phenomenon has emerged that has been described as “mission creep.” Many landlords require a credit score, which means that credit agencies have a power over your ability to find housing. Insurance rates are starting to factor in credit scores too. Hospitals have begun to charge patients and determine access to health care according to their credit scores. And finally, employers have begun demanding that job applicants provide credit reports.

A tremendous amount of power over the daily lives of people is given to organizations that operate almost entirely outside of public oversight, with next to no democratic accountability.

- In recent studies, more than 20 million people found material errors in their credit score calculations.²
- The government currently regulates very little of this entire process, including who can send information to the people who compile your score and who can access the information once its compiled.
- Those in communities with higher concentrations of people of color are twice as likely to have low credit scores as those in other areas. Higher fees and interest rates are imposed on those with low credit scores, ensuring that class divisions along racial lines remain unchallenged.³
- It can seem difficult and futile to investigate or repair your credit score, but it isn’t. There are ways. Keep reading to find out how.

A SYSTEM RIDDLE WITH MISTAKES

As for how the system works, there are problems on every level. On the ideological level, credit scores are crucial in creating and maintaining a culture of debt. How does this work? In order to qualify for most housing, for example, you need to have a good credit score. And in order to have a good credit score, you need to have, guess what? Debt. You might think that being free of debt would qualify you for a good credit score, but that is not the case. You will only have a credit history if you have existing debt. In yet another way, the system forces you to enter into debt just to be able to provide for your basic needs.

In addition, many credit reports are just plain wrong. A 2004 Public Interest Research Group (PIRG) study revealed that 79% of credit reports contained errors; 25% of these mistakes were serious enough to result in a credit denial. More than half of all credit reports contained outdated information or information belonging to someone else.⁴ With this number of mistakes, you have to wonder what this system is really about.

You might think that because the rich actually use credit so much more, they would be the ones mainly affected by these errors—not so. In fact, the poorer you are, the more likely your credit agency is to make a mistake that influences your rating.

UNDERSTANDING YOUR CREDIT SCORE

The scoring models are endlessly complicated, and different agencies use different ones, so it's never entirely clear what you can do to improve your score. With that said, the most commonly used model is “FICO” (Fair Isaac Corporation), and we do know that that score is comprised of the following:

- 35% payment history
- 30% amounts owed
- 15% length of credit history
- 10% new credit
- 10% types of credit used

Although we don't know exactly how these areas are evaluated, making regular payments, not having too many credit cards or other lines of credit, and keeping the ones you do have well below their limits will always help.⁵

SOME THINGS WE CAN DO

1. *Demand accountability.* The Consumer Financial Protection Bureau is now an operating governmental body. We should ask if it's doing its job when it comes to credit scoring. If it isn't, why not? If it is, can it do more?

2. *Demand regulation.* Seven EU countries and seventeen Latin American countries have public credit scoring agencies. Why don't we?
3. *Demand transparency.* Although they're hugely important to us, we have little say in how or why our credit scores are calculated. Can there be a democratization of credit scoring?
4. *Check your numbers.* We can change this system, but we have to know it first. This is how to do it:

Go to: Annualcreditreport.com

Call 877-322-8228 or

Complete the Annual Credit Report Request Form and mail it to:

Annual Credit Report Service

P.O. Box 105281

Atlanta, GA 30348-5281

In order to receive your free report, you'll need to provide your name, address, Social Security number and date of birth. You may need to give your previous address if you've moved in the past two years. For security reasons, you may also have to give additional information like an account or a monthly payment you make.

Beware of scams: those charging to get your score or signing you up for "free" services in order to access your score. And beware of those offering to help your score; there is nothing they can do that you can't do more effectively and free of charge.

5. *Demand accuracy.* There are laws that protect debtors from unfair and inaccurate credit score practices: the Truth in Lending Act, Fair Credit Reporting Act, Fair Credit Billing Act and Equal Credit Opportunity Act. All guarantee protection and the possibility for citizen-directed credit scoring and reporting.
6. *Reject the system.* It is possible to live without a good credit score. If you can muster the time and energy to make some life changes, you can go totally off-grid. Below are some recommendations on how to live without the benefits of a good credit score:

- Prepaid cell phones are always an option.
- For housing utilities, if you have a roommate, you can ask them to put the accounts in their name. If you live alone, ask a relative or friend.
- Opt for services that don't require credit checks. If a company requires a check, try to talk them out of it. Build up an old-fashioned trusting relationship by spending time

talking with the person. They may choose to bypass the credit check.

- Create your own credit report: put together a portfolio showing you are a trustworthy person (reference letters, job history, life narrative).
- Check listings for housing, cars and other necessities that are informal and don't go through brokers or other formal agencies.
- Offer to put down larger deposits in lieu of a credit check.
- Build networks of mutual support in your community so you rely less on outside services.

DIY credit repair

It is best to repair your bad credit score yourself. This helps you avoid scams and fly under the radar of the CRAs who are looking to block credit repair companies from gaming their system. There is a host of books, websites, articles and other resources dealing with this issue. Below are the steps we recommend taking:

1. Get a copy of all three of your credit reports.
2. Review your credit reports and note every single error. Note incorrect spellings of your name, inaccurate data and any “derogatory” information.
3. Write letters disputing negative information and errors to the corresponding agencies.
4. Describe in your letter how you found out your credit was bad and how shocked you were at all of the errors the agencies have been reporting. Then ask them “per the Fair Credit Reporting Act (FCRA) enacted by Congress in 1970,” to either provide physical proof of their claims or delete the mistakes immediately.

Include your name, current address and Social Security number on your letter. You should not include any additional information.

Simply list the entry that you are challenging and briefly explain why you are challenging it. You only need to write a couple of words to do this—less is more. Say things like “this is not mine,” or “this record is inaccurate.” Be sure to make the letter sound unique to you. If you do not, you may find that the CRA responds by saying that your claim is “frivolous.” This is the way they get rid of credit repair companies, and why you should not use one of them. There are competing theories on whether or not you should challenge everything on your report all at once. You are legally entitled to have each item you challenge verified at any point in time.

When sending your letter, request a “return receipt” or “delivery confirmation.” The CRA has 30 days to respond to your dispute. If they do not respond within that time frame, you will have evidence that they are in violation of the Fair Credit Reporting Act.

5. Don’t give up after the first round. Within a month, you will receive a response from the CRAs. Typically, they will only state whether or not they were able to verify an item. For any items they claim to have verified, you should contact the creditor directly and demand that they provide proof that the debt is yours. You can also continue to challenge the entry with the CRA. (*See Appendix A for sample letters.*)

If you play this game, you really can win (eventually). Keep pressing on and hammering them with letters demanding they correct their mistakes and they will eventually get sick of your letters and start deleting negative trade lines from your report just to shut you up. Assume that you will be writing letters for six months to a year, but you should see a substantial improvement to your credit report and score within three months. As usual, the person who yells the loudest for the longest wins. And don’t forget, repairing your credit score is not necessarily about regaining validity in the eyes of the system: it is about challenging an exclusionary and unjust surveillance machine.

CONSUMER REPORTING AGENCIES FOR CHECKING ACCOUNTS

The credit score is an essential piece of economic surveillance, but it’s not the only one. There are other ways of watching us and keeping us in check. Everyone has a credit score; many people also have a checking account. Just as a series of private corporations monitors your borrowing activity in the economy, a different group of private corporations monitors your checking account. And just as the credit score companies make a profit from calculating your score, consumer reporting agencies monitoring checking accounts make a killing when you overdraft or miss a payment.

ChexSystems and TeleCheck are two examples. Financial institutions report instances of “account mishandling” to them. TeleCheck primarily deals with bad check writing while ChexSystems, used by over 80% of banks in the United States, deals with that and more: non-sufficient funds (NSF), overdrafts, fraud, suspected fraud and account abuse. Retailers can report bad checks to Shared Check Authorization Networks (SCAN), which can in turn report to ChexSystems. When someone tries to open an account elsewhere, the agency notifies the institution about that applicant’s history.

Unlike the seven-to-ten-years timeframe observed by credit reporting agencies, checking information remains in the system for five years, unless ChexSystems or TeleCheck is forced to remove it earlier. Another difference is that ChexSystems, unlike credit bureaus, only provides *negative* information

in their reports. Therefore, a single banking error can result in losing an account and cause immense difficulty trying to open one up elsewhere. Something as inconsequential as failing to rectify a deliberately confusing overdraft fee is enough to negate decades worth of “responsible” banking.

AVOIDING CHEXSYSTEMS/TELECHECK

There are some steps that can be taken to avoid triggering a ChexSystems or TeleCheck report in the first place. Of course, there's no guarantee because you're not exactly dealing with trustworthy institutions. But it certainly doesn't hurt to know your balance before writing checks to make sure they won't bounce. And if your checkbook ever gets stolen, report it to your bank or credit union immediately. When you are closing an account, be sure to discontinue all automatic payments, wait until you're certain that all checks you've written have cleared and *formally* close the account instead of simply taking all of your money out.⁶

FIGHTING CHEXSYSTEMS/TELECHECK

Suppose that, in spite of your best efforts, you still end up with a report from one of these consumer reporting agencies. There are a number of possible approaches, with varying degrees of desirability. The first is to try to live without an account. As Chapters VII and VIII will illustrate, this can be difficult, but many people have no option but to survive “unbanked.” Another approach would be opening an account at a financial institution that does not use ChexSystems or TeleCheck. A state-by-state directory is available at nochexbanks.org. This approach, however, is not available for those who do not live near any of these banks or credit unions. In some states, you can take a six-hour “Get Checking” course, upon completion of which you can open an account at a participating financial institution. But there is a \$50 course fee, and guess who sponsors the program? A parent corporation of ChexSystems by the name of eFunds.⁷

It would seem that simply paying the bank for the debt you ostensibly owe might alleviate the situation. In actuality, you may be worsening your situation. This is because the bank can report activity to the agencies five years from the date you last paid. If you have a debt from 2010, it would be removed from your report in 2015 if you ignored it. This would present its fair share of problems, but if instead you paid the debt four years down the line, then it might haunt you until 2019. That's four more years of struggling to open a checking account than if had you done nothing.⁸ In other words, the older the debt, the less worthwhile it is to pay back.

A final option for consideration here is to actively fight the reporting agency as well as the bank that reported you. The first step is obtaining a copy of your report.

Getting a report

Regardless of your account history, you are entitled to a free copy every twelve months. If you are denied an account because of your report, you are entitled to a free copy within sixty days from the consumer reporting agency that is responsible. To request a copy of your report, go to consumerdebit.com for ChexSystems or firstdata.com for TeleCheck.

When making a request, only provide information that is necessary, such as your name, Social Security number, address and possibly a previous address. They may ask for a work address or phone number, or your current checking account number, but you do not need to provide them with this information. You can simply say that you're currently unemployed and/or don't have a current checking account.⁹

If the agency refuses to provide you with a copy of your report or you fail to receive it within sixty days of being denied an account, you can submit a complaint to the Federal Trade Commission (FTC) at ftccomplaintassistant.gov. Then send a letter via certified mail to ChexSystems or TeleCheck notifying them that they are in violation of the Fair Credit Reporting Act and that they have fifteen days to send you a copy of your report. Let them know that you are willing to pursue legal action and that you have already contacted the FTC.

Writing angry letters

If it turns out that a debt on your report is from more than five years ago, do not file a dispute. Instead, send a letter requesting the debt be removed on the grounds that it is over five years old. In other instances, you should write a letter disputing negative information contained in the report.

First, send some angry letters to the reporting agency:

1. Send an initial dispute letter to ChexSystems or TeleCheck (*see Appendix B, sample letter #1*). Send it via certified mail with return receipt requested. Make copies of the letter and send it to your lawyer if you have one.

If your dispute is based on an annual report, then the agency must reply within forty-five days of receiving your letter. If your dispute is based on a report that resulted in you being denied an account, then the agency must reply within thirty days of receiving your letter.

If they respond, they must state in their response whether they were able to contact someone to verify the information contested in the report. If you do not contact them during the thirty/forty-five days after your first letter, they are less likely to respond, which in turn means it is more likely that they will be forced to remove the disputed information on your report.

- If they were able to verify, then it stays in the report.
- If they were unable to verify, then the information must be deleted.

2. Send a “demand for removal” letter (*see Appendix B, sample letter #2*).

Within fifteen days, they must provide you with the address and phone number of the financial institution that they contacted.

If they do not respond to your “demand for removal” letter within fifteen days, send a procedural request letter (*see Appendix B, sample letter #3*).

- If they do not respond to your initial dispute within thirty/forty-five days, then send a “procedural request” letter (*see Appendix B, sample letter #3*).
- If you can prove that there was an error and prove that their failure to remove the disputed information has caused you financial harm (i.e., you cannot open a checking account), then you can pursue legal action.
- You can also present your side of the story in one hundred words or less, which will be attached to your report. When banks are making a decision about letting you open an account, they will at least get to see your statement too.

Then, send some more angry letters to the financial institution:

3. Banks are legally required to be 100% accurate in their reporting. Look for any type of error: incorrect name, Social Security number, address, dollar amounts, date of last activity, date account first became negative. If a mistake is found, send a “demand for removal” letter to the reporting institution’s manager or executive.

- If the bank or credit union has reported account abuse, suspected fraud or fraud to ChexSystems or TeleCheck, *see Appendix B, sample letter #4*.
- If the bank or credit union has reported NSF to ChexSystems or TeleCheck, *see Appendix B, sample letter #5*.

RESOURCES

WEBSITES

Carreon and Associates (carreonandassociates.com)

ChexSystems Victims (chexsystems victims.com)

National Consumer Law Center: Credit Reports (nclc.org/issues/credit-reports.html)

ARTICLES

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II. CREDIT CARD DEBT: THE PLASTIC SAFETY NET

Although American workers continue to lead the world in productivity, we haven't had a raise since the early 1970s. Over the last four decades, we've been working longer and longer, trying to keep up with the rising costs of living—housing, healthcare, education. Yet we haven't actually managed to keep up without plastic. In the early 1980s, U.S. household debt as a share of income was 60%. By the time of the 2008 financial crisis, that share had grown to exceed 100%. So, despite all our exertions over the last four decades, the 99% have only gone deeper into the red, in debt to the 1%. The reason is clear: we're in debt because we're not paid enough in the first place and there's barely any "welfare state" left to pick up the slack. This setup is called *financialization*.

Credit cardholders are one of the many categories of debtors being asked to pay for Wall Street's disaster. Although fewer Americans continue to hold credit cards than before the crisis, most still do—and some hold lots of them. One in seven Americans had ten or more, according to one recent survey. With nearly 700 million credit cards in circulation, it's fair to say that having a wallet full of plastic has now become one of the defining features of American life—our plastic safety net. Another defining feature is debt, almost \$1 trillion of it being credit card debt. The average American household with at least one credit card owes nearly \$16,000 in credit card debt.

This doesn't mean we should be grateful to the credit card industry for throwing us "lifelines." These lines of credit aren't designed to save us, but to reel us in. The standard practices of today's credit card industry come closer to pimping or drug dealing than old-fashioned prudential lending. Credit card companies make most of their money from people who are "disconnected"—socially, emotionally, residentially, etc.—and lack social support. In a financial

system characterized by lack of transparency, credit cards are the most complicated and perhaps the most hazardous product of all. Whereas auto loans, student loans, closed-end bank loans and most mortgages have one or two price terms (fixed or tied to an index), credit cards feature a multiplicity of complicated fees. Adam Levitin, a legal scholar and leading expert on bankruptcy, warns that in addition to these explicit price points there are many hidden fees in the form of credit card billings. Added up, these “gotcha” fees cost American families over \$12 billion a year.¹

Think about it. That’s \$12 billion *stolen* from struggling American families through trickery. And where does that money go? To banks, to the financial sector. Money that could have been used to improve the quality of people’s lives, to purchase goods and services in local, real economies is going instead to service debt, which means it’s going to Wall Street, to the 1%.

Although total national credit card debt is small in comparison with mortgage debt, effective APRs (annual percentage rates) are at least five times as high. The moment consumers get into trouble, the card companies pounce, imposing penalties, even retroactively. These practices are clearly unfair and abusive. And there’s considerable doubt that the regulations specified in the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act of 2009 will be able to stop them.

HISTORY IN REVERSE

The credit card industry used to make its money on interest rates, but that never amounted to much. When they were first introduced in the 1960s, universal credit cards such as Visa and MasterCard were offered as loyalty rewards only to banks’ best customers. This group was limited to upper-middle-class and upper-class white men, who typically paid off their monthly balances. The appeal of the cards was convenience and prestige, not a need for credit. Banks lost money on the product, but the idea was to build loyalty in order to do even bigger business down the road. The banks got something in return as well: the wealthiest, most powerful men served as walking advertisements for the cards every time they used one.

A series of legal changes (effectively eliminating usury laws by allowing all lenders to register in South Dakota, where no such laws existed) and the growth of computer networks that could trace credit ratings led to an explosion of credit card use in the 1980s. Interest-rate deregulation helped transform credit cards from banks’ loss leaders into profit engines. New programs made it possible to unearth the most lucrative “revolvers,” those who often carry high balances but are unlikely to default. Card companies figured out how to use so-called “risk-based pricing” to charge women and people of color more to use their cards.

In the 1970s, it was difficult for a woman to get a credit card without her husband's signature—even harder if she were single or divorced.² According to the National Council of La Raza, Latino/as are more likely to have higher interest credit cards.³ Card companies claim that interest rate charges are based on “risk.” But there is an abundance of evidence that risk ratings are largely determined by where you live. This is just a continuation of “redlining” (assigning risk on the basis of location). In the past, redlining was used to deny residents and businesses in predominantly Black neighborhoods access to credit, without using explicitly racial/ethnic criteria. Today, high risk ratings are no longer used to deny credit but to charge more for it, which sets up a self-fulfilling prophecy: being designated financially “risky” actually further exposes one to unfair and abusive financial practices.

As more people acquired credit cards throughout the 1980s and '90s, the “free” credit used by the wealthiest households was subsidized by the high rates and fees paid by the most financially distressed households. This is sometimes called “risk pooling,” although typically pooling involves those with more subsidizing those with less; here, it’s exactly the reverse. According to Robert D. Manning, founder of the Responsible Debt Relief Institute and author of *Credit Card Nation*, “A carefully guarded secret of the industry is that about a quarter of cardholders have accounted for almost two-thirds of interest and penalty-fee revenues. Nearly half of all credit card accounts do not generate finance and fee revenues.”⁴

Today there are more than five thousand credit card issuers, but a majority of these (and the debt they manage) are owned by—you guessed it—the big banks. The top three—Citigroup, Bank of America and JPMorgan Chase—control more than 60% of outstanding credit card debt.⁵ We’re talking about the same giant “too-big-to-fail” institutions that ruined the economy through their own irresponsible financial machinations. In the years before the financial crash, the industry grew exponentially, starting in the '90s when credit card companies first figured out that they made more money lending to people who carried monthly balances on their cards than to customers who promptly paid them off. From 1993 to 2007, the amount charged to U.S. credit cards went from \$475 billion to more than \$1.9 trillion. Late fees have risen an average of 160%, and over-limit fees have risen an average of 115% over a similar period (1990–2005).⁶ American households have been swimming in debt and losing a significant portion of their total income to penalties and fees. Adam Levitin calculates that a single repricing due to a billing trick can cost a family between an eighth and a quarter of its discretionary income.

After the crash, families scrambled to get out of debt. Some were helped by the useful, if limited, regulatory reforms prescribed by the CARD Act of 2009. Credit card debt is down by perhaps 15% overall and cardholders are on to the industry’s old tricks. The problem is, card companies are busy devising new tricks. The total amount of credit card debt remains staggeringly

high, and card issuers are still free to charge whatever rates of interest they like (only nonprofit credit unions are required by Congress to abide by an interest rate ceiling of 15%). In the nine months between the passage and implementation of the CARD Act, credit card issuers did their best to jack up interest rates, reduce lines of credit, increase fees and water down rewards programs. For millions of unemployed and underemployed Americans it may be too late. Their credit scores are already shot and their borrowing costs are through the roof. And now that credit scores are widely used as a screening tool for job applicants, these workers face even greater challenges in finding employment.

THE TRICKS OF THE TRADE

From risk rating to pricing to credit limit determination, industry policies are extremely opaque and seem designed to keep cardholders in the dark. Analysts at the website Credit Karma, however, were able to analyze a sample of over 200,000 credit cards. An examination of the relationship between credit scores, income and credit limits indicated that higher credit scores get you higher credit limits, regardless of income. Low credit scores, no matter your income, keep credit limits low.⁷ A history of compliance with minimum payments is more important to issuers than current ability to repay.

Credit card companies don't mind if you're late paying your bill or if you maintain a balance, as long as you go on paying your monthly minimum. Cardholders who never carry balances on their cards have long been known inside the industry as "deadbeats," money-losers. Since almost all of the industry's profits come from late fees and interest rate penalties, it depends on your slipping up. This is why monthly statements are intentionally designed to be confusing. If they change the design of your statement—say, by moving a box to the left, or making the print a little smaller—in such a way as to cause even one cardholder out of a thousand to misunderstand and miss a payment, that's millions of dollars in additional profit for them. In the past they would trip up consumers by intentionally making the due date fall on a Sunday or a holiday. This enabled them to extract even more from late fees, the whole time insisting it was all your fault.

The CARD Act outlawed several predatory practices that companies used to trick you into paying more. For instance, in the past, companies needed to give you only fifteen days notice before upping rates or making other changes to your contract, leaving little time to negotiate. Now companies are required to notify you forty-five days in advance.⁸ However, this notification will most likely be mailed to you, so make sure you read everything your credit card company sends you.

Since the 1990s, credit card pricing has been a "game of three-card monte," according to Adam Levitin. "Pricing has been shifted away from the upfront, attention grabbing price points, like annual fees and base interest

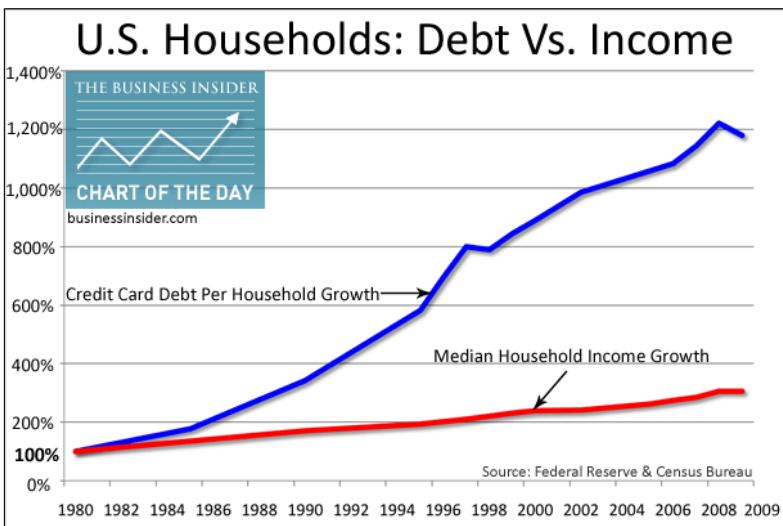
rates, and shifted to back-end fees that consumers are likely to ignore or underestimate.”⁹ If consumers are unable to gauge the true price of products, how can we be expected to use them efficiently and responsibly?

For a credit card company, the perfect customer is one who charges up a very large amount of debt impulsively, sits on it for a year or two so as to build up maximum high-rate interest charges, finally feels guilty and pays it all back without asking any questions. That’s why they used to besiege high school and college students with free card offers: credit card companies calculated that students were likely to spend impulsively, attempt to avoid the problem and eventually call their parents to foot the bill. The CARD Act restricts extensions of credit to those under twenty-one unless they have a cosigner or a proven means of income. Credit card companies are no longer allowed to hand out free gifts at or near colleges or college-sponsored events.¹⁰ Since credit card companies make so much of their profits from binge behavior, for them to lecture consumers on the moral duty to repay is a bit like drug dealers chiding their customers for becoming addicted to heroin. Goading you to sin while trying to make you feel guilty for giving in is the industry’s modus operandi.

Of course, the overwhelming bulk of credit card debt isn’t driven by impulse spending at all, but by the predicaments of people trying to make ends meet. That’s why the average carded household owes nearly \$16,000 on their card(s). For example, one survey found that 86% of people who lose their jobs report having to live, to at least some degree, off of their credit cards until they find new jobs. Similarly, nearly half of American households owed money on out-of-pocket medical expenses on their credit cards. According to a recent survey, medical bills are a leading contributor to credit card debt, affecting nearly half of low- to middle-income households; the average amount of medical debt on credit cards is \$1,678 per household.²⁰ The examples are endless, and they reveal textbook predatory behavior. Banks, card issuers and collectors exploit our precarity. They take our money any way they can, often using unethical, illegal and extra-legal means—mafia-style.

WHAT CAN YOU DO?

Obviously, no one wants to sit on a huge pile of “revolving” credit card debt accruing interest at usurious rates every month. Unfortunately credit cards are the double-edged sword of the credit score world. If you have cards with high balances, your score goes down. If you have *no* credit card, your score goes down. Having a low credit score can keep you from receiving things like a mortgage loan. Do you see the Catch-22? If you don’t buy on credit, then banks will see you as “risky,” and will not loan to you. On the other hand, if you have a credit card but you spend too much, then you will be denied a loan. If you can’t avoid having the cards, you can sidestep the traps they set for you by actually reading the fine print.



Websites such as Card Hub (cardhub.com) and Credit Karma (creditkarma.com) offer free tools to help you understand and navigate credit reports and credit scores, and to compare credit cards; Card Hub even provides customized disclosures for different cards.

Think about how important your credit score is to you, and how strongly you are committed to preserving it. Consider the risks. This involves looking into the future, which always makes things more complicated and multiplies the “unknowns.” Start by finding out where you currently stand. Get your free credit report (*see Chapter I*) and make sure it’s accurate.

So what can you do? There are a number of options, ranging from legal action to bankruptcy to simply refusing to pay.

GOING TO COURT

You may have seen those lawyers who appear on late night TV promising they can get you out of debt. Surprisingly—since the world is full of scam artists—some of them actually can. This is how the honest ones do it:

What most people don’t realize is that legally, there’s nothing special about owing money. A debt is just a promise and, contractually, no promise is more or less sacrosanct than any other. If you sign with a credit card company, both you and the company are agreeing to abide by a contract that is equally binding on both of you. The small print applies to both sides, so if American Express has failed to fulfill any of its contractual obligations, for instance its obligation to alert you promptly of a change of policy, that’s just as much a violation of contract as your failure to pay the agreed-on sum. Knowing how this industry works, any skilled lawyer with a copy of the contract and access to all relevant correspondence is likely to discover half a dozen ways the company has violated its

contractual obligations to you. In the eyes of the law, both parties are guilty; therefore, you need to renegotiate the terms of the relationship. This usually means the judge will knock off half or even three-quarters of the total sum owed.

The fact is, this process is riddled with fraud on a scale that is only now beginning to be revealed. “The same problems that plagued the foreclosure process—and prompted a multibillion-dollar settlement with big banks—are now emerging in the debt collection practices of credit card companies,” the *New York Times* recently reported. “As they work through a glut of bad loans, companies like American Express, Citigroup and Discover Financial are going to court to recoup their money. But many of the lawsuits rely on erroneous robo-signed documents, incomplete records and generic testimony from witnesses, according to judges who oversee the cases.” Lenders are “churning out lawsuits without regard for accuracy, and improperly collecting debts from consumers.” One judge told the paper that he suspected a full 90% of lawsuits brought by credit card companies were “flawed and can’t prove the person owes the debt.”¹¹

In some cases banks have sold credit card receivables known to be inaccurate or already paid. In a series of 2009 and 2010 transactions, Bank of America sold credit card receivables to an outfit called CACH, LLC, based in Denver, Colorado. Each month CACH bought debts with a face value of as much as \$65 million for 1.8 cents on the dollar.¹² The cut-rate pricing suggests the accounts’ questionable quality, but what is remarkable is that the bank would even try to sell them and that it could make money from them. Over the last two years, Bank of America has charged off \$20 billion in delinquent card debt. An undisclosed portion of the delinquent debt gets passed along to collectors. Once sold, rights to such accounts are often resold within the industry multiple times over several years. Other banks have also admitted that their debt sale contracts may be riddled with inaccuracies.

The lesson is, always keep copies of everything. Always keep the option of legal action open and make sure the credit card companies know that you’re doing so.

WHAT HAPPENS IF YOU JUST DON’T PAY?

After ninety days, your account goes into default and the credit card company has the option of sending it off to a debt collection agency. They don’t really like this option, because they will be taking a huge loss. That’s how debt collection agencies make their money. They buy up the debt at pennies on the dollar, often through brokers, and then try to collect the whole thing, plus fees for the cost of collection. The original lender takes a loss. No doubt they can get some of it back through tax accounting and no doubt they figure a certain percentage of that loss into their business model, but ultimately, they would rather this didn’t happen.

Obviously this is a bad thing for you as well: it means you will be hounded by a collection agency and your credit score will take a major hit. If you

want to borrow in the future, it might not be possible. If you *are* able to borrow, you will be charged much higher interest rates. If that isn't a concern, then go ahead, default: it's free money! But for most of us, it is a problem, so we must turn to other expedients.

NEGOTIATING WITH YOUR CREDIT CARD COMPANY

Since credit card companies don't want you to default, you can usually negotiate. They will often offer a substantial reduction on what you owe them if they think your defaulting is the only other option. Remember: even if you offer them ten cents on the dollar, that's more than they would be getting if they sold it to a collection agency. On the other hand, they don't want to set a precedent—they know that if everyone just held out and negotiated a 90% reduction their business would be ruined. So they are being pulled in two different directions. This is important to bear in mind when you negotiate. If you're seriously thinking about negotiating, see carreonandassociates.com for the exact sequence of procedures for how to do it.

DEFAULT VERSUS BANKRUPTCY

If you declare bankruptcy, your credit card debts may be wiped out or lessened; however, it is a complex process which can very well backfire. If you are thinking of declaring bankruptcy, please refer to Chapter X of this manual. In addition, bankruptcy will affect your credit rating for the next seven to ten years. The statute of limitations on defaults—the amount of time creditors or collectors have after you default to try to get it back legally—differs from state to state, from as little as three years to as many as ten. But after it's over, you're entirely off the hook and it's easy to wipe the default off your record. Which option to choose will vary with circumstances. Try to get all information about the different possibilities in your state of residence before you decide.

WHAT ABOUT THOSE PEOPLE WHO USE ONE CREDIT CARD TO PAY INTEREST ON ANOTHER?

There definitely are people who have figured out the ropes—the way that your credit score interacts with multiple credit card accounts, and so forth—so well that they can live off their credit cards for years before defaulting. It can be done. The major proviso we would offer is: this is basically a scam, and scams like this tend to be extremely time-consuming. Making your living this way is not all that much easier than making a living in a more conventional way and it has the disadvantage of ensuring you have to think about credit cards all the time. If you don't mind that, and have figured out all the possible legal ramifications and accept them, then go ahead. But going "off the financial grid" is probably easier.

RESOURCES

WEBSITES

- Card Hub (cardhub.com)
- Carreon and Associates (carreonandassociates.com)
- Credit Karma (creditkarma.com)
- Credit Slips (creditslips.org)

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III. MEDICAL DEBT: AMERICA'S SICK CREATION

WHAT IS MEDICAL DEBT?

If you're having trouble paying medical bills, you are certainly not alone. About 62% of all personal bankruptcies in the United States are linked to medical bills or illness, and three-quarters of those bankrupted had health insurance when they got sick.¹ That's about one medical bankruptcy every ninety seconds.

Medical debt is debt that individuals accrue when they are charged, but don't or can't yet pay for, out-of-pocket health-care-related expenses charged by the hospital, clinic or doctor (provider). As soon as you pull out the plastic and put it on your credit card—something strongly advised against when trying to manage medical bills—it becomes personal or consumer debt.

There are many ways you can incur medical debt. According to the *American Journal of Medicine*, “Among medical debtors, hospital bills were the largest medical expense for 48%, drug costs for 19%, doctors’ bills for 15%, and insurance premiums for 4%.”²

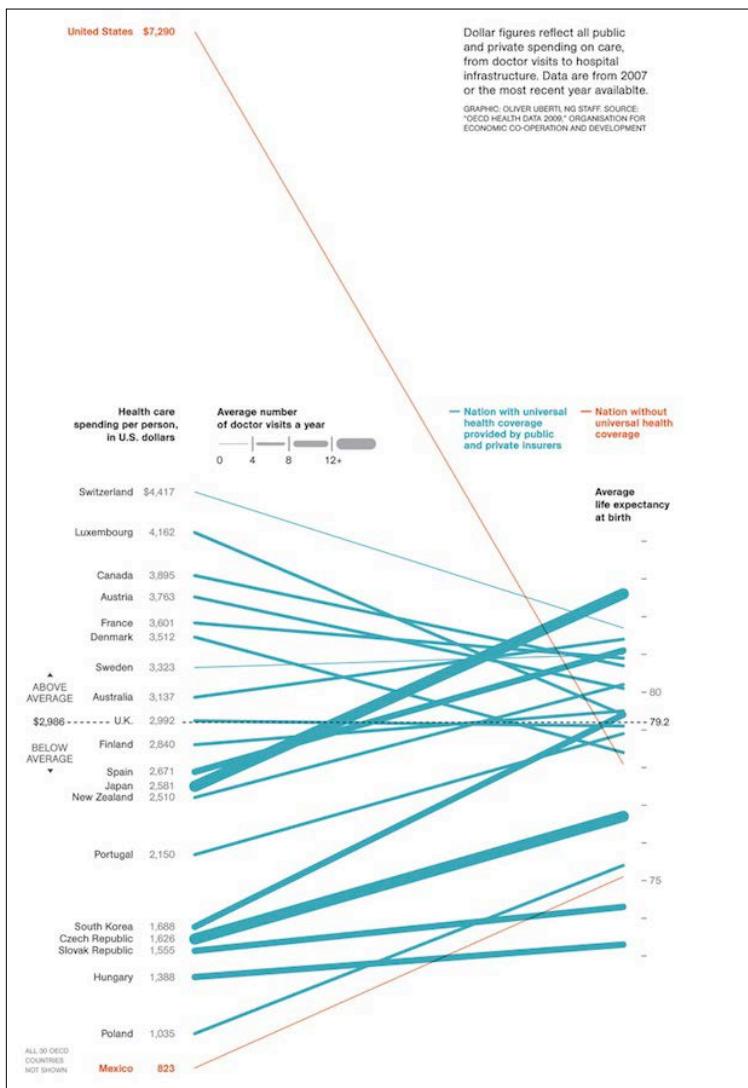
Dr. David Himmelstein, M.D., founder of Physicians for a National Health Program, states “private health insurance is akin to an umbrella that melts in the rain. It simply isn’t there for you when you most need it.”³

U.S. PAYS MORE FOR HEALTH CARE, BUT GETS LESS

People in other industrialized countries have no concept of medical debt. That’s because they have a system of universal healthcare that spreads risk across the population. U.S. health care does exactly the opposite; the financial burden is placed on the most vulnerable individuals, while the cost of care increases and coverage becomes skimpier.

Health insurance is supposed to guarantee that you get the care you need without going bankrupt, but in the U.S. health system, it may very well do neither.

The World Health Organization places the United States health care system first in spending (per capita) and 37th in quality of care.⁴ Spending was estimated at over \$8,500 per person (or 17.9% of the GDP) last year.⁵ At the same time, the United States ranked last among “high-income” countries on amenable mortality—that is, deaths that could have been prevented with access to effective health care.⁶



Why does health care cost so much?

One of the largest driving forces of health care cost lies with the high overhead expenses of health insurance companies, such as advertising, underwriting costs and lavish payouts to executives and shareholders. These expenses absorb at least 12% of premiums—amounting to billions of dollars a year that could otherwise be spent on health care. Medicare's overhead, meanwhile, is at 1.42%.⁷

Even with the passage of the new health reform law, the Affordable Care Act, there will be an expansion in the role of private health insurance and for-profit care with an increasingly rapid transfer of public money to private hands leaving patients in the dust.

HOW TO BETTER UNDERSTAND MEDICAL BILLS⁸

HOSPITAL BILLS

"A few months ago, I was in the hospital for a week. I'm still getting bills. There are so many bills, and they are from different departments in the same hospital! How can I tell them apart?"

When you receive a medical bill:

- Keep every bill.
- Separate doctors' bills from the hospital's bills. Not every service provided during your hospital stay will be included in the hospital's bill.
- The origin of the bill is a significant factor in determining whether you're entitled to a discount.
- Different account numbers on the bills may help indicate the different providers.
- Ask the hospital's billing office for an itemized bill. This bill will separately list all hospital charges. You have a right to know what you're being charged for.
- If you have trouble understanding which services you're being charged for and by whom, call the telephone number listed on the bill to help clarify.
- If you're insured, review your insurance policy to better understand the expenses for which you are responsible versus those covered by the plan.
- In addition to making sure you receive coverage that you're eligible for, avoid putting medical bills on your credit card.⁹ Doing so converts your medical expenses to consumer debt, which puts you in an even

worse place. Having credit card debt instead of medical debt likely means greater fees and penalties, and greater difficulty securing a job or mortgage.

You can challenge your hospital bills for many reasons:

- If you believe the bill was not calculated correctly.
- If you believe you're being charged twice for a single service.
- If you believe your insurance—either public or private—should have covered some or all of the charges for which you are being billed.

PRIVATE INSURANCE BILLS

Be careful about referrals! Sometimes patients admitted to an in-network hospital by their in-network provider incur huge bills as a result of out-of-network referrals during their hospital stay. This is because commercial insurance plans do not require their in-network doctors to refer patients to other in-network doctors.

If you have a plan with limited out-of-network coverage, or with none at all, tell your doctor not to refer you to out-of-network doctors. Ask each specialist who treats you in the hospital whether they accept your health plan. Anesthesia bills can be very costly; request an in-network anesthesiologist who accepts your plan and ask to have this request written in your chart.

DOCTORS' BILLS

Call your doctor right away if you think your bill is wrong.

- Find out what the bill is for. You may be responsible for co-pays or deductibles, depending on your plan.
- Make sure that the doctor has *all* of your insurance information. If you have coverage from multiple sources—private insurance, Medicare and/or Medicaid—make sure that the doctor knows about all insurance plans and has sent claims to all. Some insurance sources require payment to be made in a certain order, so if the doctor fails to submit a claim to all sources, your claim may be denied. For example, Medicaid pays last; as a result, Medicaid will deny payment if the claim was not first submitted to your other insurers such as Medicare or commercial plans for payment.
- If you receive care from an out-of-network doctor, you may have to pay up front and submit the claim yourself. Clarify this with your doctor. For help submitting a claim, call the insurer.
- Most insurance plans have time limits for submitting claims. Make sure not to miss these deadlines.

Persuading doctors to reduce their bills

- Tell your doctors if you're having a hard time paying a bill. You can ask for a discount and offer to send recent financial information such as proof of income, recent bank statements and proof of major expenses.
- If you received financial aid for your hospital bill, ask the private doctor if they would be willing to reduce the bill on that basis.
- Ask your doctor for an installment plan instead of sending the bill to a collection agency. If the doctor agrees to an installment plan, ask for it in writing. However, if you can no longer afford the payment plan the account may be sent to a collection agency.

CHALLENGING MEDICAL BILLS IN COLLECTIONS

The best way to challenge a medical bill in collections is to simultaneously ensure that your privacy rights under HIPAA (Health Insurance Portability and Accountability Act of 1996) have not been violated. You can ask for the debt to be validated with a fee breakdown. This is almost impossible to provide without a violation to your rights under HIPAA. *See Appendix C for a sample letter for this purpose.*

WHAT DO YOU DO IF YOU NEED CARE NOW?

GOING TO THE EMERGENCY ROOM

If you have to go to the hospital, you cannot be turned away from the emergency room. All you can do is get the care you need and figure out how to pay for it later. If you receive a bill that you cannot afford, go as soon as you can to the hospital's financial aid or billing center. Some hospitals can lower your payments based on your level of income. Be persistent.

Stories of lying about identity to avoid emergency room bills have been reported to us confidentially. You could consider changing your identifying information so they cannot track you down to bill you, but use *extreme* caution to avoid getting caught.

FREE CARE

In the New York City area, the Coalition of Concerned Medical Professionals works to connect people who have been denied care with medical professionals who will donate their services. They can be reached only by phone at (718) 469-5817.

In a future version of this manual, we intend to devote considerable space to discuss meeting basic needs at little to no cost, including but not limited to health care.

HOW TO CHOOSE A HOSPITAL

There are different types of hospitals with different types of programs in all fifty states. Many states offer “urgent care” or “free clinics,” which provide very basic services, but you may still need insurance to access even these services. Private and public hospitals also have different programs. Public hospitals receive more state and federal funding and should be able to help you find ways to lower your medical bills. If you know this information in advance, you can request which hospital to be taken to if you end up in an ambulance. The National Association of Free and Charitable Clinics (nafc-clinics.org) allows you to find free clinics near you.

DENIED TREATMENT?

Protest to get the care you need. Corporations want to avoid bad press. If you are denied health care, you can organize public demonstrations to demand that you’re given the care you need. Once public controversy is created, corporations may reverse their decision to withhold care.

END MEDICAL DEBT BY FIGHTING FOR UNIVERSAL HEALTH CARE

The only real solution is to change the system from its current for-profit model to a nonprofit model, which has proved sustainable elsewhere in the world. Of the thirty-three countries with a UN Human Development Index of 0.9 or higher, the United States is the only one without universal healthcare. Half of the remaining thirty-two nations have single-payer healthcare—that is, the state provides insurance and pays for all expenses except co-pays and coinsurance.¹⁰ This could happen in the United States by lowering the age of eligibility for Medicare from sixty-five to fifty-five and up, then to forty-five and up and so on, lowering the age every couple of years until everyone has access to comprehensive coverage.

Some states are experimenting with moving to single-payer systems. Vermont is working on implementing a publicly funded universal health care system. This could prove to be a model for the nation in reversing the trend towards greed and profit that dominates our health care.

Join the fight for single-payer universal health care and help build the movement to end medical debt!

- Activists and advocates can contact Healthcare-NOW! at healthcare-now.org.
- Health professionals can contact Physicians for a National Health Program at pnhp.org.
- If you’re in a union, contact National Nurses United at nationalnurse-united.org.
- Organize with Occupy Wall Street. Contact Healthcare for the 99% or Doctors for the 99% at owshealthcare.wordpress.com.

RESOURCES

WEBSITES

- Healthcare-NOW! (healthcare-now.org)
- National Nurses United (nationalnursesunited.org)
- Healthcare for the 99% (owshealthcare.wordpress.com)
- National Association of Free and Charitable Clinics (nafcclinics.org)
- Physicians for a National Health Program (pnhp.org)

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IV. STUDENT DEBT: FORECLOSING ON THE FUTURE

These days, everyone is telling you that a college degree is the only way to get a decent job. Fear of an uncertain financial future drives many of us toward higher education, especially into exploitative for-profit colleges. Lenders are making profits off of that fear, and so education has become one of the biggest debt traps in our society. Not only have college costs continued to skyrocket, but increasingly you are told that a bachelor's degree is just not good enough; now you need a master's degree too, and these are often the most expensive of all with few grants available to those who are scrambling to enroll.

Two-thirds of students leave college with an average of \$27,000 in debt. With too few jobs on the horizon, it's no surprise that default levels are rising like floodwaters; 41% of the class of 2008 is already delinquent or in default.¹ This gives rise to a different kind of fear—that our futures have been foreclosed—leading many into depression and even suicide.

In 2012, total student debt in the United States surpassed the \$1 trillion mark. This is higher than credit card debt or any other kind of consumer debt with the exception of mortgage debt. Some analysts think there is a student debt bubble about to burst. This might not be a bad thing for debtors. After all, they can't repossess your degree or your brain. Or at least not yet. But while hedge funds might bet on the outcome, you probably shouldn't.

This section explains how student debt was created, who profits from it and how you can survive as a debtor. Above all, you should know that you are not alone if you are facing default. There are ways of resisting, especially by acting together. In the long term, we need to put the United States back on the sizable list of countries (many of them less affluent) that manage to fund free higher education.

HOW IT GOT SO BAD

Going to public college used to be pretty affordable, especially for those on the GI Bill, or those who went to public colleges like CUNY or the University of California. Starting in the early 1980s, state funding began to erode—public college costs have risen by 500% since 1985.² Neoliberal policy-making has transferred the financial burden onto individual students. This means your future salary will be used to pay back the debts you got stuck with to prepare yourself for employability in the first place. Having to pay for education through debt is a form of indenture. And unlike traditional forms of indenture, it can take a lifetime to regain your freedom.

Wall Street has made a killing on this system, especially the queen of student lending, Sallie Mae. How did this happen? Bear with us—it gets complicated. Created in 1972 as a government agency, Sallie Mae has since been fully privatized. Sallie Mae has a hand in both types of student loans: federal and private. They also profit by originating, servicing and collecting student loans.³

Between 1972 and 2010, loans were considered federal when originated by financial institutions (including Wall Street banks), but guaranteed and subsidized by the government. In 2010, the Obama administration cut out the middlemen so that any federal loan taken out is now originated directly by the federal government.

But don't be fooled, these “federal” loans are still serviced by a group of select private institutions, including Sallie Mae. In addition, federal loans have unjustifiably high rates of interest (6.8%). Is the government profiting? Yes, and the proceeds are used to pay the bill for wars and Wall Street bailouts.

Furthermore, federal loans rarely meet the full cost of education, leaving most students with no choice but to take out private loans to make up the difference. Even though only 20% of all current student loans are private, in ten to fifteen years they will have surpassed federal loans. These private student loans are subject to different terms and have much higher interest rates.

Chances are your university financial aid officials are in cahoots with private lenders. A 2006 investigation by the New York State Attorney General's Office concluded that the business relationship between lenders and university officials amounted to an “unholy alliance.” Lenders paid kickbacks to universities based on the loan volume that financial aid offices steered their way; lenders also gave all-expenses-paid Caribbean vacations to financial aid administrators, and even put them on their payroll. In addition, lenders set up funds and credit lines for schools in exchange for being placed on preferred-lender lists.⁴

In spite of these scandals, and despite the NYS Attorney General's recommendation that bankruptcy protections be restored to student lenders, nothing happened. The student loan racket was just too profitable to be reined in by a few regulators. In 1998, federally-backed loans were declared ineligible for bankruptcy, and after prolonged pressure from Wall Street, private loans became ineligible in 2005. As if that's not enough, the government also granted enormous collection powers to lenders. They can garnish your

wages and seize tax returns without even requesting a legal hearing first. Even Social Security and disability wages are subject to garnishment.⁵

This lack of protection has made default wildly profitable for lenders. On average, 120% of a defaulted loan is ultimately collected. In fact, in 2003 Sallie Mae disclosed that its record-breaking profits were due in significant part to collections on defaulted loans. In 2001, Sallie Mae was caught defaulting loans without even trying to collect the debt. This rapacious conduct is the norm in some corners of the industry.⁶

As in the subprime mortgage market, many private loans are securitized—packaged and sold to the highest bidder as Student Loan Asset-Backed Securities (SLABS). These SLABS account for almost a quarter—\$234.2 billion—of the aggregate \$1 trillion debt. Since SLABS are often bundled with other kinds of loans and traded on secondary debt markets, investors are not only speculating on the risk status of student loans, but also profiting from resale of the loans through collateralized derivatives.⁷

THE SOCIAL IMPACT

The human toll of all this is becoming increasingly visible. For a host of disturbing accounts of student debt, it's well worth reading Alan Collinge's book *Student Loan Scam: The Most Oppressive Debt in U.S. History—and How We Can Fight Back*. And it's certainly not hard to find student debt horror stories on the internet.

A military veteran reports that he has paid \$18,000 on a \$2,500 loan and Sallie Mae claims the man still owes \$5,000. The bankrupt husband of a social worker, bedridden after a botched surgery, tells of a \$13,000 college loan balance from the 1980s that ballooned to \$70,000. A grandmother subsisting on Social Security has had her payments garnished to pay off a \$20,000 loan balance resulting from a \$3,500 loan she took out ten years ago, before she underwent brain surgery. These loans increase so rapidly due to compounding interest in combination with deferment and forbearance programs. In fact, only 37% of student loans are in repayment at any given time. The other 63% are accruing interest, adding fees and becoming more and more likely to add to the 5 million student loans already in default.⁸

During the Great Recession, African Americans lost almost all of the economic gains they made after the civil rights movement. As a result, African American students have borrowed more for education than whites, and they are twice as likely to be unemployed on graduation. Worse still, students of color are much more likely to enroll in for-profit schools, which have high non-completion rates and account for nearly half of student loan defaults. It's no surprise that the default rate for African Americans is four times that of whites.⁹

AVOIDING DEFAULT

Your loan becomes *delinquent* the first day after you miss a payment. The delinquency will continue until all back payments are made. Loan servicers report all delinquencies of at least ninety days to the three major credit bureaus. As we've seen in Chapter I, a negative credit rating may make it difficult for you to meet your basic necessities.

Student loans are generally considered in *default* when you fail to make a payment for 270 days for a federal loan or 120 days for a private loan. If you want to avoid default, try to make at least one payment every 120 or 270 days.

If you haven't defaulted but are alarmed about not being able to pay your student loans, do not panic. If you just graduated, many loans provide an automatic six-month deferment period. And if you have federal loans, you can extend this period on an annual basis either through deferment or forbearance programs. Deferment on certain loans halts interest during periods of unemployment, economic hardship, temporary disability and while the debtor is in school. Although forbearance does not stop interest from accruing, it does allow for some breathing room. But keep in mind that this will cause your loan amount to increase. Typically, the interest is compounding annually, which means that at the end of a year, it will be added to the principal and you will have to pay interest on that too. This can cause loans to mushroom, so check to see if you qualify for deferment before entering into forbearance.

It may also be helpful to consolidate all of your loans into one. You can only consolidate federal loans with other federal loans and private loans with other private loans. Often there are incentives for consolidation, such as interest rate reductions for on-time payment or direct debit. It is sometimes possible to ask the originator of the loan to recall it, taking it out of the hands of a guarantee agency and then make arrangements with the original lender.

There are a couple of newer programs that may also be helpful: the Income-Based Repayment Plan (IBR) and Public Service Loan Forgiveness (PSLF). Income-based repayment allows you to adjust payment to meet your income by capping payment at 15% of income based on family size. A single individual with no children making under \$20,000 would pay 2.4% of income toward student debt whereas a family of four making under \$100,000 would pay 9.9% of their income toward student debt. After twenty-five years, any remaining student loan debt would be forgiven. Public Service Loan Forgiveness provides forgiveness of federal student loan debt after ten years of continuous employment by any nonprofit, tax-exempt 501(c)(3) organization, a federal, state, local or tribal government agency including the military, public schools and colleges or while serving in AmeriCorps or the Peace Corps. You may also be eligible if your employer is not a religious, union or partisan political organization and provides public services.¹⁰

BEING IN DEFAULT

If you are about to default on a student loan, remember that you are not alone. There are approximately 4 to 5 million other Americans that have already done so. While default can be a political act (especially when done *en masse*), these are the consequences you may be subject to:

- Your loans may be turned over to a collection agency.
- You will be liable for the costs associated with collecting your loan, including court costs and attorney fees.
- You can be sued for the entire amount of your loan.
- Your wages may be garnished. (Federal law limits the amount that may be garnished to 15% of the borrower's take-home or "disposable" pay. This is the amount of income left after deducting any amounts required by law to be deducted. The wage garnishment amount is also subject to a ceiling that requires the borrower to be left with weekly earnings after the garnishment of at least thirty times the Federal minimum wage, per 34 CFR 682.410(b)(9), 34 CFR 34.19(b) and 15 USC 1673(a)(2).)
- Your federal and state income tax refunds may be intercepted.
- The federal government may withhold part of your Social Security benefit payments. The U.S. Supreme Court upheld the government's ability to collect defaulted student loans in this manner without a statute of limitations in *Lockhart v US* (04-881, December 2005).
- Your defaulted loans will appear on your credit history for up to seven years after the default claim is paid, making it difficult for you to obtain an auto loan, mortgage or even credit cards. A bad credit record can also harm your ability to find a job. The U.S. Department of Education reports defaulted loans to TransUnion, Equifax and Experian (*see Chapter I*).
- You won't receive any more federal financial aid until you repay the loan in full or make arrangements to repay what you already owe and make at least six consecutive, on-time monthly payments. You will also be ineligible for assistance under most federal benefit programs.
- You will be ineligible for deferments.
- Subsidized interest benefits will be denied.
- You may not be able to renew a professional license you hold.¹¹

These measures are harsh, but you can continue to fight as an individual. Unfortunately, bankruptcy is not an option for student debtors, except occasionally in cases of permanent disability or "undue hardship." Although it is difficult to get credit reporting agencies (CRA) to remove defaulted stu-

dent debt from reports, it is not impossible. You can use the strategies and resources outlined in Chapter IX to demand that CRAs and debt collectors prove that the amount of your debt is fully verifiable. This will require a concerted letter-writing campaign, but you may be pleasantly surprised by the results. Often, record keeping is poor and there are no accessible records tying you to a debt. Although a court judgment is not required before your paycheck, bank account or tax return is garnished, you are entitled to an administrative hearing if you request one.

If you want to get out of default, you can often rehabilitate your loan by entering into an agreement to make twelve consecutive on-time payments to the original lender or guarantee agency in exchange for the removal of the prior delinquency history from your credit report. Be sure to get this agreement in writing and to be clear about how this will be entered on your credit report.

KNOW YOUR LOANS

As the amount of middlemen standing between you and your loan continues to increase, it can be hard to know who guarantees, originates, services and collects your loans. To find this information about your federal loans, visit the national student loan database at nslds.ed.gov/nslds_SA. It's a little more complicated when dealing with private loans. FinAid is a great first resource for understanding the different institutions involved: finaid.org/loans/studentloans.shtml. It's important to fully understand your own situation, since the laws can differ. For example, state guarantee agencies are exempt from the Fair Debt Collections Practices Act, but any private collection agency hunting you down must comply with this law. So be aware of their illegal practices and know your rights. This FinAid page about defaulting on student loans is a good place to start: finaid.org/loans/default.shtml. Abusive debt collection behavior is also highlighted in Chapter IX. We recommend you read it carefully.

COLLECTIVE ACTION TOWARDS CHANGE

If we fight this system alone, the best we can hope for is to keep our heads above water. The good news is that those suffering with student debt have begun to organize. Collective action is the only true solution. At this point, there are several campaigns under way.

Student Loan Justice (founded in 2005) and Forgive Student Debt to Stimulate the Economy (founded in 2009) aim at persuading lawmakers to reform the system. Both organizations have pushed for policies restoring bankruptcy protection and partial debt forgiveness. Unfortunately, these reasonable proposals have produced little in the way of legislative change. Four attempts at restoring bankruptcy protection have ultimately failed. And in spite of over one million names on a petition urging Congress to pass a ten-

year partial forgiveness program, lawmakers, heavily beholden to the finance industry, have not budged. Unfortunately, these measures will not de-commodify education nor claim it as a public good.

The Occupy Student Debt Campaign (OSDC) emerged in 2011 in tandem with Occupy Wall Street as part of a global uprising against neoliberalism. To fight the debt-financing of education, OSDC proposes diverse collective strategies of direct action, including a campaign of collective debt refusal. For more details, refer to the OSDC website (below).

OSDC believes that our public education system must be free, that any future student loans must be offered at zero interest, that all university institutions must be transparent and accountable, and that all current student debt must be cancelled. These principles, or principles like them, should be the foundation of any student debt movement.

All of these movements can be found online if you want to find out how to join a larger collective to help effect change.

RESOURCES

WEBSITES

FinAid (finaid.org)

Forgive Student Loan Debt to Stimulate the Economy (forgivestudentloandebt.com)

Income-Based Repayment Info (ibrinfo.org)

Occupy Student Debt Campaign (occupystudentdebtcampaign.org)

Student Loan Justice (studentloanjustice.org)

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V. HOUSING DEBT: WHY THE AMERICAN DREAM IS A DANGEROUSLY MEAN PRANK

If you're living in an "underwater" home (the value of your home is lower than your mortgage), you're probably thinking, "how did I get myself into this mess?" You're probably feeling like there was something you could have or should have known. But what we were told about the security of real estate was in fact never true. In reality, the rapid growth of the housing market was an artificial creation based on a secretive relationship between banks and the government.

This chapter will explain the long history that produced what we refer to as the "subprime bubble," and how the system actually operates. When the first wave of the financial crisis hit in 2006, there was no way any of us could have imagined how bad things would really get. But the crisis has exposed the dynamics of the system and produced a potential political force 40 million strong with nothing more to lose.

A LITTLE BIT OF HISTORY

You can't escape the need for shelter. But in America, this basic need is entangled with our fervent belief in the American Dream. When you hear the story, it sounds like the American Dream existed from the beginning of time, but it was really created in 1934 when the government decided to partner with the banks to create a housing market. Since then, we've been believers in a fantasy that has driven the 99% to take on more and more debt just to have a home to live in.

Before the 1930s, the vast majority of Americans did not own their homes nor have any hope of doing so. If you wanted to join the 40% of Americans who owned their homes, you would either have had to pay cash, or to have known someone who would lend you the money. The lender could be a bank, but only if you had a good relationship with your local banker. And even then, they would

only allow you to borrow 50% of the property value—and you had to pay it off in three to five years.

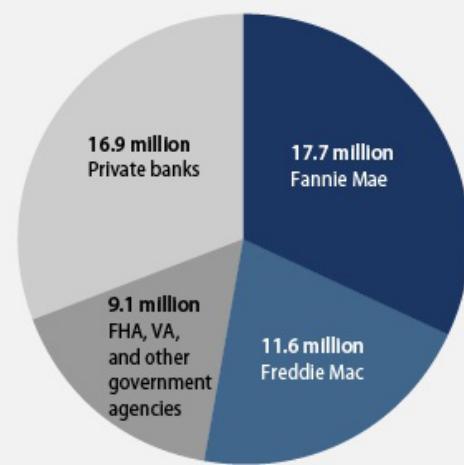
By 1934, with household income on the rise, the need for public housing allegedly decreased. The federal government came to believe that increased homeownership was the key to unlocking credit and creating new jobs. The Housing Act of 1934 established the Federal Housing Administration (FHA) for the purpose of providing mortgage insurance for residential properties. The FHA also created the Federal National Mortgage Association (a.k.a. Fannie Mae) to provide a secondary market where banks could sell mortgages. In other words, the banks partnered with the government so that they could profit immediately rather than waiting for the mortgage to be paid in full.

This combination of insuring and buying mortgages quickly led to mortgages being offered for up to 90% of home value. Payment terms were extended to fifteen years at first, then to thirty. Of course, the creation of the modern mortgage expanded the market enormously—by the 1970s, homeownership had grown to 65%.

This partnership between the banks and government agencies continues today with the vast majority of mortgages on the books of FHA, Fannie Mae, and Freddie Mac—in other words on the backs of the taxpayers. In 2011, the federal government guaranteed more than 95% of mortgages.¹

FIGURE 6
Fannie Mae and Freddie Mac back more than half the mortgage market today

Total mortgage loans outstanding by source of credit (in millions, as of May 2012)



Source: Fannie Mae

THE OWNERSHIP SOCIETY

The reality of growing ownership was a shifting burden of risk from business and publicly subsidized housing to you, the individual “owner.” In addition to creating a “society of homeowners,” the expanding mortgage market created a society of debtors. Instead of building affordable housing, checked by the ability to pay for a home in a relatively short period of time, prices grew to accommodate the longer payment terms.

Although you probably associate the “Ownership Society” with George W. Bush, the concept actually came out of Clinton-era policy. The stated goal of Clinton’s “National Homeownership Strategy: Partners in the American Dream” program was to extend homeownership to 8 million low-income buyers. This policy opened the door for the sub-prime lending industry to develop new products, specifically targeted at low-income people of color. While the burden of public housing was lifted off of the government’s shoulders, mortgage debt was coming down like a ton of bricks on unsuspecting families of color. A steady increase in foreclosures followed.

Although the FHA will allow you to put down only 3.5% of home value, they’ll charge you higher interest rates and require the purchase of additional mortgage insurance. The banks designed complicated products including adjustable rate mortgages, interest-only payments, negative amortization and hybrids of all three. And the government never told you that if its agencies weren’t operating as a secondary mortgage market (allowing banks to sell their risk immediately) this would never have been possible. They left you with all the risks and banks with all the gain.

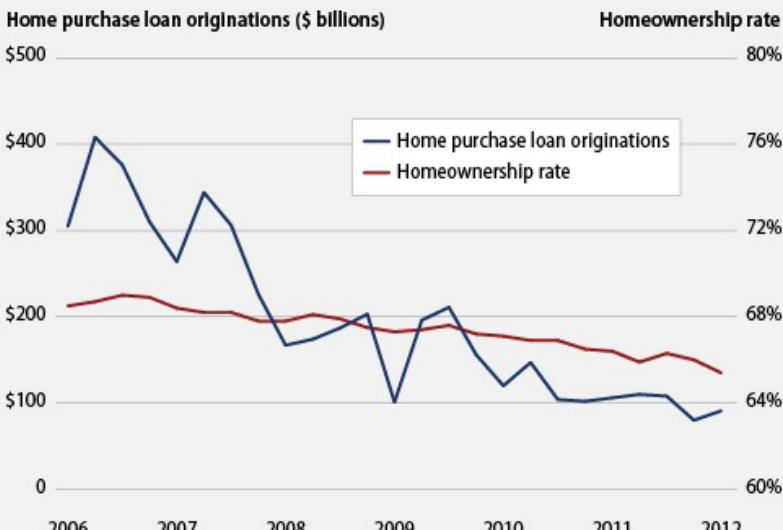
Oddly enough, actual levels of ownership only expanded by a couple of percentage points. Although wages have stagnated or declined, and the percentage of full-time workers has decreased, more and more of us have been getting mortgages. In some states, 65% of mortgages were originated after 2000. However, the vast majority of mortgages went to those refinancing or trading up. Very few new homeowners were actually created.

If you were under the impression that the housing market could grow perpetually, you were not alone. We were told time and time again that, in the housing market, what went up would never come down. Too bad they forgot to mention that the banks wouldn’t lose if you couldn’t pay. And, oops, they also forgot to mention that you would be paying as a taxpayer, even though you also lost everything as a homeowner, since the vast majority of mortgages are insured by government agencies. It’s hard to believe that either the bankers or the government officials believed the market could grow forever. To the contrary, the reason they developed the laws and financial schemes they did is because they knew it could not continue to grow forever.

FIGURE 5

**As mortgage lending declined since the crisis began,
so too did homeownership**

Total home purchase loan originations and U.S. homeownership rates,
by quarter since 2006



Sources: MBA Quarterly Origination Estimates, U.S. Census Bureau

THE CURRENT NIGHTMARE

The realization that “ownership” does not instantly occur when you acquire a mortgage has been exposed by the foreclosure epidemic. The reality is that the bank owns the property and you’re really only purchasing an opportunity to become an owner, if all goes well for thirty years. How bad is it?

- Approximately 11% of all homes in the United States are empty.
- The rate of homeownership in the United States has dropped to 1998 levels.
- Between January 2007 and August 2010, mortgage lenders repossessed a total of 3 million homes.
- Eight million Americans are at least one month behind on their mortgage payments, and 5 million homeowners in the United States are at least two months behind.
- So far 5 million homes have been foreclosed. Last year in California, 1.2 million were foreclosed, and another million are expected to be foreclosed in California in 2012.

- Wall Street analysts predict as many as 7.4 to 9.3 million borrowers will face foreclosure.
- A quarter of African American and Latino/a borrowers have lost their homes or are currently at risk of foreclosure, compared to 12% of whites.
- Over 30% of all U.S. mortgages have negative equity.
- Between 2005 and 2009, the typical Latino/a borrower saw their home equity decline by 51%.
- Industrial cities are turning into ghost towns. For example, in Dayton, Ohio, 18.9% of all houses are now standing empty, and 21.5% of houses in New Orleans are vacant.
- U.S. home prices have already fallen further during this economic downturn (26%) than they did during the Great Depression (25.9%).²

FIGURE 1

We may only be halfway through the foreclosure crisis

Total number of foreclosures vs. loans at serious risk (in millions), as of March 2011

Millions of mortgages

8

7

6

5

4

3

2

1

0

Foreclosures completed or in process

Mortgages in foreclosure process
1.4 million

Completed foreclosures since Sept. 2008
3.5 million

Steadily current but underwater
2.4 million

Current but compromised payment history
1.5 million

60+ days delinquent
3.5 million

Mortgages at risk of foreclosure/liquidation

Sources: CoreLogic and Amherst Securities

WHAT CAUSED THE MELTDOWN?

The common “blame the victim” account of the subprime mortgage crisis ignores the fact that the mortgage industry developed complex financial instruments designed to tempt and confuse borrowers. The most infamous of these loans were adjustable rate mortgages (ARM) and stated income products.

ARMs are exactly what they sound like—you receive an initial interest rate that adjusts after several years. These loans frequently allow you to choose whether to pay the full monthly payment or just the interest. They are often combined with home equity lines of credit. These loans can cause the principal to increase if you make reduced payments. Even after the collapse, the predatory nature of the ARM is still being revealed—these rates are set against the LIBOR index, which we now know to have been manipulated by the major banks in a scam to line the pockets of the 1%.

Stated income loans (a.k.a. “liar” loans) allow you to simply state your income with no verification. These loans were most often used by growing masses of freelance and precarious workers, many of whom did not qualify for a traditional mortgage.

Certainly, ARMs and stated income loans have high rates of failure, but the causes for the financial collapse are much more complex and cannot be blamed on the purchasers of these complicated loans.

According to the Federal Reserve Bank of Cleveland, there are ten myths about the subprime market:

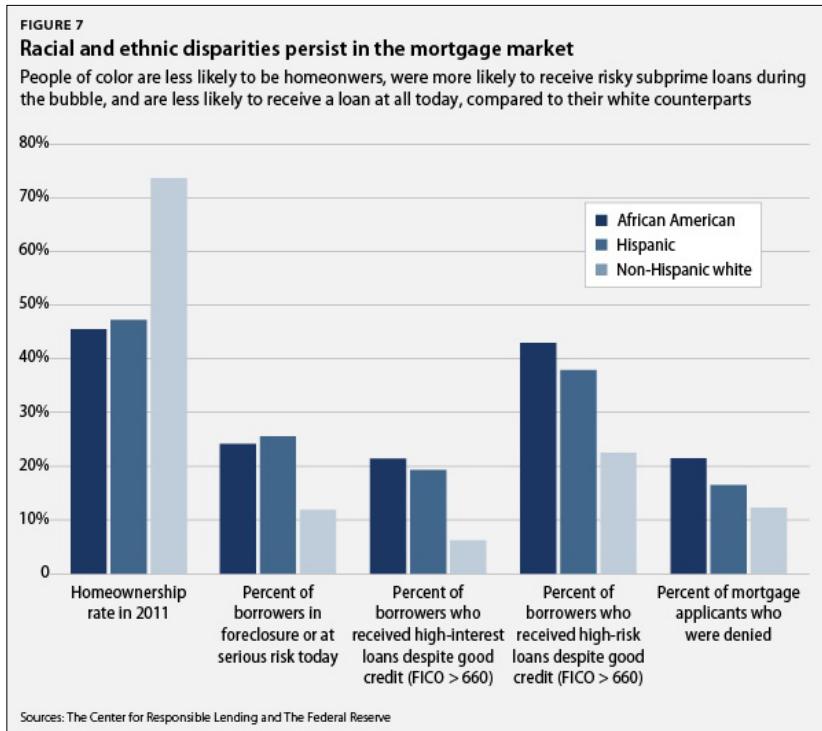
1. Subprime mortgages only went to borrowers with impaired credit.
2. Subprime mortgages promoted homeownership.
3. Declines in home values caused the crisis.
4. Declines in mortgage underwriting standards triggered the crisis.
5. Subprime mortgages failed because people used their homes as ATMs.
6. Subprime mortgages failed because of mortgage rate resets.
7. Subprime borrowers with hybrid mortgages were offered low teaser rates.
8. The subprime crisis was totally unexpected.
9. The subprime mortgage crisis was unique in its origins.
10. The subprime market was too small to cause big problems.³

In reality the crisis was caused by a combination of factors that were foreseeable from the early 2000s. Predatory financial products were sold to buyers, who believed that they were entering into long-term relationships with banks. But the banks were securitizing these mortgages, most often by selling them on the secondary market created by Fannie Mae and Freddie

Mac, cashing out and shifting the risk to the buyer as the taxpayer. Not surprisingly, the major banks have made enormous profits since the meltdown.

Economic hate crimes

The patterns of predatory mortgage lending grew out of America's long history of committing and facilitating economic hate crimes. Starting with the retracted promise of "forty acres and a mule," African Americans have been unable to break into the white housing market. From steering to redlining to reverse redlining, the African American perception that homeownership benefits whites more than blacks reveals its truth in the actual data.



- Whereas less than 12% of white homeowners are at risk of foreclosure today, 25% of African Americans are still at risk.
- So far, 25% of African American homes have been foreclosed during the crisis.
- Whereas just over 5% of white borrowers received high interest loans despite good credit, over 20% of black borrowers and just under 20% of Hispanic borrowers received bad loans when much better options where available.
- Over 40% of African American borrowers received high-risk loans in spite of good credit.

According to the Economic Policy Institute, as of December 2009, median wealth of white households dipped 34%, to \$94,600; median African American household wealth dropped 77%, to \$2,100.⁴

The median household net worth was nineteen times greater for whites than Blacks in 2009. Wealth disparity is far greater now than it was in 1995, when the wealth differed by a factor of seven.⁵ In 2009 dollars, the median household net worth for Blacks decreased from \$9,885 in 1995 to \$4,900 in 2009, while it increased for whites from \$68,520 to \$92,000 during the same timespan. This shocking statistic is in part due to long-term housing disparity. As of 2011, nearly 75% of white Americans were homeowners, compared with only about 45% of African Americans. About 90% of the subprime mortgages taken out from 1998 to 2006 were for homeowners refinancing.⁶ The vast majority of these mortgages were issued in lower-income communities of color, perpetuating a clear cycle of predatory debt.

From the Housing Act of 1934 onward, housing discrimination by banks was conducted through the practice of redlining. Home Owners' Loan Corporation (HOLC), a federal agency set up in 1933 by Roosevelt for the purpose of preventing foreclosures, initiated this practice of redlining when its agents were asked by the Federal Home Loan Bank Board to create maps indicating the security of real estate investment.

The maps were not based on assessment of the economics of individuals in a community, but rather based on assumptions about its racial composition and consequently defined communities of color as unworthy of mortgages.

The practice of redlining shifted as the laws around housing discrimination were strengthened. Clinton's push to expand homeownership to low-income borrowers led to the current subprime market dynamics, which are based on a predatory strategy of reverse redlining. Reverse redlining occurs when a community is targeted to be marketed high interest or high-risk loans. We now know that this was a common practice across the mortgage lending industry.

Most recently Wells Fargo, the largest mortgage lender in the country, settled a reverse redlining case with the Justice Department. The bank only agreed to compensate individual borrowers for \$125 million dollars worth of losses. This is a far cry from the true cost of this predatory lending and will not put the victims of this hate crime back in their homes. SunTrust Mortgage settled a similar case and Bank of America also settled a similar suit over its Countrywide Financial unit.

The result of the long history of housing discrimination is still apparent today with increasingly racially segregated communities.

FORECLOSURE PREVENTION/PROTECTION

Let's say you're having trouble making your mortgage payments, maybe you've gone into foreclosure, and want to stay in the home. What can you do?

It is difficult to generalize since rules concerning mortgages, foreclosures and eviction differ by state. Still, some things do apply to all states.

There are many things that you can do to resist foreclosure and try to work out a better deal if you stay in the home. Banks can only remove people after a foreclosure notice has been given in an act of eviction, and this is difficult for them from a legal and physical perspective. Banks can and do reconsider mortgages that are at the eviction point, finding deals that work better for all parties. This only happens when the owner is in the home.

At this point in dealing with your mortgage, you will likely be exhausted and want to give up. That exhaustion is one of the banks' strongest weapons in taking your home, so stand strong.

If you are in trouble with a mortgage, there are three major ways of trying to deal with the situation:

1. Hire a lawyer if you can afford one. Legal aid, a bar association or any law practice might have special options if you don't have the necessary resources.

In general, watch for fraud and people looking to scam you and steal your money, while promising to help you with your home. People who want a lump-sum fee upfront are the most notorious. Anyone looking to take your mortgage payment and give it to the bank is untrustworthy; you'll want to pay the bank directly.

In general, anyone who promises you a silver bullet is almost certainly lying. Even the best lawyers know, and should tell you, that this is a difficult situation with no easy answer.

2. A second group is housing counselors like the Neighborhood Association Corporation of America (NACA). The advantage of contacting them is that they have accredited housing counselors experienced negotiating with banks.

Sometimes housing counselors have a vested interest in building up their businesses and may be funded by banks; some are straight-up frauds.

3. A third option is getting involved with community-based organizations and Occupy Homes organizations. Occupying is a way of resisting the power of the banks, and saying you won't leave until a deal has been made.

Banks hate public pressure, especially around specific homeowners. As a result, when homes are occupied, there is more leverage. This can amplify some of your other legal options, like home counselors or a personal lawyer. If, at a time of eviction, fifty people are there who won't leave, the eviction people will usually walk away. Sometimes they

will come back in a few hours, but often they wait another month while negotiations continue. In general, banks hate the publicity.

The fact is, banks are softer targets than you might expect because so many cases are rife with legal irregularities and outright fraud; it's not uncommon for customers to be mislead, crucial paperwork lost and documents robo-signed. While banks often refuse to negotiate with individuals, taking advantage of those who are intimidated or can't afford legal counsel, they often change their tune when threatened with serious scrutiny.

Most major metropolitan areas have hosts of community-based organizations that specialize in housing. Unions sometimes do work as well in this area. Occupy groups can also put you in touch with groups doing anti-foreclosure work. Go to occupyhomes.org for help.

MERS

Mortgage Electronic Registration Systems (MERS) is a national electronic registration and tracking system that tracks mortgage loans. MERS was conceived in the early 1990s by numerous lenders and other entities including Bank of America, Countrywide, Fannie Mae and Freddie Mac. Its stated purpose was to save mortgage purchasers money.

In the past, it was your lender that was on the deed as the beneficiary until you paid the loan in full. Your deed and loan note were recorded with the local County Recorder's office. The recording of the deed and the note created a public record for the transaction. Any ownership change had to be recorded to create a clear "chain of title," which is like a record of ownership that protects the owner from false claims to ownership.

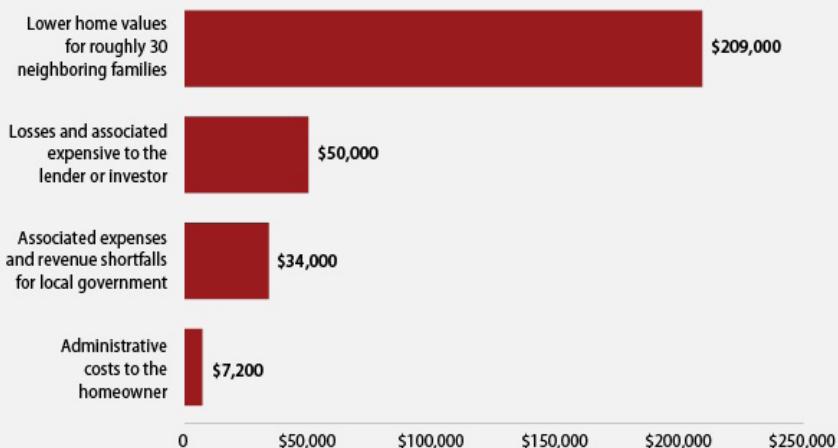
When the banks decided they could make money by securitizing loans privately, they needed a way to manage the paperwork which involved selling of notes and deeds repeatedly. If they actually filed with the County Recorder each time, it would cost them time and money. So they figured out a way around it by cutting corners. Instead of your lender's name on the deed, you'll find MERS named instead. The problem with this is that MERS is really not the owner of your loan. How can MERS claim titles to loans they merely track, but do not own? If you find yourself in a situation where your foreclosure has been "robo-signed" by MERS, you may be able to fight back on this basis.

WALKING AWAY

Of course, you can also consider walking away. The personal finance world went ballistic when Suze Orman advised homeowners who are more than 20% underwater to walk away. But if you're that far in the hole, cutting your losses may be your best option. Whole communities are finding themselves in a vicious cycle of foreclosures driving down values and reducing property taxes. This increases municipal indebtedness, decreases public services and further drives down property values. This death spiral is often impossible to escape.

FIGURE 3**Foreclosures have massive spillover costs to the local community**

Estimated cost of each foreclosure to key stakeholders



Sources: Center for Responsible Lending, NeighborWorks, and The Urban Institute

Unfortunately, the government has not taken strong action to force banks to restructure mortgages. Banks make their money not on the interest over the course of the loan but on the sale of the asset-backed security. Consequently, they are incentivized to allow a foreclosure and a new mortgage instead of reduced payments. Since the government's entire housing program has been based on shifting the burden away from banks, why should banks negotiate a mortgage that cannot create a new security?

If you are considering the option of walking away, with this knowledge you can do so guilt-free. Or you can follow these steps:

1. Ask your lender to modify the loan by reducing the principal to the actual current value of the property.
2. If they say no—which is likely—then ask for a short sale. A short sale is a sale for less than the amount owed for a property, and the bank takes the loss. Most often banks will say no to this too.
3. The next step is to ask for a deed-in-lieu of foreclosure. This will allow you to transfer the property deed to the bank without going through formal foreclosure proceedings. The advantage for you is that it allows you to walk away immediately and with no attachment to the property. The advantage to the bank is that they may save money and lower the risk of borrower vandalism of the property.
4. Assuming that the bank still says no, you can now walk away with a completely clean conscience.

But the most important thing to keep in mind is that walking away only works if you are in a state where the law prevents the bank from suing for other assets. Many states prevent buyers from strategically defaulting with laws that entitle the bank to sue you for your other assets including money in your bank account, stocks and savings of any form. It is imperative that you consult an attorney in your area to make sure that the bank cannot sue you and place a lien on your other assets.

Aside from the loss of your home, the main consequence of foreclosure is the destruction of your credit report and credit score. You can expect your score to drop by 85 to 160 points. The foreclosure stays on your report for seven years and will impact your credit for that period, although it is impossible to know how much the impact will dissipate over time since credit reporting agencies do not disclose their algorithms. Without a doubt though, it will be difficult to get another loan for quite some time.

You should certainly dispute the foreclosure with the CRA and make them validate your report. Record keeping is so poor that you should expect that they do not have accurate records—so fight, and don't give up until they show you your signature on the contract.

WHAT ABOUT RENTING?

Although rent is not considered consumer debt, owing rent is certainly a form of indebtedness. This becomes obvious if you do not pay your rent. Your landlord will eventually evict you and you will owe “back rent.” The lack of distinction between owing a bank money for shelter and owing a landlord money for shelter only becomes clear when the bank threatens to take away your home. While renting requires that the tenant typically place a security deposit in interest bearing escrow to guarantee the rent, the bank keeps a down payment in the case of default.

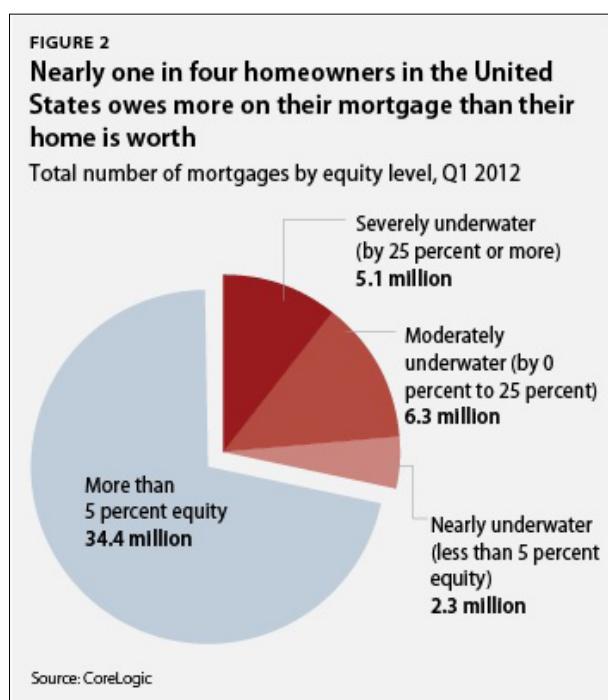
A recent Pew study showed that young Americans have soured on buying, and are less attached to the “dream” of homeownership. The next generation of buyers has seen their families suffer with underwater properties and fear the downside of ownership more than they desire the upside.

But, if you think that renting will save you from the effects of housing debt, think again. Since the foreclosure crisis, rents have increased. In 2011, rental vacancies hit a ten-year low. Millions of foreclosed families have no choice but to rent, and since it takes seven years for a foreclosure to disappear from your credit report, many families are in it for the long haul. Of course, wages have not kept pace with rent increases. Over 25% of African American and Latino/a families spend more than half their income on housing, compared to 15% of white families.

Unfortunately, no one has been immune to the fraudulent practices that led to this mess. Unsustainable housing debt impacts us all.

40 MILLION STRONG

What does all this add up to? American homeowners have been victims of a bank scheme to profit by creating a bubble that could only blow up in individual homeowners' faces. Since we are all affected by the housing crisis, the potential for collective action is enormous.



There are an estimated 40 million residents of underwater homes today, greater than the entire population of California. In fact, according to the real estate website Zillow, there's 1.15 trillion dollars in just the underwater portion of mortgages, and 4.8 trillion in total estimated property value of underwater homes.⁷ Given these numbers, it's easy to see the potential for homeowners to unite under the threat of strategic default. However, although there is a lengthy history of "rent strikes" to gain repairs and other concessions from landlords, there is little history of mortgage refusal. There are many reasons property owners might be unwilling to strike—from the glorified perception of ownership to the taboo against failing to pay debts, to the fear of bad credit, to the belief that the market will improve. Yet as more and more victims of the housing market understand the complicated details of the game our government played with the banks at our expense, the potential for collective action grows.

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INTERLUDE: WE'RE ALL DEBTORS NOW

The chapters on credit card, medical, student and housing debt show us the ways in which we are all made to pay for basic social survival—for the rest of our lives. This is the traditional idea of a “debtor”—a person who borrowed money and owes a sum of money to a bank or government agency. But mafia capitalism means that governments make cuts and the people have to go into debt to survive. The burden of sustaining “life” gets shifted from the state to the individual and household. Most households are drowning in all four of the types of debt discussed so far in the manual. Debt is a way of controlling us—making us weak, afraid and financially unstable.

But the rabbit hole goes much deeper. What about those who don’t have debt in the traditional sense? Are they debtors too? Our answer is clear: Yes. We are all debtors, whether we have debt or not. Debt affects us all. But how?

The next series of chapters about broader notions of debt, from municipal debt to alternative financial services, only begin to make these connections. Our whole system runs on debt and credit—our households, our cities, our countries and all those who slip between the cracks. From municipal bonds that we never agreed to, to the low-income or unemployed worker forced to take payday loans after being excluded from “mainstream” credit, the whole world has become indebted. This is how the 1% maintains their wealth and power.

Anyone fighting the 1% is a debt resistor. We are all debtors now.

VI. MUNICIPAL DEBT: THE SILENT KILLER

Is your city experiencing a budget crisis? Is your town laying off workers and cutting services? Are local hospitals understaffed and underfunded? Do you worry about whether your child's school will have enough money to provide students with a quality education? If this is happening in your community, you are a debtor.

Over the last forty years, our common goods and resources have been privatized to profit the 1%. In the wake of reduced public funding, cities and towns have taken out more and more private loans to pay for everything from basic operations, like sewers, to large developments, such as sports arenas. Municipalities are forced to partner with Wall Street to tap revenue streams because Wall Street controls access to credit markets. The only way cities and towns can win access to those markets is by issuing tax-exempt municipal bonds. But that means Wall Street profits from those bonds through interest payments and through securitization, as traders repackage bonds into debt bundles which are sold and resold on the global market.

Municipalities issue the bonds and guarantee loans by promising that investors will be repaid with tax dollars or with revenue generated by the debt-funded project. In addition, since the New York City fiscal crisis more than forty years ago, federal bankruptcy code has been revised to ensure that many municipal bonds would keep paying investors no matter the costs to communities. Bonds are supposed to be bets on the future. In most cases, however, there is no way the lender can lose the bet, and cities can lose a great deal. After Wall Street's mortgage-lending practices crashed the economy in 2008, many municipalities were unable to pay their debts.

Bond financing is a weapon of the 1% and mafia capitalism. When Scranton, Pennsylvania threatened to default on a debt payment in 2012, Wall Street came down with an

iron fist. It cut off the city's access to money, and Scranton's mayor responded by slashing wages for city workers down to minimum wage. Scranton dared to challenge Wall Street, and a debt crisis ensued.¹ News accounts reported that public employees such as teachers and pensioners were to blame, but this is false—Scranton's brand of American austerity was a direct result of Wall Street greed.

From coast to coast, cities have become completely beholden to big banks. The result is shuttered schools, smaller fire departments and block upon block of abandoned homes in foreclosure. Public transportation systems are also cash cows for Wall Street. In NYC, the Metropolitan Transportation Authority loses \$114 million per year as a result of a poisonous interest-rate swap with JPMorgan Chase and other big banks. Rather than refuse this debt, the MTA has cut service and laid off workers. Most people who rely on the subway are working-class New Yorkers, including many people of color and immigrants. The 99% is required to fund the lavish lifestyles of the 1%.

Like Scranton, Stockton, California went broke after the housing market went bust in 2008. The result has been a higher crime rate, including murders, robberies and home invasions. When residents call the police, they are never sure if help will come because the police department is stretched to the breaking point. Even CalPERS, the retirement system for California public workers, may not be safe from bondholders demanding payment on defaulted debts. Municipal indebtedness is a tool by which Wall Street demands deep cuts in public spending to enrich investors no matter the cost to communities. Mafia hitmen warn debtors by going around town and breaking a few legs. Wall Street sends the same message: pay your debts, or see what happens.

HOW IS MUNICIPAL DEBT ISSUED?

Bonds for public works are supposed to be approved by voter referendum, yet city officials often broker deals with private partners through backdoor channels to circumvent the democratic process. Officials use political power to zone off “development districts” or declare a parcel of land “blighted” which allows it to be seized under eminent domain and sold off. This means that taxpayers often find themselves stuck with the tab for debt-funded projects guaranteed by city agencies that have no accountability to voters. As one scholar noted, public officials and their Wall Street partners often act as de facto governing bodies “empowered to issue long-term debt without the formal oversight of elected decision makers.”

Perhaps the most glaring example of such corruption and graft is in Jefferson County, Alabama.² In 2011, the municipality filed the largest bankruptcy in U.S. history to contest a \$4 billion debt in the aftermath of a sewer project gone disastrously wrong. The story is a familiar one: local officials

borrowed vast sums from Wall Street to pay for a treatment plant, which the EPA said was needed to stop sewage from flowing into the Cahaba River in a predominantly African American community. But the project was never completed because corrupt officials mishandled the funds (seventeen have been jailed since the scandal broke). Lenders demanded repayment anyway, doubling each household's sewer bill in a neighborhood already reeling from poverty, high unemployment and a sewer that still did not work properly. The county's financial trauma has resulted in public service cuts, mass layoffs and overcrowded prisons. Even a federal judge has stated that Jefferson County's debts cannot be repaid.

HOW ARE INTEREST RATES FOR MUNICIPAL BONDS DETERMINED?

Wall Street's criminality reveals that there is no such thing as a free market and never was. We recently learned that interest rates around the world have been rigged for years for the benefit of a few large financial firms. Yet the recent LIBOR scandal is not surprising when one considers that municipal bond-rigging has been going on for decades with no public outcry.³

"In May 2011," reads a report from the *International Herald Tribune*, "UBS [bank] admitted that its employees had repeatedly conspired to rig bids in the municipal bond derivatives market over a five-year period, defrauding more than 100 municipalities and nonprofit organizations, and agreed to pay \$160 million in fines and restitution."⁴ In 2012, *Bloomberg News* reported that "[s]o far, 13 individuals from banks including Bank of America, JPMorgan Chase and UBS have pleaded guilty in the Justice Department's investigation."⁵

In 2011, GE Capital was caught rigging municipal bonds and overcharging cities and towns across the United States. Their punishment? A \$70 million fine, laughably low considering the profits involved.

In his exposé of municipal bond rigging (which he calls "the scam Wall Street learned from the mafia"), Matt Taibbi explained that Wall Street "skimmed untold billions in the bid-rigging scam" from hundreds of municipalities. After they were caught, banks continued investing in city bonds. "Get busted for welfare fraud even once in America, and good luck getting so much as a food stamp ever again," Taibbi wrote. "Get caught rigging interest rates in 50 states, and the government goes right on handing you billions of dollars in public contracts."⁶

HOW CAN WE RESIST MUNICIPAL DEBT?

Occupy Wall Street makes it possible to imagine that some debts must not be repaid. In Jefferson County, for example, some citizens do not want to renegotiate; they reject such debt outright. As one activist in Birmingham noted, "[the debt] shouldn't ever have been issued, and therefore it shouldn't exist. It shouldn't have been spent. Since it shouldn't have existed, we're not going to pay it."⁷

Some municipalities are fighting back against the big banks. After their pay was cut to minimum wage, Scranton's municipal unions sued the city, and their wages were restored. Years of community resistance delayed the construction of Barclays arena in Brooklyn because the stadium was financed with tax-exempt bonds and built on land seized by eminent domain. Baltimore is suing more than a dozen big banks for manipulating LIBOR, the benchmark for interest rates on many financial products. In July 2012, Boston activists held subway turnstiles open to protest Wall Street's vise grip on their city's transportation budget. After a toxic interest-rate swap deal sent it off a fiscal cliff, Oakland, California is trying to take the dramatic step of severing its relationship with Goldman Sachs for good.⁸ These efforts will continue and escalate in the months and years to come.

The idea that some debts can and should be refused is a sentiment that is spreading. In Europe, the rallying cry of the 99% is, "we won't pay for your crisis!" In the United States, we can start a municipal debt resistance movement by asking critical questions and demanding answers. Have you ever looked at your town budget? Do you know how your elected and non-elected officials fund public works? Who benefits? Who really ends up paying for what? Simply posing these questions in your community is a way to strike debt. We must also insist that the 1% is no longer allowed to write the laws dictating how our communities will be financed. We must insist on an end to the debt-financing of U.S. cities. This case for ending Wall Street's control over our lives should also be made through direct action. We can target the banks profiting from the corrupt bond market with actions such as sit-ins and marches. The most important thing we can do as occupiers is refute the myth that the 99% are to blame for the fiscal emergencies that are declared when the bond vigilantes come knocking.

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VII. FRINGE FINANCE TRANSACTION PRODUCTS AND SERVICES: MAKING BANK ON THE UNBANKED

As James Baldwin once said, “Anyone who has ever struggled with poverty knows how extremely expensive it is to be poor.” This is true now more than ever.

It’s called the “poverty tax”—the surcharge people pay for not having savings or access to “prime” credit and being consigned to “fringe finance.” Fringe finance refers to the array of “alternative” financial services (AFS) offered by providers that operate outside of federally insured banks. Gary Rivlin, author of *Broke USA: From Pawnshops to Poverty, Inc., How the Working Poor Became Big Business*, does the math; adding up the profits from the AFS sector and dividing by the 40 million households that survive on \$30,000 a year or less, the industry receives an average of \$2,500 from every low-income household. That’s a poverty tax of around 10%. If current trends continue, it will only rise—unless we reject these predatory financial products and services.

The next two chapters break down the major perils of fringe finance into those related to transactions and those related to credit. This chapter deals with transaction products and services: check cashing and prepaid cards. Chapter VIII covers credit products and services: payday loans, auto-title and pawn loans, rent-to-own financing and refund anticipation loans (RALs). Among households without access to a bank account, 62% have used an AFS transaction product or service and 27% have used an AFS credit product or service. About 23% have used both.¹

Both chapters offer analysis and information to help you identify the common tricks and traps of fringe finance so that you can avoid them. We consider alternatives to the most expensive products and services, as well as how to save money if you’re “locked in” or have no other options. There is no one-size-fits-all strategy for personal finance.

We conclude Chapter VIII by outlining some general survival strategies aimed to minimize or eliminate our dependence on the current debt-finance system.

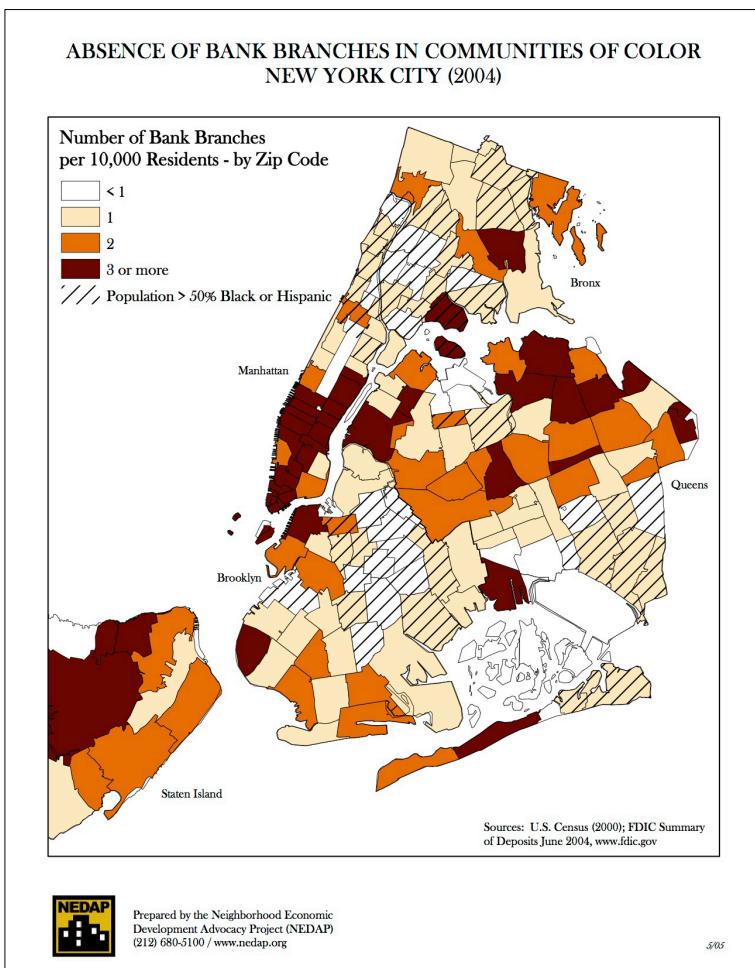
Venture capital, however, expects the stunning rates of financial extraction in the poverty industry to rise, and it has created funds to invest in start-ups and small firms with big growth potential in the fringe finance sector. The “market” that investors want to tap is the unbanked (people without checking or savings accounts) and the underbanked (people who rely on both “traditional” and “alternative” financial products). Why are venture capitalists so interested in this market? In a blog post titled “Not Unbanked: Untapped,” a venture fund manager explains, “It is fair to say that most of these products are generally more expensive than what most of ‘us’ pay. APRs [annual percentage rates of interest] higher than 30% (if not 300%); transaction costs of \$2+; money-transfer costs of \$10+; access to payroll check for 2–4%.”² The payment services segment of AFS has seen some of the most spectacular growth in recent years, where prepaid cards are making inroads and recording profits that rival the always-profitable check cashing outlets.

This is the predicament of the poor in our debt-finance system: it costs poor people significantly more *to use money*—to spend it, to save it, to invest it, to borrow it, to send it “back home”—and you have less money to begin with. If you’re poor, the more you engage with the debt-finance system, the more wealth you *lose* and the more indebted you become. Meanwhile, AFS owners and investors, who enjoy lower financing costs and have more money to begin with, profit from your loss and acquire pieces of your debt; Wall Street comes to own pieces of your future. These are the workings of a two-tiered financial system: on the bottom are relatively high-cost services marketed to the growing and changing ranks of the unbanked and the underbanked.

The unbanked includes the working poor, the unemployed, the homeless, the undocumented, those who do not speak English fluently, those who are or have been incarcerated, those with mental or physical health issues, older people, those working off the books, those hiding from creditors or the “authorities,” those whose homes were stolen by Wall Street, and anyone else to whom “traditional” financial institutions won’t lend.

Demographically speaking, the unbanked population is very broad and very diverse, but it is disproportionately comprised of low-income households (71% of unbanked households earn below \$30,000 a year), households of color, immigrant households and individuals with negative banking histories.³ (Of course, these categories aren’t mutually exclusive.) People of color are more likely to be unbanked. In general, Latino/a and Black people are respectively six and seven times more likely to be unbanked than whites. Households with an annual income under \$30,000 are thirteen times more likely to be unbanked than those with an income between \$50,000 and \$75,000.⁴ People of color are more likely to have low and/or unreliable in-

come, making it more difficult to save enough money to meet minimum opening-balance requirements at banks. There's another significant commonality: people of color, low-income individuals and immigrants tend to distrust banks. For some households, this mistrust goes back generations. Losing one's home or hard-earned property—especially in a society focused on wealth accumulation—is traumatic. The effects can ripple over generations of a family, shaping how future generations interact with financial institutions. Poor people, immigrants and people of color also tend to believe that traditional financial institutions aren't for them; they believe that they don't meet the requirements or that banks don't fill their needs. Inconvenient locations and hours of operation often present further barriers for low-income households.⁵ These barriers tend to reinforce each other and result in alienation from the mainstream financial system.



For many of the unbanked, the experience of second-tier status in the financial system mirrors their experience with the two-tiered justice system. Those who are socially marginalized in one way or another are more likely to occupy the bottom tier of the financial system, which makes it more likely they'll get caught up in the criminal justice system.

The criminalization of poverty, the criminalization of immigration, as well as racial and ethnic profiling, are well-documented trends that push people to the fringes of finance. In at least a third of U.S. states, being in debt can now land you in jail.⁶ In Washington State, for example, an African American man with mental health issues was incarcerated for two weeks for failing to pay \$60 worth of “legal financial obligations” (LFOs). His jail stay, meanwhile, cost Spokane County over \$1,500.⁷

And let's not forget: the deregulation that led to the emergence of a two-tiered financial system and that enables the 1% to go on looting and indebting the poor was orchestrated by our so-called “elected” representatives.

CHECK CASHING OUTLETS (CCOS)

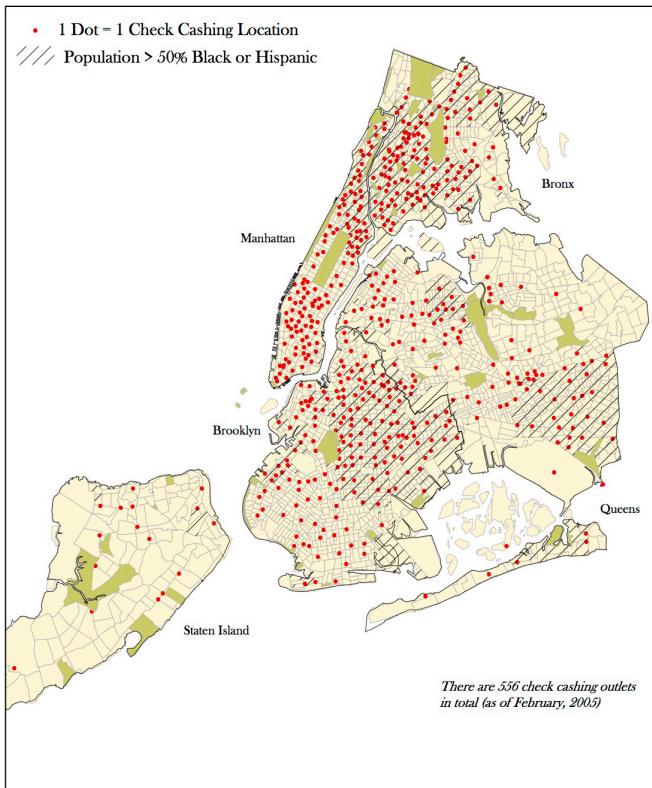
For nine million households in the United States, cashing paychecks at a bank or credit union is not an option.⁸ The unbanked do not have bank accounts for any number of the reasons discussed earlier. For many people, a check cashing outlet (CCO) appears to be the only option to transform their paycheck into cash.

According to the Federal Reserve, CCOs generally charge between 1.5% and 3.5% to cash a check,⁹ so for a \$500 check, that's somewhere between \$7.50 and \$17.50 taken away from you. This is actually a conservative estimate; the Consumer Federation pegs average fees at 4.11%,¹⁰ so it might end up being a cut of \$20.55. With a checking account, by contrast, this service would be free. If you're unbanked and you make \$500 every week, in one year you might spend \$400 if you're relatively lucky, but possibly over \$1,000, just so you can spend your own money. The average unbanked person with a full-time job can expect to spend more than \$40,000 on such fees in their lifetime. That is, throughout the course of one's life, more than an entire year's worth of work goes exclusively towards turning one's salary into cash.¹¹

Between 2000 and 2005, the number of CCOs in the country has doubled, but fees haven't gone down. In fact, the price has gone up; they grew 75.6% on average between 1997 and 2006.¹² Companies like Wal-Mart, Kmart and Best Buy have also tapped into this market by offering check cashing at their stores. Although they charge less to cash a check than the regular outlets, we should harbor no illusions about their motivation; the hope is that people suddenly equipped with cash will spend it right where they are.¹³

Check Cashing Locations

New York City



Prepared by the Neighborhood Economic Development Advocacy Project (NEDAP)
(212) 680-5100 / www.nedap.org

Sources: NYS Banking Department;
US Census 2000

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In addition to exorbitant check cashing fees, there are fees for money transfers. Immigrants hoping to send money outside of the United States may lose as much as 20% of the amount in the process.¹⁴ While the Consumer Financial Protection Bureau recently introduced new disclosure rules aimed at stopping sudden and unexpected penalties, there's really nothing that limits the overall fee.¹⁵ By contrast, banks and credit unions charge substantially less for this and other services. Services that could cost up to \$500 annually at a CCO could cost between \$30 and \$60 at a traditional financial institution.¹⁶

As expensive as CCOs may be, and as much as they target people with lower incomes, if they all pulled up stakes and left, what would happen?

Several alternatives may be available. You could make an arrangement with a friend, family member, or even your employer—that is, someone with access to a checking account—in which you would write your check over to them and they would give you the full amount in cash.

If you have exhausted other options and must resort to a CCO, it is important to know how to use it in a way that minimizes harm. For example, ask ahead of time for the fee *in dollar amounts* as opposed to the percentage. And be sure afterwards to obtain and save an itemized receipt. Costs may vary not just from one CCO to the next, but by the time of day and other factors.¹⁷ You can compare receipts to determine the optimal approach.

In an essay on the poverty tax, Gary Rivlin recalls,

"A few years back, I attended the annual Check Cashers Convention, where I sat in on a 90-minute presentation dubbed, 'Effective Marketing Strategies to Dominate Your Market.' Speaking to a standing-room only crowd, a consultant named Jim Higgins shared his tips for turning the \$1,000-a-year check cashing or payday customer into one worth '\$2,000 to \$4,000 a year.' Pens scribbled furiously as he tossed out ideas. Raffle off an iPod. Consider Scratch 'n Win contests. Institute the kind of customer reward programs that has worked so well for the airlines. And for those who are only semi-regulars offer a 'cash 3, get 1 free' deal. After all, Higgins told the crowd, 'These are people not used to getting anything free. These are people not used to getting anything, really.'¹⁸

PREPAID CARDS

First there were credit cards. Then came debit cards. Now there are pre-paid cards—and they're suddenly everywhere. Think about it this way: with credit cards you pay later, with debit cards you pay now, and with prepaid cards you pay early. Credit cards extend credit to consumers for free (with a grace period). Debit cards give consumers free access to funds in their bank accounts. Prepaid cards *charge* consumers to access their own funds. So when you use a prepaid card you are essentially *paying* money to make an interest-free *loan* to the issuer, who then lends your money to other customers.

Charging us for the use of our own money is what banks do. They also provide useful services: the ability to store our money, to access cash, to pay for things without cash and to turn checks into cash. Prepaid cards—now used by 13% of Americans¹⁹—do the same, although they're not attached

to bank accounts. Branded with the logos of American Express, Discover, MasterCard or Visa, they look like other plastic payment cards and provide ATM access and the ability to make purchases. “General purpose reloadable” (GPR) cards let you add funds. However, prepaid cards are usually more costly, less convenient and less secure than comparable services from banks and they tend to have poor disclosure policies and “gotcha” fees, replicating some of the most aggravating bank practices. Nonetheless, compared with a check cashing outlet, getting cash from a prepaid card is usually cheaper. When it comes to making payments, prepaid cards are typically more expensive than credit or debit cards, but not necessarily. Factor in overdraft charges, and debit cards cost more. Factor in high ongoing balances, high interest rates and late payment penalties, and credit cards may cost considerably more than prepaid cards.

There is no one-size-fits-all strategy for personal financial transactions. What's more, the rules governing the prepaid card industry are still in flux. In 2010 the Credit Card Accountability, Responsibility, and Disclosure Act of 2009 (CARD Act) took effect, tightening regulations for credit cards and traditional debit cards.²⁰ The new Consumer Financial Protection Bureau (CFPB) is presently considering how to bring the prepaid card market into the federal regulatory framework. In the meantime, barriers to cash continue to grow; transactions for an increasing range of basic services are impossible without plastic. Soon many of us will have no choice but to use these cards when employers, government benefits administrators and even colleges and universities begin to adopt them.

There are a variety of prepaid cards, including gift cards, payroll cards, government benefits cards and general purpose reloadable (GPR) cards. Purchasable, usable and sometimes reloadable without identity verification, many prepaid cards offer the advantage of anonymity, which is why they've become the preferred means of laundering money and the de facto currency of the prison system.²¹ For users interested in symbolically projecting their status, branded cards serve as a means of self-expression. The cards are linked to celebrities, heroes and social causes, and tend to be the most predatory corner of the market.

Consumer advocates consider prepaid cards just the latest addition to the array of high-cost and inferior financial products for which the poor pay more. Rather than help marginalized groups enter the financial mainstream, prepaid cards highlight and intensify financial segregation. The predicament of Millennials, who appear to be the industry's latest target, is especially alarming. Not long after the CARD Act restricted credit card companies' access to college campuses and to customers under twenty-one, prepaid cards began moving in, looking to establish “partnerships.” Now with prepaid cards serving as student IDs, enrolling in college also means enrolling in a bank.

GENERAL PURPOSE RELOADABLE (GPR) CARDS

GPR cards are the kind that you buy and set up yourself, like a gift card with fees. They range from competitively priced, no-frills cards to premium-priced celebrity cards, which are sold as symbols of achievement or aspiration as much as financial tools. Beyond utility, the latter promise respect, empowerment and freedom. Of course, prepaid cards are not unique in this sense: everything we consume says something about who we are and what we believe. The problem with most celebrity cards is not simply that they don't deliver what's promised, but that they're designed to deliver exactly the opposite of what's promised: financial *marginalization*.

Consumers Union found many different types of fees for a range of prepaid cards. In addition to monthly fees, they found fees for activation, point-of-sale transaction, cash withdrawal, balance inquiry, transaction statements, customer service, bill payment, adding funds, dormancy, account closure and overdraft.²² Making matters worse, only a few of the fees charged by card issuers are disclosed prior to signing up for the card. Retail displays often contain only purchase prices and initial load amounts, and card company websites frequently require users to click on sign-up pages or registration forms in order to obtain fee information.

Consumer Action, which surveyed twenty-eight different prepaid cards, found that twenty of them carry a monthly maintenance fee, the highest being \$14.95. Fees for out-of-network ATM withdrawals range from \$1.95 to \$3. A few cards charge users to reload money. Ten of the cards surveyed charge 50 cents to \$2 to talk to a customer service agent and two of them charge 50 cents for automated help.

Like the worst practices in subprime mortgage lending, private student loans and payday lending, the marketing and sales strategies of the celebrity prepaid card business are *predatory*; the best predators have a deep appreciation for the needs of their prey. "Well-banked" celebrities like Russell Simmons and Suze Orman are marketers of prepaid cards that target financially marginalized people. While their marketing suggests they are running charities, Simmons and Orman are managing private companies whose unequivocal objective is to profit from providing financial services to poor people. They deceptively present their enterprises as altruistic projects striving for collective emancipation. Yes, this is how capitalism works.

ELECTRONIC BENEFIT TRANSFER (EBT) CARDS AND PAYROLL CARDS

Over the past 15 years, the federal government and state governments have been gradually replacing paper benefits checks with Electronic Benefit Transfer (EBT) cards. For the unbanked, the shift to electronic payments means no check cashing fees, less need to carry cash, faster payments, the ability to make purchases or pay bills electronically and no ChexSystems screen. But overall, costs and benefits will vary depending on the fees and terms that apply to the particular prepaid card designated for your bene-

fits program. These are administered by different federal and state government agencies, which contract with various prepaid card issuers. California and New Jersey are considered to have negotiated relatively good contracts for their unemployed workers (providing free and ample access to cash and transaction information with no penalty fees).²³ Tennessee workers, on the other hand, get slammed with the highest junk fees courtesy of JPMorgan Chase, the bank contracted to service that state's unemployment compensation (UC) prepaid card program.

For recipients of Social Security, Supplemental Security Income (SSI), or Veterans Affairs (VA) compensation, the Direct Express prepaid debit card has much lower fees than other prepaid cards and comes with strong consumer protections. Card accounts are insured by the Federal Deposit Insurance Company (FDIC) and are subject to federal consumer protection regulations (i.e., Regulation E).²⁴

The prepaid card programs administered by the states to disburse UC, as well as Temporary Assistance to Needy Families (TANF) and food stamps (Supplemental Nutritional Assistance Program), are more problematic. They're generally less beneficial for recipients and more beneficial for banks and states. Forty states now use a prepaid card for paying some or all UC recipients. A survey by the National Consumer Law Center found significant shortcomings in fee structures, access to card information and payment options. Across the board, fees charged to benefit recipients are being used to cover the administrative costs of delivering UC benefits—in violation of federal law. Cards may charge ATM balance inquiry fees, denied transaction fees, \$10 to \$20 overdraft fees and inactivity fees.²⁵ On top of this, card issuers such as Bank of America, Citibank and JPMorgan Chase earn interchange fees as well as interest on the funds on deposit. Last year, card fees and ATM surcharges cost California welfare recipients over \$17 million.²⁶

The bottom line: for those who have a bank account, prepaid cards offer little, if any, advantage over direct deposit. Benefit recipients with checking accounts will save money and time with direct deposit. Those who do not have that option—who lack access to a bank account or who live in one of the six states that have eliminated the direct deposit option—will be forced into the prepaid payroll card program(s) contracted to disburse your particular benefit(s). Since you have no choice about which card to use, familiarize yourself with the terms and fees that apply to the card designated for your program. This information should arrive in paper form with your EBT card. You can also look up the details of the particular prepaid payroll program online.

SURVIVAL STRATEGIES AND RESOURCES

At a time when it's hard to use your own cash (if you're lucky enough to have any), prepaid cards can offer cash-like features such as anonymity, liquidity and mobility. They'll also save you money compared with high-cost check cashing. Prepaid cards have also been sold as a way to reduce our reliance on the big banks. But Suze Orman probably came closer to the truth when she said her card is like having a bank in your pocket. Regardless of whose face is on the card, you can be sure Wall Street is getting its cut.

If you ultimately decide to get a prepaid card, you can visit NerdWallet.com to determine which is the least costly. Avoid cards with the most unnecessary fees and be aware of which ones are associated with the card you end up choosing. Be on the lookout for reloading fees, balance inquiry fees and ATM cash withdrawal fees. When getting gas, pay the attendant inside before you pump, otherwise the station may put up to a \$75 hold on your balance. It is also important to read the card's privacy policy to make sure they aren't selling your personal information.²⁷

For information on organizations that can help, go to the end of Chapter VIII.

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VIII. FRINGE FINANCE CREDIT PRODUCTS AND SERVICES: CREDIT FOR THE PRECARIAT

Wall Street bankers have always tried to distance themselves from the taint of loan-sharking and other fringe financial services. For most, non-bank lending still conjures up images of dilapidated storefronts on the edge of town, surrounded by vice and petty criminality. But if you're one of the 12 million Americans who took out a payday loan in the past year, it's more likely that you did it in a suburban strip mall or cyberspace. It's even possible that you got it from a bank—five large banks, including Wells Fargo, have begun to offer payday loans.¹ Although they seem to be worlds apart, in reality these markets are interconnected and overlapping; the biggest players in all segments of fringe finance are publicly traded, national corporations. Today, around 20% of all users of “alternative” financial services (AFS) also use traditional banks. Whether sourced in prime credit or subprime, student loans or pawn loans, the profits of our indebtedness flow to the 1%.

But the 99% is waking up to the bait-and-switch.

This chapter covers the debt traps encountered outside of the federally insured financial institutions: AFS credit products and services such as payday loans, pawn loans, auto-title loans, “rent-to-own” agreements and refund anticipation loans (RALs). Like traditional banks, these businesses provide ready access to cash and/or credit. However, their services are substantially more costly than those typically offered by major banks, and they frequently involve even more unfair, abusive and deceptive practices. Enabled by government at all levels, the poverty industry preys on the poor. For a long time the working poor have been its main target, but the Great Recession has supplied millions of new marks: people with busted credit, people who are desperate for cash and people who have fallen

from the ranks of America’s disappearing middle class. At a time of unprecedented inequality, poverty and precarity, unprincipled money lenders are poised to make a killing; stealing from people who have nothing means indebting them, possibly for life.

During the 1990s, deregulation tore through every segment of the U.S. financial system. Lending standards were loosened, increasing the availability of credit on Main Street as well as Malcolm X Boulevard. The resulting proliferation of high-cost subprime loans was celebrated as the “democratization of credit.”² The rolling back of core financial consumer protections created an unprecedented opportunity for financial extraction—the prospect of making money off of people who have no money. On the fringes of finance, money comes easy, but debts are built to last.

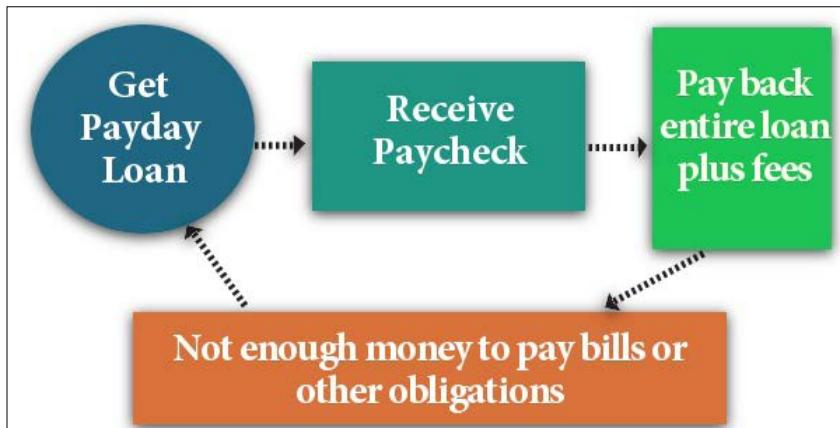
Given the state of household finances, rising demand for “Quick Cash, Few Questions Asked!” should come as no surprise. Having maxed out their credit cards and bank credit lines, people increasingly rely on AFS providers. Most AFS borrowers are unbanked, which includes about 20% of African Americans and 20% of Latino/as. But now 21 million borrowers are “underbanked,” meaning they use AFS in combination with traditional banking services.³

About half of AFS users have incomes below the poverty line. This means that a large percentage of the customer base of the so-called “poverty industry” is *not* poor. In fact, it’s quite possible that many of the underbanked not too long ago qualified for *prime* mortgages and boasted incomes considerably higher than the national median. These are sure signs of precarity: insecure and unpredictable living conditions, which harm material or psychological welfare.

Compared to traditional bank loans, fringe lending has its own peculiar set of tricks and traps. But like any extension of credit, it involves a set of expectations about the future. When we sign on the dotted line, we’re assuming that things will get better, that our financial situation will improve enough to make repayment possible. Lenders exploit borrowers’ dreams. In fringe finance, the aspirations are simpler and more immediate, like having a way to get to work, buying groceries for your kids, bailing your cousin out of jail or treating your aging mother to lunch on her birthday.

PAYDAY LOANS: HOW SHORT-TERM LOANS BECOME LONG-TERM DEBTS

Nearly half of workers in the United States report living “paycheck-to-paycheck.”⁴ In other words, at least 60 million of us are one setback away from economic ruin. After years of insufficient income, we’ve drained our savings just to cover necessary expenses. Those of us who’ve never been able to accumulate savings already depend on short-term credit to get by. In other words, we’ve gone into debt in order to live.



In the early 1990s, there were fewer than two hundred payday lending stores in America. Today there are 23,000—more than McDonald’s—making payday lending a \$50 billion industry. The deregulation of interest rates at the end of the 1970s, which removed all caps and limits on interest, set the stage for the “rise of payday.” Today, fifteen large corporations, which together operate roughly half of all loan stores, dominate the industry. Of these fifteen, six are publicly-traded companies: Advance America, Cash America, Dollar Financial, EZ Corp, First Cash Financial, and QC Holdings.

Having witnessed the rapid and socially destructive effects of these loans, fifteen states have renewed consumer protections and rolled back authorizations of payday loans, eliminating payday loan storefronts. Another eight states have limited the number of high-cost loans or renewals that lenders may offer. The reforms’ effectiveness, however, has been limited by the advent of unlicensed online payday lending, which now comprises 35% of the market and allows for even more egregious practices.

The appeal of payday loans is the flip side of the barriers to traditional banking: convenience, ease of transaction and few questions asked. Payday loans are small-credit loans marketed as a quick and easy way to tide borrowers over until the next payday. However, the typical storefront payday loan leaves borrowers indebted for more than half of the year with an average of nine payday loan transactions at annual interest rates over 400%. And if you think that’s bad, try 800–1,000% APR in the case of online payday loans.⁵

Make no mistake: payday lending is legal loan-sharking. The aim is to prolong the duration of debt in order to extract as many fees as possible; this is known as “churning,” and doing this every two weeks makes up 75% of all payday loan volume. Typically, payday loan debt lasts for 212 days. Repeated payday loans result in \$3.5 billion in fees each year.⁶

Payday loans are carefully structured to bring about this result. The catch is the “balloon payment,” a well-known predatory practice. When you take out a payday loan (normally \$100 to \$500), you put down collateral (e.g., a postdated check or electronic access to your bank account) equal to the loan amount plus a fee (\$15 to \$35 per \$100 borrowed). At the end of the typical two-week loan period, you either repay the total owed or renew the loan for another two weeks. Few borrowers (only 2%) are able to make the balloon payment, so instead they pay only the fee and renew the loan, which grows in size due to compound interest.⁷ With every renewal, the “balloon” grows bigger, making repayment ever more difficult. In the meantime, the lender goes on extracting fees every two weeks, and pretty soon, you’ve repaid the amount of the original loan (the principal), yet you are forced to continually renew the loan until you can repay the hugely inflated balance in one lump sum. According to the Federal Trade Commission, a number of online lenders obtain borrowers’ bank account information in order to deposit funds and later withdraw the repayment, with a supposed one-time fee.⁸ In actuality, withdrawals occur on multiple occasions, with fees each time. The FTC cites a typical example where someone borrowed \$300 and, after the lender withdrew many times, the borrower was ultimately expected to pay \$975. As you can see, with payday loans, the term “debt trap” takes on a whole new meaning.

The payday industry lobby group, which misleadingly calls itself the Community Financial Services Association (CDSA), tries to get some cover for its predatory behavior by warning, “Payday advances should be used for short-term financial needs only, not as a long-term financial solution.” In actuality, the vast majority of borrowers (69%) use payday loans for everyday expenses, just to get by. A recent Pew survey shows that only 16% of borrowers actually used them in emergencies.⁹ All of the evidence consistently shows that borrowers do *not* use this hazardous product as prescribed and thus endanger their financial lives. This amounts to financial malpractice.

Still, 12 million Americans have used payday loans over the past year. And who can blame them? If you have lousy credit and need cash fast, a short-term, no-credit check loan seems like a lifeline, just like the ads promise. No doubt, the loans offer short-term relief, but in exchange for long-term financial harm. According to the CDSA, “payday advance customers represent the heart of America’s middle class.”¹⁰ This particular industry talking point has truth to it. The core market for payday loans are people with regular incomes and/or bank accounts who are expected to “secure” their loans with pay stubs, benefit stubs, or personal checks—that is, the growing class of the underbanked.

A recent survey of payday loan users conducted by the Pew Center finds that most borrowers are white, female and from twenty-five to forty-four years old. However, certain groups disproportionately use payday loans: those

without a four-year college degree, home renters, African Americans, those earning below \$40,000 annually and those who are separated or divorced.¹¹

People of color are targeted for exploitation by payday lenders and fringe finance more broadly. Like other forms of AFS, the immense expansion of payday lending has overwhelmingly taken place in communities of color. In California for example, Black people are more than twice as likely as whites to live within one mile of at least one payday lender.¹² The CFSAs and leading payday lenders have for years cultivated relationships with Black leaders and organizations—lawmakers, celebrities, elders of the civil rights struggle—as part of their lobbying and marketing campaigns.¹³ “Just like they target minority groups to sell their products, they target minority groups to make their products look legitimate,” says critic Keith Corbett, executive vice president of the Center for Responsible Lending.¹⁴ Contrary to claims that payday lending represents the “democratization” of credit, the kind of credit payday lenders are selling leads only to cycles of ever-growing debt.

WAYS OUT

With payday lenders you are dealing with the worst of the worst. These are people who know they are charging rates of interest that ought to be illegal, that used to be illegal, that have always been illegal in just about every other country that has ever existed in the world. While it is best to avoid payday loan officers entirely, when dealing with one, it is important to remember: this person knows that what they are doing is wrong. If they have any human decency, they are secretly wracked with guilt; even if they don’t, they are terrified that the world will figure out what they are really up to and recognize it as a criminal activity, since that’s what it really ought to be.

If you have outstanding debt with a payday lender, remember:¹⁵

- Payday loans are *unsecured* debt. This is any type of debt or general obligation that isn’t collateralized by a lien on specific assets, like a house or car. In the event of default, the lender has no legal claim on your assets, no matter what the debt collectors say.
- Many people default, and expectations of that outcome are built into the business model. The typical “risk premium” (the cost increase required to compensate for credit risk) is so high that even with 15–20% default rates, payday lenders are *highly* profitable.
- In the event of default, lenders’ only means of retaliation is to report the event to a credit agency. They commonly try to persuade borrowers that repayment of payday loans strengthens credit—the industry even funds research to peddle this myth—but it’s not true. Reports of *any* transactions with payday lenders will harm your credit. And if you’re taking out one of these loans, odds are your credit is already damaged.

HOW TO DEFAULT ON A PAYDAY LOAN

It should go without saying that executing the following plan is high risk. Think and act carefully!

1. Take out a loan with an online payday lender. Create a new email address and obtain a prepaid cell phone; use that information on the application. For extra protection, use a computer at the library. If there is a call center that wants to talk to you, get someone else to speak since they might record your voice.
2. When you sign up for a payday loan, you enter into an agreement between yourself and the provider that they have the right to take money from your bank account or charge your debit card automatically when your due date arrives. Only give them the right to one specific bank account or debit card.
3. Wait until they decide to debit you. Then call them up, ask why you were charged and tell them that you never filled out this application for a loan. Granted, this argument is more difficult if you used a payday loan before; you want to make it seem as if your financial situation is good enough that you don't need one.
4. If you keep fighting, they *will* refund you. Fraud happens all the time on the internet, so your claims are perfectly plausible. If they persist, say that you're going to call the relevant regulatory agencies. Many times they will cave in because most online payday loan companies do *not* want to get the government involved.

If this works, then you're in the clear! You get free money, your credit score is unharmed and debt collectors will not harass you. However, payday loan providers might not believe you and keep charging you the outrageous rates.

To default: If you choose to pay via bank account transfers, then move *all* of your funds from that bank account to other accounts. If you choose to pay via debit card, then cancel the debit card.

The most annoying thing is that you'll have to deal with debt collectors. This is why it is *essential* that you don't supply your actual phone number or email address; that way, they'll just send you direct mail, which you can always throw away. If they have your actual phone number or email address, they will harass you to no end, in which case just keep ignoring them. They are trained liars. (*For more advice on dealing with debt collectors, see Chapter IX.*)

The following information comes from an anonymous former payday loan employee:

How to DESTROY THE PAYDAY LOAN INDUSTRY

1. Identify a group of people planning to move between any of the four countries: United States, Canada, England, and Australia. Have each person take out a number of payday loans.
2. Once you get about \$10,000 in loans, move the money to different bank accounts so the companies don't have access to it.
3. When you move to another country, your credit score will be a blank slate and you'll have free money to fight the system.
4. With about a thousand people willing to travel between the four countries, you can take out a few major international pay loan providers, like Wonga and Enova Financial.

PAWNSHOP AND AUTO TITLE LOANS

Unlike payday loans, a pawnshop loan is when a borrower gives property to a pawnbroker to secure a small loan. The loan is generally for one-half of the item's value. If the borrower is able to repay the loan with interest by the due date—typically between one and three months—then the item can be retrieved.¹⁶ The average pawnshop loan is for \$70, and approximately one out of every five pawned items are not redeemed.¹⁷ According to a survey by Think Finance, approximately one-quarter of eighteen- to thirty-four-year olds who are un- or underbanked use pawnshops.¹⁸ Because U.S. citizenship and regular income are not required for pawn loans, they are particularly appealing to undocumented immigrants and others who might have difficulty obtaining loans through traditional financial services. Ten states do not require any cap on monthly interest rates and forty states do not require the return of pawned items.¹⁹

A car-title loan is a similar product to a pawnshop loan, but even more egregious—so much so that it is prohibited in thirty-one states.²⁰ A borrower in this case exchanges the title to their automobile for cash. The vehicle can still be driven, however. Typically the loan is for about one-quarter of the vehicle's value. If it is not repaid with interest within thirty days, the lender could repossess the car or extend the loan for thirty more days and add further interest. When annualized, the rate of interest for title loans is in

the triple digits, and often exceeds 900%.²¹ LoanMax, an auto-title lender for which Reverend Al Sharpton of all people did a television commercial, says its average loan is \$400.²² Suppose you take a \$400 title loan from them. Thirty days pass and you can't pay the \$520 you now owe. Instead of repossessing your car, the gracious lender decides to renew the loan. And then again. And again. Title loans are renewed on average eight times per customer.²³ Therefore, within a typical timeframe, you may end up owing nearly three-and-a-half times what you originally borrowed!

Having property repossessed and incurring further debt are the tragic yet predictable consequences of obtaining a loan through pawning. Payday loans and other examples laid out in this chapter are no better. The information provided above offers a glimpse of how these loans dig people into deeper desperation. Despite state regulations such as APR caps, these alternative financial services are *inherently* predatory and cannot be modified to be substantially less harmful to borrowers. Pawnshop loans and car-title loans should be avoided at all costs.

However, so long as viable alternatives remain inaccessible to those typically targeted by such institutions—traditionally low-income communities of color, but increasingly Millennials of all backgrounds²⁴—the problem will remain and intensify. At the conclusion of this chapter, we contemplate a handful of suggestions for obtaining cash without having to be on the receiving end of predatory lending practices.

RENT-TO-OWN STORES

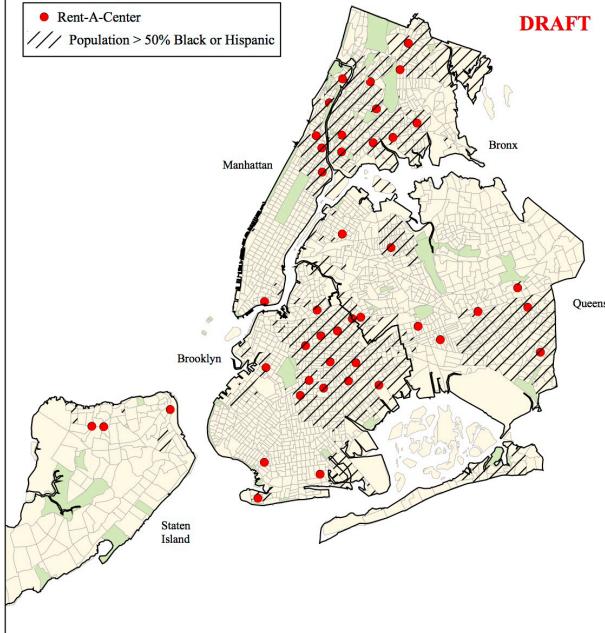
Rent-to-own (RTO) lenders offer appliances, electronics and other items which, as the name suggests, people can eventually own. This is different from credit purchases where the customer immediately gains the title to the product. Aaron's and Rent-A-Center are two of the biggest such companies; their mascots are a self-proclaimed “lucky” dog and Hulk Hogan respectively. On both company websites, product prices are not listed; you must provide some personal information, such as the last four digits of your Social Security number, in order to even receive a quote. Aaron's explicitly states that their stores are “strategically located in established working class neighborhoods and communities,”²⁵ which is a euphemism for *exploiting poor people and people of color*. This predation is also unabashedly reflected in RTO companies' own annual reports. Despite having fewer than half the number of customers as payday lenders, the RTO industry generates a similar revenue.²⁶ What accounts for high sales?

Rent-A-Center Store Locations

New York City

● Rent-A-Center
/// Population > 50% Black or Hispanic

DRAFT



Sources: U.S. Census (2000);
www.rentacenter.com



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Unsurprisingly, there's a whole host of fees when using RTOs. Charges often include "security deposits, administrative fees, delivery charges, 'pick-up payment' charges, late fees, insurance charges, and liability damage waiver fees."²⁷ These costs are generally not revealed to customers. Less than a third of U.S. states require disclosure of the total cost to own, and even then, many of these aforementioned charges are underestimated. With all of that on top of an average APR around 100%, consumers typically pay between two and five times more than if they had purchased the same item at a retail store. On average, RTO customers spend an extra \$700 a year.²⁸ Failure to pay in full, or defaulting, results in the repossession of the product and loss of any money previously put toward the item.²⁹ Only eleven states require any cap whatsoever on the price of products or APR at RTO lenders.³⁰

Items available at rent-to-own stores are readily available elsewhere, in some instances for one-fifth of the price; however, this may require saving up

until one can afford the retail value rather than resorting to paid installments. If you need a computer, for example, consider borrowing one or using one at the library until you can pay for it at a not-so-predatory store. It also might mean being willing to relinquish a bit of luxury and buy items secondhand. Either way, it ultimately beats the pitfalls of RTO lenders.

There are also many items that you can simply obtain for free, although it may require waiting for just the right moment and taking time to do some research. Websites like the Freecycle Network (freecycle.org) and the free section on Craigslist (craigslist.org) have made this process much more convenient and accessible.

REFUND ANTICIPATION LOANS (RALs)

Refund Anticipation Loans (RALs) are yet another type of loan to exploit the unbanked and underbanked. For the lender, the profits are high and the risks are low. Many tax preparation companies offer this service. For those expecting much-needed cash from a tax refund but who cannot wait several weeks for it, an RAL is an appealing quick solution. A taxpayer can receive the full amount of their anticipated tax refund sometime between two minutes and two days. Like other fringe finance loans, RALs have a triple digit APR.

Suppose you're expecting a tax refund that approximates the average in the United States in 2011, which was \$2,193.³¹ Rather than wait to receive the refund, you take out an RAL at a tax preparation company. In six weeks, you receive your refund and at this point, assuming the APR is "only" 200%, you'll need \$728.25 *in addition* to your refund in order to pay back your loan.

With a bank account, your tax refund could be deposited directly in less than two weeks, but of course that's not an option for the unbanked. Filing taxes online, if possible, expedites the receipt of one's refund. This approach may meet the needs of those requiring cash in the immediate present *without* having to lose so much money in the long run; however, receiving a refund check presents its own problems if you don't have a checking account (*see the section on CCOs in Chapter VII*).

Another approach is to attempt avoiding having a tax refund at all. Until you find institutions in your neighborhood lending money free of charge to you, why should you in essence lend to the IRS at 0% APR? Instead of getting a large sum once a year in the form of a tax refund, you can spread that amount out amongst your paychecks. This requires adjusting your withholdings on your W-4. If you don't have investments or itemized deductions, it would be simple to calculate how many exemptions you should claim in order to avoid a tax refund without getting a liability. Regardless of how many dependents you have, you can still claim, for example, five dependents for planning purposes. (When filing taxes, you would legally need to write the

actual number of dependents.)³² Many websites, including the IRS website, feature a withholding calculator to help you make a more informed decision about this approach.

SURVIVAL STRATEGIES

Throughout the last two chapters, several strategies have been raised for avoiding or beating the various institutions that offer fringe finance. These chapters have been written with the understanding that viable alternatives are hard to come by in many areas. In the course of doing research, we have often found that the recommended alternative to one segment of the fringe finance industry is frequently another segment. For example, in warning against the dangers of refund anticipation loans, the suggestion is often to instead obtain a prepaid debit card.

We have to work together toward rendering all such institutions obsolete, toward a situation where people can have basic needs met without immense sacrifice. Notably, at least one-quarter of unbanked households in the United States do not use any fringe finance products or services.³³ That is, over two million households are getting by without a checking account, without subprime loans, without cashing checks at CCOs, and without pawning their items. These households in particular have experiences worth sharing and learning from. It is our desire that others reading this manual can provide their own strategies, which can be compiled and included in later editions.

The unbanked and underbanked can in certain instances avoid subprime loans. This may mean asking to borrow from friends or family, seeking emergency community assistance, and, if an option, asking your employer for advanced payment. Selling unwanted items on Craigslist or at thrift stores and consignment shops is a more reliable source of cash than pawning. Moreover, it's important to consider what you need the money for in the first place. Is there an alternative at a cheaper price, or perhaps a free alternative even? Will buying something secondhand suffice? Is it worth obtaining something immediately if it means paying more?

While these questions are important for individuals to contemplate in order to avoid or minimize the harm done by AFS providers, we must go deeper. The *Debt Resistors' Operations Manual*, after all, is about *collective* action and radical transformation.

While they may be designated as “fringe,” the payday loan companies, the rent-to-own stores, the pawnshops and the check cashing outlets are all central to the debt landscape we are describing in this manual. We must come together to work toward the eradication of these venal institutions while creating better ways of obtaining what we need.

RESOURCES

WEBSITES

Financial justice research and advocacy for low-income and underrepresented communities:

Center for Responsible Lending (responsiblelending.org)

Consumer Action (consumer-action.org)

The Consumerist (consumerist.com)

Consumers Union – Defend Your Dollars (defendyourdollars.org)

LawHelp.org

National Consumer Law Center (nclc.org)

Neighborhood Economic Development Advocacy Project (NYC) (nedap.org)

For filing complaints and reading complaints of other consumers:

Consumer Protection Financial Bureau (consumerfinance.gov/complaint)

Ripoff Report (ripoffreport.com)

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IX. DEBT COLLECTION: DON'T FEED THE VULTURES

It goes without saying that none of us wants to hear from a debt collector. While once largely the province of organized crime, debt collection has attempted to go somewhat legit. This is not to say that today's collection agencies don't resort to strong-arm tactics, including harassing phone calls and threats that are often illegal. Given the complexity of debt collection laws and regulations that vary state to state, there are hundreds of ways a debt collector can engage in illegal practices, including but certainly not limited to harassment. The key is to know your basic rights, and to record abusive and illegal practices. In many cases, your debt can be erased (due to collection agency misconduct) or reduced. In some cases, you might even have the right to sue for damages.

Collection agencies are counting on you to not do your homework. They are counting on you to be an easy mark and to be overwhelmed by Kafkaesque bureaucracy, harassment and shame. Our current economic downturn only amplifies the problem. Everyone has less money and more debt. Debt collectors themselves are making less money and this is a recipe for more aggressive and increasingly illegal tactics. Even if the collection agency does not engage in activities and techniques that are technically illegal, they are likely to use intentionally obfuscating tactics. If this sounds like the kind of thing that we're all used to from credit card fine print and gym membership terms, that's because it is.

While this chapter can't tell you everything you need to know to handle your specific situation, it can provide a basic outline and point you to resources that can help beat the system that wants you to fail.

WHAT IS A COLLECTION AGENCY AND WHY ARE THEY CALLING YOU?

A collection agency often works on behalf of an original creditor (OC). An OC can be a department store, a credit card company or a rent-to-own furniture shop, just to name a few common examples—basically wherever you took out a credit card or loan. When bills go unpaid, the OC contracts with collection agencies or third-party debt collectors to collect the debt. In many cases the collection agency simply takes a commission of every debt it collects on behalf of the OC. Another likely scenario is that the collection agency has bought your debt outright from the original creditor, such as a credit card company after a period of non-payment. Many banks are required by law to charge off unpaid debts after a designated period of delinquency. The original creditor may sell your debt to a collection agency, but the collection agency doesn't pay full price. In fact, it will almost certainly pay much less, usually 2%–25% of the debt's face value. So if you owe \$1,000, the collection agency might pay \$150 for the right to collect that \$1,000 from you. The credit card company may also claim your debt and all the interest and fees you have accrued as a write-off in its financial filings.

In short, the collection agency is essentially buying the right to take a gamble on your debt, debt that the OC may have already charged off. But they aren't just buying your debt. They are buying debts of hundreds, even thousands, of people like you. For their gamble to pay off, they only need to convince *enough* debtors—through legal means or otherwise—that we must pay them. The collection agency might also tack on additional late fees and interest all while harassing you by phone and by mail to collect.

HOW A COLLECTION AGENCY THINKS

It is key to understand how collection agencies think if you want to know how to best engage with them.¹ First, it is usually pointless to go back and contact the original creditor. The original creditor almost certainly has an agreement with the collection agency that prevents them from negotiating directly with you.

Collection agents often receive little training beyond, “Here’s your desk, your phone and computer—now go make some money.” Many collection agency workers’ pay is tied to a monthly quota of how many debts they can collect and it is common for collectors to employ more aggressive and illegal tactics toward the end of the month. Because they work on monthly commission, collection agency workers are also most likely to pursue the people with the largest debts and the people who seem most likely to pay.

It is important to remember that you are the most important variable to a collection agent. To quote one message board familiar with their tactics, “It is *your fears, your fantasies, your partial understanding of the truth that empow-*

ers the debt collector and each of these is a weapon to be used against you. By carefully stating half-truths and letting your imagination run away . . .”

It is also important to note that there are two common types of collection agencies: letter writers and just plain “collection agencies.” Letter writers basically just write letters directing you back to the original creditor to make your payment. Collection agencies require you to pay them directly, often so they can be assured they will get their commission from the OC. Either way, they must include a mini-Miranda in their letters or read it during their phone calls. If they do not, you may have grounds to sue.

If your first contact with a collection agency is over the phone, the mini-Miranda warning should sound something like this:

“Hello, I am [name of collector]. I am [or “this office is”] a debt collector representing [creditor]. Information obtained during the course of this call will be used for the purpose of collecting the debt.”

If your first contact with the collection agency is via mail, the mini-Miranda should look something like this:

“This correspondence is an attempt to collect a debt. Any information obtained will be used for that purpose. Unless within 30 days of your receipt of this notice, you notify us that you dispute the validity of this debt, it will be assumed to be correct. If you notify this office within thirty days that you dispute the validity of the debt, we will obtain verification of the debt or a copy of the judgment. If you request it within 30 days, we will provide you with the name and address of the original creditor (if different from the current creditor).”

Do not ignore the call or letter. The biggest mistake people make when they get a letter or call from a debt collection agency is to ignore them and hope they will go away. Because you have 30 days to contest the debt, you *must* act immediately. If you ignore the contact, you are by default agreeing that the debt is legitimate.

Whether the debt is legitimate or not:

- Write a letter to the office of the collection agency or attorney and state that you (a) dispute the bill; and that (b) you want a full accounting of the monies claimed to be owed. The Fair Debt Collections Practices Act of 1996 (FDCPA) requires they contact the original creditor to secure full account detail. Without a confirmed accounting of this debt, they cannot return to the collection process.²
- In responding to a call, advise the collector that you (a) are disputing the debt and that you are doing so in writing to his/her offices; and that (b) you do not want to receive a call from this agency at your place of work and that they can only contact at your home (or on your

cell phone if you don't have a home telephone) between the hours of *X* and *Y*.

There is a decent chance that you may not hear back. Remember, the collection agency is most likely to pursue the people they think are most likely to pay. You may have to continue to write to them, and even threaten to sue. (See *Appendix D* for sample letters.)

SOME IMPORTANT THINGS TO KNOW

STATUTE OF LIMITATIONS ON DEBT

In every state there is a statute of limitations (SOL) for outstanding debts—a limit on the number of years in which a creditor may attempt to pursue payment. Each state is different so you should check.³ Some states, like Kentucky and Ohio, have extremely long periods (fifteen years for written debt agreements) while states like Mississippi and North Carolina have much shorter periods (three years for written debt agreements). If there is a dispute about which state's laws apply, you can be assured that the collection agency will argue for the state with the longer period.

When does the SOL clock start?

The SOL clock starts running on the date of the last activity of your account. This is often the date of your last payment but—and this is key—it may also be the date when you entered into a payment agreement or simply acknowledged liability for the debt. This is why it is key to always contest liability.

If your debt is beyond the SOL you can contest the debt on these grounds and, should you want to play offense, you can also attempt to set up the collection agency for a FDCPA violation and hit them with a suit.

KNOW YOUR FDCPA VIOLATIONS

Even if your debt falls within the SOL, there is a good chance the debt collector will engage in abusive or deceptive practices that are illegal under the FDCPA, but it is up to you to know your rights, be vigilant and document any violations. Violations are grounds for dismissing debt and related lawsuits.

Some common FDCPA violations

There are countless ways to violate the FDCPA and the longer you engage with your debt collector or agency (while continuing to dispute the debt—this is very important), the greater the chance you will catch them in the act. Unfortunately (or fortunately if you are a debt collector) only a small fraction of violations go reported. You do not need a lawyer to contest debt obligations or report FDCPA violations; you can take action on your own and even win damages.

Due to an absence of regulations and enforcement, debt collectors routinely break the law, verbally abuse and threaten debtors. These practices are rampant in an industry that is run like the Wild West. Here are just some of the very dirty tricks that debt collectors use:

Recently debt collectors have “embedded” themselves in hospitals—like reporters in a war zone—coordinating with hospital staff to make bedside visits. While patients are often at their most vulnerable, sick or injured and naked except for a hospital gown, these debt collectors will attempt to shake them down for money. Jessica Silver-Greenberg writes, “To patients, the debt collectors may look indistinguishable from hospital employees, may demand they pay outstanding bills and may discourage them from seeking emergency care at all, even using scripts like those in collection boiler rooms.”⁴

It is common for debt collectors to call pretending to be police officers and claim that they have a warrant to arrest a debtor if they don’t pay up. Debt collectors will often continually harass people for debts they don’t owe or have already paid or for those that have already been dismissed in court. Collectors frequently target the wrong person, mistaking one person for someone else with the same or similar name. Debt collectors will lie and say that they are calling on behalf of debt relief agencies, learn all about a debtor’s situation and collect all of their personal information, and then use it against them. Collectors have been known to illegally call employers and inform them of employees’ debts. In the most extreme cases, debt collectors have made disturbing threats to seriously harm debtors and their families.⁵ Although illegal, these tactics are rampant.

Even debt collectors who follow the law can legally mislead you or trick you in other ways. Credit card companies have started data-mining cardholder’s purchases and using software to create psychological profiles of them. These profiles are then used by debt collectors to psychologically manipulate debtors to pay more than they otherwise would have to, including artificial late fees that would otherwise have been waived. This tactic, although manipulative and immoral, is completely legal. After using a psychological profile to swindle one debtor out of an additional \$2,000, debt collector Rudy Santana explained, “It’s all about getting inside their heads and understanding what they need to hear.”⁶

KNOW YOUR RIGHTS

With all of this in mind, it’s important to know what debt collectors legally can and can’t do. Below is a basic list to help protect you:

- A debt collector can only call a third party once about you unless it believes the third party gave it false information the first time.
- Contacting you before 8:00 AM or after 9:00 PM is illegal.
- You must tell a collector not to contact you at work by sending them a

cease and desist letter (*see Appendix D, sample letter #2*). You must send this certified mail and keep a copy for yourself so you have proof of receipt. If the collection agency contacts you again, other than to advise you of their intent to take action, then they are violating the FDCPA.

- Under no circumstances does a default on a car loan equal theft. It can not be reported to law enforcement. Legal repossession is the creditor's right.
- If you do not want to be in contact with a debt collector, then that's your right. It doesn't cancel the debt but it is your right not to speak with debt collectors.
- A debt collector cannot sell a debt to another collection agency with full knowledge that it has expired (*see SOL*) or is in dispute.
- A debt collector may try to lead you to believe that you have no grounds for requesting a validation of debt (*see Appendix D, sample letter #2*).
- A debt collector may try to represent themselves as an attorney or law firm even if they are actually not an attorney or law firm. Regardless, it is important to remember that collection attorneys also have to follow the FDCPA just like collection agencies.
- If a debt collector sends an initial notice advising you of your right to a validation of debt, then they cannot demand payment within the next thirty days.
- A collector cannot call your job and tell your HR department that they need your work information (wages, schedule) unless a valid suit was filed by them and tried in a court of law with a judgment in their favor. Until this happens (if it happens), they cannot contact your HR department or place of work, even if they claim to be looking for information to sue you.
- It is not unheard of for debt collectors to use fake case numbers and fake lawyers to scare an alleged debtor into paying. Of course, this is in clear violation of the FDCPA.
- Regardless of whether the initial contact is via mail or letter, the collector must provide you with a mini-Miranda (*see above*). The mini-Miranda should also be on each and every communication you get from a debt collector.
- A collector is not allowed to reveal information about the envelope's contents on the outside of the envelope for others to see. Words such as "past due" or "collections" are in clear violation of the FDCPA.
- A debt collector cannot impersonate a law officer or claim they can throw you in jail for not paying your alleged debt.

IDEAS FOR COLLECTIVE ACTION

There are two main ways to fight back against debt collectors: letter writing and lawsuits for violating the FDCPA. Both could be made into mass actions that attempt to overwhelm debt collectors while also helping us reduce our debts. With the right organizational structure, debtors being chased by a common debt collector or debt collection agency can coordinate a well-timed, well-thought-out letter writing campaign. If many debts with the same collector are disputed, it will clearly disrupt and possibly halt their business. As far as we know, this has never been tried. If a collector violates the FDCPA (which won't be hard to find out), a class-action lawsuit could be organized. As usual, we recommend you consult a lawyer before considering this.

RESOURCES

WEBSITES

- Carreon and Associates (carreonandassociates.com)
- The Consumerist (consumerist.com)
- Debtorboards (debtorboards.com)
- Fighting Collection Agency Debt (collectionagencydebt.blogspot.com)
- National Consumer Law Center (nclc.org)
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5. “As a Result of FTC Action, Two Defendants in Abusive Debt Collection Case are Banned from the Industry, Will Surrender Assets,” *Federal Trade Commission*, March 15, 2012 (tinyurl.com/DROMFTC3).
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X. BANKRUPTCY: IT'S BETTER THAN NOTHING (SOMETIMES)

Bankruptcy, for some people, sometimes, can be a way to fight back against the creditors and escape a life of indebtedness. It is basically the modern version of debtors' protection (yes, like consumer protections), but as with any set of legal codes, it reflects the society that created it. And let's remember that it was created by an economic system predicated on maximizing profit at all costs. Accordingly, the protections that bankruptcy offers are anything but clear or straightforward.

Bankruptcy can save lives and offers some people a world of relief. But there are many forms of debt relief out there, and bankruptcy is just one of them—a very *legal* one at that. Many prefer the route of “private” debt settlement or negotiation, others seek credit counseling or debt management programs, others fall prey to schemes plunging them further into debt and still others simply stop paying and walk away or go off-grid. This chapter aims to lend some clarity as to what possibilities bankruptcy offers, as well as to its limitations.

A SHORT HISTORY OF DEBT FORGIVENESS

Debt forgiveness has a long history. The Bible is literally full of passages about jubilees and other cancellations of debt. The Qur'an also advocates debt forgiveness for those who cannot pay. Of course not every society has protected its citizen debtors. In Ancient Greece, debtors unable to pay often lost their entire families to debt slavery. Even though the right to declare bankruptcy was legislated here in the United States at a much later date than in other industrialized countries, its application has been more debtor-friendly than most.

On the whole, bankruptcy in the United States has been used by businesses more than individuals. Bankruptcy laws in favor of businesses were repeatedly passed and repealed throughout the 19th century. The first truly modern bankruptcy laws in the United States appeared during periods of “economic downturn” in the 1890s and 1930s.

These laws were largely about saving companies and businesses deeply in debt. Businesses in the United States have always taken advantage of bankruptcy, especially in recent years, as companies have used it as a pretext to get out of pension obligations and to break union contracts.

But starting in 1978, the United States passed a law that made it significantly easier for individuals and families to get similar benefits and protections. In the 1980s, people began to take more advantage of this possible liberation from debt. In the 1970s, just over one in a thousand Americans filed for bankruptcy every year. That began to rise dramatically over the course of the next decade. By 1990, the rate had tripled to three in a thousand; by the late 1990s, it was up to five.¹



A TALE OF TWO CHAPTERS

Over the last thirty years, the conflict over bankruptcy law has been a fight between creditors and debtors. It has largely been “a tale of two chapters”: Chapter 7 and Chapter 13 of the Bankruptcy Code. Accordingly, there are two basic options if you are considering filing for bankruptcy, and they are named after the relevant sections of the law. With a Chapter 7 bankruptcy, all your eligible debt is wiped away (or “discharged”), and that’s it. The huge downside is that your non-exempt assets (these vary by state, but often include basic things like your house, car, etc.) are also liquidated.

With a Chapter 13 bankruptcy, disparate debts are consolidated into a single sum owed to the bankruptcy court, and a rigorous payment plan is set up (usually lasting three to five years). The monthly payments are for many a substantial and unbearable burden, but all creditor efforts at collection must stop. Foreclosure actions are also suspended during a Chapter 13 bankruptcy proceeding (unlike a Chapter 7), although they can be resumed once the case is completed. Many people choose Chapter 13 over Chapter 7 in an attempt

to save their homes, cars and other non-exempt assets. The downside is that you must then commit most of your “disposable income” to repaying your debts. This in essence means living in dire poverty for three to five years to satisfy what are likely illegitimate loans and criminal interest rates (the average interest rate on credit card debt is now around 13%). Still, the fact is that many, if not most, Chapter 13s fail during the payback period, ultimately becoming counterproductive and leading to *more* debt. It’s not hard to see why the creditors prefer it to Chapter 7.

Unfortunately, bankruptcy can only eliminate or lessen some types of debt. Consumer debt (credit card, auto, stores, etc.) and medical debt are the major forms, but it can also eliminate other unsecured loans such as payday loans. A major victory for the creditors, however, is that the law prevents you from eliminating student debt, tax debt or mortgage debt.

THE CREDITORS FIGHT BACK

The credit industry was alarmed by the boom in bankruptcies over the last thirty years, and it began a vast lobbying and propaganda campaign to tighten up the code. The line was that a moral rot was spreading throughout the culture, and all the old moral lines about paying your debts were falling by the wayside along with all the other “traditional values.”

Industry lobbying to cut back bankruptcies came up short at first. During the Clinton years, bankruptcy overhaul bills were introduced but never made it all the way through Congress. The efforts finally paid off in 2005, when George W. Bush signed the preposterously named Bankruptcy Abuse Prevention and Consumer Protection Act. The original draft of the legislation was done by Morrison & Forrester, a San Francisco-based law firm for the credit card industry. But don’t think that “bankruptcy reform” was just a Republican effort—one of the main supporters who ensured this bill got passed was none other than current Democratic Vice President Joe Biden. The effect of this bill was to make it harder and more expensive to file for bankruptcy. But don’t let that scare you away—it’s still quite viable (if it’s the right option for you).

The reform has been very good for creditors. Although there was a spike in bankruptcy filings in the year or two leading up to the passage of the bill—nearly seven out of every thousand Americans filed in 2005, an all-time record—filings then collapsed to just two per thousand in 2006. Filings soon began rising again, but even during the Great Recession of 2008, the filing rate never broke above five per thousand, essentially where it was in the late 1990s, when both the unemployment rate and debt levels were well below where they’ve been in recent years. According to a little statistical model we have put together, this “reform” has blocked over six million bankruptcies from being filed. (There would have been over 14 million filings instead of eight million.) And a study by the Federal Reserve Bank of New York—hardly an institution known for being hostile to creditors—suggests that tightly

ening up the bankruptcy code also increased the number of foreclosures, because many debtors were denied this avenue of relief.²

THE BATTLE OVER CHAPTER 13

Before the 2005 “reform,” you had the option of choosing which chapter to file under. Under the guise of “abuse prevention,” however, the new law denies the Chapter 7 route if your income is above your state median. (The median income is the one right at the middle of the distribution; half of all households are above the median, and half are below. State medians run from about \$37,000 in Mississippi to \$66,000 in Connecticut, with the national median around \$50,000.) Of course, you could have an above-median income in an expensive region like New York or San Francisco and not be living large at all. But despite the restrictions on Chapter 7 filings, they still account for about 70% of all bankruptcy cases, which isn’t much different from the pre-reform share.

The 2005 reform also increased the amount of documentation required to file—tax returns, pay stubs, household budget information, and so on. Because of that, and the increased amount of time that lawyers now have to devote to a bankruptcy filing, fees have risen dramatically. The new law also requires you to complete a counseling course offered by a government-certified provider. All of this contributed to lower filing rates than we would have seen otherwise.

It is clear that in the name of “abuse prevention,” the creditors and the government are forcing people to either not file for bankruptcy at all, or if they do, to file for Chapter 13. And it is not hard to see why. Chapter 13 is, in many ways, another creditor scam. Unlike Chapter 7, creditors often recover up to 30% of the original loan with Chapter 13. Many of those who file for Chapter 13 end up completely failing: the rate of “discharge” (getting one’s debts forgiven) is around 30% according to most studies, and at most 50% according to others. If your Chapter 13 filing fails, you are left in a worse situation than where you started.³

And from here it only gets worse. One detailed law study found that bankruptcy laws, specifically Chapter 13, implicitly favor a certain profile, an “ideal debtor,” who is usually white and married. Most bankruptcy laws tend to favor wealth over income, ownership over renting, formal dependents over informal dependents and heterosexual married couples, all of which have significantly higher rates in white communities. Before 2005, African Americans filed for Chapter 13 nearly 50% of the time, compared to less than 25% by whites. Why, you may ask? Here’s one explanation: a study found that when all other factors are equalized (identical financial cases), lawyers are twice as likely to steer Black clients toward Chapter 13 than they are white clients. The study could find no other cause besides racism in all forms: conscious, unconscious, structural and institutional.

It is an uphill battle if you are an African American debtor: in another display of overt racism, you are 20% more likely to have your Chapter 13

cases dismissed by a judge. This discrimination has had a major impact on African American debtors—they often avoid the option of bankruptcy altogether and seek other solutions: hiding, adopting aliases, refusing to pay and/or relying on highly predatory fringe financial services. It may appear at first glance that the 2005 act actually began to equalize the playing field across race and gender by introducing the fairly objective “means test,” but it has, on the contrary, continued the trend of favoring wealth over income and made the whole process more intimidating and more expensive.⁴

WHO FILES FOR BANKRUPTCY? AND WHY?

The banks, government and media would have you believe that people file for bankruptcy to scam the system, or because they are financially irresponsible. This is nonsense of course. Elizabeth Warren made her career by clarifying these myths around bankruptcy: most bankruptcies are simply not caused by financial carelessness but by major life misfortunes such as unexpected joblessness, illness or divorce. The major social reason for the rise in bankruptcy over the decades has been the rise in consumer debt burdens, and the major reasons for the rise in these debts are the stagnation of average incomes, the elimination of caps on interest rates starting in the late 1970s and *massive* public sector service cuts. The line of argument advanced by the credit industry ignores the source of the debt to begin with: in a time of vulnerable work markets and mass cuts in basic social services, most people have no choice but to accrue debt to simply survive.

There has been a lot of talk about the role of medical debt in bankruptcies in the past few years—and for good reason. Medical debt is a major factor in bankruptcies. But it is not the only factor. Bankruptcy is not “caused” by any one type of debt. Most individuals and families filing for bankruptcy have auto debt, credit card debt, mortgage debt, student debt and also medical debt. The debt burden that households have been forced to take on is impossible to bear. Bankruptcy and mass default in this system are structurally inevitable—bankers make loans they know we can’t pay!

And it would be a mistake to think, either pre- or post-2005, that the U.S. bankruptcy laws and proceedings are fair across lines of gender, race and class. Far from it. In terms of gender, it’s a complicated story. While the rates of bankruptcy filings are far higher for women, especially single and/or divorced mothers, they also benefit from the structure of bankruptcy laws. Individuals with child support obligations (usually men) who declare Chapter 7 are freed up to then satisfy these obligations, since consumer debt can be discharged but child support cannot. However, after the 2005 act, bankruptcy became more difficult for everyone, both single mothers and those with child support obligations. And all of this begs the question: why are so many single mothers (especially African Americans) declaring bankruptcy? And instead of looking for policy solutions or resorting to moral chiding, how can

we avoid these situations of indebtedness in the first place? We haven't seen these questions asked in any serious public forum.

In addition, there have been several reports in the last decade about the connection between race and bankruptcy. Anyone connecting the dots between race, predatory lending and the 2008 financial crisis shouldn't be surprised by these results. Neil Ellington, executive vice president of a credit counseling agency in Raleigh, N.C., had this to say on the matter of race and bankruptcy: "The same underlying issues that created the problem in mortgage lending, with minorities paying higher interest rates than their white counterparts having the same loan qualifications, are present in all financial fields."⁵

So how bad is it? One study, focused on a neighborhood in Chicago, found that the rate of filings by African Americans is triple that of their white counterparts. The reasoning isn't completely clear, but it's not hard to speculate: Black people have found themselves systematically targeted by financial predators who are taking advantage of the hundreds of years of material oppression that African Americans have faced in the United States. Beyond predatory lending, African Americans are targeted by fierce debt reduction schemes, rescue scams and shady financial products promising to save them from their debt burdens.⁶

IN THIS SOCIETY, EVERYONE WANTS YOUR MONEY

Anyone struggling with debt and/or contemplating bankruptcy is likely to confront a lot of dubious operators. Worst of all are the characters who advertise on late-night TV or on the web, offering debt-relief schemes. (Google the term "debt relief" for examples.) In the words of Charles Juntikka, a Manhattan-based attorney who handles many bankruptcy cases, "I've never seen one that was legitimate." Most operate at the margins of the law or beyond. Our advice: avoid them like the plague.

But there are also more legitimate groups and financial advisors who will offer you still-dubious advice against filing for bankruptcy. The standard claim is that bankruptcy is an emotionally wrenching experience that will ruin your credit for years. According to these sources, you'll find it difficult or impossible to get a credit card or a mortgage after filing for bankruptcy. You might even find that it "carries a stigma in your community," according to the National Foundation for Credit Counseling (NFCC), a trade association for the advice industry. Better to tighten your belt and negotiate repayment plans with your creditors, they say. For example, one advocate, Dave Ramsey, who dispenses advice from the perspective of the religious right, suggests selling everything but the bare necessities to placate the creditors.

And they are right in one sense; bankruptcy is no picnic. But neither is "private" debt negotiation or settlement. Few people have the audacity and emotional strength to fight with creditors for months, especially without a lawyer. Groups

like the NFCC have been suspiciously silent about releasing data showing success rates in private negotiations, debt settlement plans and other alternatives to bankruptcy. It's hard to know who to trust when everyone wants your money. Organizations like the NFCC will say terrible things about bankruptcy because they're funded by the financial industry and other private sector interests. While they divulge few exact details about their funders, the program for its most recent conference thanks sponsors including Bank of America, Chase, Citi, MasterCard and Experian (the credit rating agency). The conference also featured "breakout sessions" for creditors and a Creditors' Day (as if the other days of the year weren't creditors' days). It goes without saying that advice dispensed by NFCC member organizations is not likely to be debtor-friendly.

NFCC's ideals can be seen in the winners of their most recent Client of the Year Award, Jerry and Sue Bailey of Jackson, Michigan. The Baileys "refused" the temptation of "walking away" from \$92,000 in credit card debt, opting instead for a repayment program engineered by NFCC member firm GreenPath. They admit that paying off their debt was a struggle, but it was one "worth making." GreenPath (which, incidentally, paid its CEO about \$600,000 in 2010) and other NFCC member firms are precisely the ones who run the counseling programs filers are required to attend.

So who *can* you trust? Bankruptcy lawyers? Let's not forget that they make money off of debtors too. The only conclusion to arrive at is that every situation is different, and you should research the options that make the most sense for your situation. And the real conclusion is that we shouldn't have this debt in the first place.

SO, SHOULD I FILE FOR BANKRUPTCY OR NOT?

Mr. Juntikka (the lawyer quoted above) rejects claims by the credit industry and the academics and counselors on their payroll that the rise in bankruptcy filings over the last couple of decades is the result of spreading moral rot and a growing indifference to debt. Most people are close to their credit limit or behind on their payments—at a time when banks can raise the money they lend you for close to 0%—and getting rid of that rapidly compounding debt can be deliverance for many.

Compound interest can be like a god demanding endless sacrifices with no reward. If you have a \$5,000 balance at 18% and make only the minimum payment, it will take you almost twenty-three years to pay off the debt, and it will have cost you nearly \$7,000 in interest. Bankruptcy can reduce your credit card balance to zero in a matter of months—and put an end to calls from collection agents too. There are consequences, of course, but being informed and doing it right often makes it worth the risk.

Most Americans are afflicted with a deep sense that not servicing our debts is immoral and suffer immense amounts of guilt over falling behind. Worse still is the common myth that filing for bankruptcy means losing everything. It isn't totally false, but every state has a list of exempt assets, and

Chapter 13 is designed so that some can actually save their non-exempt assets. We recommend you research all of this carefully. In the end, filing for bankruptcy can be a tremendous relief.

Mr. Juntikka points out that his clients have suffered visibly. He describes very vividly the emotional state of debtors when they first arrive at his office. They're miserable—sleeping badly, signs of stress written all over their bodies. As they get through the process of filing for bankruptcy, their demeanor changes dramatically. “They’re sitting up straighter, their faces look better.”

And it’s easy to see why—the biggest relief bankruptcy offers is the “automatic stay” provision. In this provision, creditors and their debt collection goonies have to stop harassing you until the bankruptcy filing is completed and the court has ruled. In Chapter 13, the trustee assigned to your case ensures that you no longer have to deal with creditors as you pay back your debt for those three to five years (again, only if you are in the minority that successfully completes your plan).

It can cost as much as \$3,000 to file for bankruptcy these days (Chapter 13 is more expensive), which, for people who are barely getting by, is a lot of money. You may be able to find a cheaper lawyer and get your costs down. Or you can often get free legal representation by contacting your local bar association. It is possible to do it yourself using manuals and forms provided by the likes of Nolo.com, but it can be a complicated process (which is how the banks want it). And the failure rates without a lawyer are astonishing: 97% of Chapter 13s failed without a lawyer! So, we recommend getting a lawyer before filing; research carefully how to find a good one. It’s worth the money. And it can’t hurt to know the law a bit before you go—the study about lawyers discriminating against African American debtors shows this clearly.⁷

What about my credit (and other cautions)?

The consensus in the credit counseling industry seems to be that for most people, bankruptcy is actually, in the long run, good for your credit score. If you’re considering bankruptcy, you’ve probably missed a few payments and are dealing with delinquency and default—which will wreck most people’s scores. Counterintuitively, debt management programs or similar plans don’t seem to do much for your credit. At that point, you need to make a decision about bankruptcy.

While the jury is not fully out, it seems that filing for either Chapter 7 or Chapter 13 has an equivalent impact on your credit score. Either way, your score will take a nosedive and you won’t have access to cheap or fair credit for a while. But there is a difference: most lenders seem to be willing to lend if you file Chapter 7, as you are then clear of past debts and have disposable income. With Chapter 13, on the other hand, few lenders will do any lending during the payoff period, which means it will take an extra three to five years to rebuild your credit. And remember, bankruptcy can stay on your credit score for seven to ten years.

After bankruptcy, you will be an ideal target for the predatory loan sharks in the industry; they love people who are struggling. They will tempt you with low interest rates to start with, but then jack up rates and fees the minute that balances rise and payments fall behind. Be careful. The best strategy after bankruptcy is to accept a couple of cards. Study their terms and conditions and use them *very* carefully. Read up about how to build your credit (carrying a small balance, making regular payments, etc). Although a bankruptcy filing can stay on your credit report for a decade, within a couple of years after a filing, it's possible to get a respectable credit score—and with no late payments and a steady job history, a mortgage could follow a couple of years later. Still, it might be wise to wait longer; remember, you are especially vulnerable to predatory lending at that point. All that being said, it can be disastrous to declare bankruptcy a second time. Few credit scores can recover from that (except patiently waiting seven to ten years).

Lastly, the biggest risk in filing for bankruptcy is that your case will be dismissed, in which case you've wasted time and money, accrued more debt (the interest accrues retroactively to the time of filing) and gained nothing. And, your bankruptcy would still be on your credit report. This is obviously the worst-case scenario. Remember, this happens for nearly 50% of those filing for Chapter 13. Is it a scam? We'll let you decide. We think the whole system is a scam.⁸

COLLECTIVE SOLUTIONS

Unfortunately, for the most part bankruptcy offers only *individual* means of fighting the creditors. It is hard to imagine how to use the bankruptcy laws in order to organize mass direct action that would cause serious change in our debt society. In terms of the racist nature of the existing bankruptcy mechanisms, the most likely solutions to these problems would be continuing to fight structural and institutional racism in all its forms. This could of course be combined with launching a massive informational campaign in communities of color to clear up the myths and disinformation surrounding bankruptcy. And, although not ideal for many, there *are* other options for debtors: debt negotiation or settlement, refusal, living off the grid, leaving the country, etc. One form of collective action is to help each other and build networks of mutual support for those struggling with debt.

With every bankruptcy, a bank or lender loses a certain amount of money—they have rigged the game, so they are probably recovering it in other places. Nonetheless, with every bankruptcy, their books are slightly shaken. One possible action would be a simultaneous mass bankruptcy of those eligible for Chapter 7. This could be organized so that a mass of debtors with debt towards a certain bank declares bankruptcy all at once. We don't know enough about the industry to know what effects this could have. The organiz-

ers would need serious legal counseling: bankruptcy laws are laden with fraud protections, which would have to be carefully combed through before taking action. Another possibility would be to organize a critical mass to declare bankruptcy on student loans all at once—knowing they will be dismissed, but defiantly insisting in court that the debts are illegitimate and unpayable. These actions would need years of planning, preparation and organization.

In reviewing the history of bankruptcy and how it has been used in the United States, the conclusion we have come to is that the best way to fight for debt forgiveness, cancellation and a society of fair and equitable credit is to build a debt resistance movement to challenge the most fundamental structures of this unjust economy—all while trying to help each other.

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XI. PROSPECTS FOR CHANGE: JOIN THE RESISTANCE!

The chapters of this manual highlight various forms of debt injustice. Hopefully reading them has made you angry. Debt can be isolating and demoralizing. The most common emotion associated with debt is shame. We hope to transform that shame into outrage—and that outrage into action.

In writing this manual we've struggled to balance advice that you, the reader, can use to survive under this debt regime with a structural analysis of the system that put you in debt. The reason you have tens of thousands of dollars of student loan debt or medical bills that you cannot pay is because we live in a society that refuses to make education and health care accessible and free to all. You didn't make some horrible mistake to get into the situation you are in. You are not a failure, and millions of people are in similarly dire straits. To again quote one of Strike Debt's early slogans: *You are not alone/ You are not a loan.*

There is strength in numbers. Individually our debts overwhelm us; collectively our debts can overwhelm the system. There are ways of fighting back and reclaiming our lives and our communities from the current state of affairs. We are not looking for debt “forgiveness”; what we seek is the abolition of debt profiteering and its replacement by a society that nurtures the common good.

We should be clear: we are not against all debt nor are we against credit. Rather, we call for new, fair arrangements that help us exceed the boundaries of the present (as credit does) without burdening the future in chains of compound interest.

THE RESISTANCE IS GROWING

All around the world, debtors are rattling the chains of debt. We are seeing debt for what it is—a form of domination and exploitation—and we are collectively rising up

against it. From Chile to Québec, students have combined massive waves of protests with organizational initiatives to challenge the debt bondage that results from corporatized education. Countries like Spain and Greece are experiencing massive popular uprisings against austerity. Their governments have prioritized paying back foreign bondholders over providing for the people, and the people have had enough.

Students in Québec have popularized the symbol of the red square to signify being financially “squarely in the red” amid tuition hikes, cuts in social entitlements and the specter of spiraling student and consumer debt. In Europe, where elites tried to pass on the costs of their sovereign debt crises to the most vulnerable populations—the young and the poor—protesters have shouted, “We won’t pay for your crisis!”

Occupy Wall Street is another incarnation of this global uprising. Since the fall of 2011, it has helped expose the double standards that have allowed the oligarchs to maintain their rule even as they ravage the economy. Nowhere are these double standards more apparent than in Wall Street’s relationship with debt. Every month, the 99% dutifully make debt payments under conditions set by the 1%. Like an ancient tribute payment to the empire, we pay our mortgages, student loans, credit card, car and medical debts, and Wall Street gobbles up the profit. If an individual refuses to make these payments, the banks and the government have the means to ruin their life. In the years since the financial crash, the disparity between the generosity shown to Wall Street (more than three trillion dollars of public money spent already, with an additional 12.2 trillion committed by the U.S. government) and the blatant lack of relief for household debtors and bankrupted municipalities has made it quite clear whose debts are expected to be honored and whose will be written off.

One person’s debt is another’s profit. While Occupy Wall Street has been an encouraging sign that outrage around these issues is mounting, somehow the conversation about debt in the United States is still dominated by right-wing pundits. They place all the blame for our nation’s mounting indebtedness on irresponsible individuals. Businessmen-turned-politicians tell us over and over again that we must slash social spending and entitlement programs because of this deficit. It is time to set the record straight.

As we have shown in this manual, millions of us are the victims of predatory lending. And we understand that government debt is nothing like personal debt. Around the world, debt is used to justify the cutting of basic services. The problem is not that we are broke but that our public wealth is being hoarded. We need a new social contract that puts public wealth to equitable use and enshrines the right to live without the requirement of lifelong debt servitude.

This is the beginning of a radical debt resistance movement, and we need you to be a part of it. There is a long and important history of debt resistance—a history that is as old as it is revolutionary—for us to learn from.

LOOKING BACKWARD

From ancient times to the present, there have been powerful debt resistance movements that have challenged the harsh penalties associated with debt default, including debt enslavement and debt incarceration. In ancient Athens there was a practice of enslaving either the debtor or one of their family members if their debt was unpaid. This practice expanded to the point that civil wars broke out between debtors and creditors so often that the very survival of the city-state of Athens was in question. This crisis stimulated a major change in the Athenian legal system that outlawed the debt enslavement of fellow citizens and became a model for many societies down to the formation of the American republic.

There was still widespread debt incarceration in the United States after the “American Revolution.” (Even two signers of the Declaration of Independence were later imprisoned!) The first major rebellion in U.S. history after independence, Shay’s Rebellion in 1786, was against foreclosures and debt imprisonment. It took many struggles throughout the first half of the nineteenth century to end the practice of debt imprisonment. The great post-Civil War struggles against foreclosures on small farmers in the Midwest and South were moments of insurrection against the rule of the creditors’ logic. During the Great Depression, urban workers and rural farmers banded together to block home evictions and farm foreclosures. Workers also organized their own credit and mutual aid associations to create alternative ways to borrow and lend without the threat of slavery and torture. Finally these insurrections forced the federal government into passing “personal bankruptcy” laws that limited the “pound of flesh” some capitalist creditors were demanding from workers who defaulted.

Debt resistance movements have been the driving force behind many of the most important struggles in the last twenty years. For example, the alter-globalization movement of the late 1990s and early 2000s was a broad constellation of social struggles against paying “odious” national debts to international banks. The global justice movement that emerged in much of the global south forced many banks (both private and international, like the World Bank and International Monetary Fund) to renegotiate the loans by cutting their interest rates, reducing the principal, and in some cases simply “forgiving” the loan.

Along with these struggles against “national” debts there have been remarkable recent struggles against personal debt like the movement of El Barzón in Mexico. In 1994, the Mexican peso dramatically lost value compared to the dollar, which set off a steep inflation that increased the interest on variable-rate loans and often made loans, including mortgages, that were denominated in U.S. dollars (as many were) ten times larger. This brought nearly 30% of the people indebted to banks into default. The El Barzón movement began by claiming that the loan repayment conditions after the

collapse of the peso were the fault the government and the banks, and that it would be unfair to hold the debtor responsible. Their slogan was, “*Debo, no niego, pago lo justo*” (“I owe, I don’t deny it, I’ll pay what is fair”). The movement grew rapidly across the country and was known both for its practical approach (by setting up legal consultation services for debtors) and its riveting tactics. It forced the government to come to the aid of the embattled debtors and had a definitive positive impact on their situation.

LOOKING FORWARD

Almost two decades later, Strike Debt, an offshoot of Occupy Wall Street, emerged out of a series of open assemblies. It continues to spark conversations about debt as a global system of domination and exploitation. Debt binds the 99%—although as we’ve seen in this manual it binds some people (women, people of color, and the poor) more tightly than others.

Debt resistance can take many forms and Strike Debt is developing tactics, resources and frameworks for generalizing the fight against the debt system. These initiatives include publishing this manual and hosting debtors’ assemblies; supporting the work of the Occupy Student Debt Campaign and their Pledge of Refusal; launching the “Rolling Jubilee,” a mutual-aid project that buys debt at steeply discounted prices and then abolishes it (to learn more, email rollingjubilee@gmail.com); and planning direct actions across the country, ranging from debt burnings to targeted shutdowns of predatory lenders of all kinds.

Planning for the slightly longer term, Strike Debt is focused on bringing debt resistors together with the aim of growing the struggle against debt into a force to be reckoned with. Imagine, if you will, a global Debtors’ Union made up of a network of lender-specific sub-unions. For example, if someone had a mortgage with Bank of America, tuition debt from Sallie Mae and Citibank, and credit card debts with Wells Fargo and Chase, when this person joins the union they automatically join the sub-unions for Bank of America, Sallie Mae, Citibank, Wells Fargo and Chase. These unions could, eventually, be platforms for sustained agitation, providing support for strategic actions, including debt strikes, akin to the labor battles of earlier eras.

Underlying all these projects is Strike Debt’s support for a Jubilee—a full cancellation of all debts. Civilization after civilization has recognized that when debt gets unmanageable, it must be cancelled. This has happened many times throughout history. We should remember that there are conservative as well as revolutionary jubilees; debt cuts can save the system if what follows is business as usual. A Debt Jubilee needs to be accompanied by a program of social transformation.

Consider this call for a global jubilee from David Graeber’s *Debt: The First 5,000 Years*:

We are long overdue for some kind of Biblical-style Jubilee: one that would affect both international debt and consumer debt. It would be salutary not just because it would relieve so much genuine human suffering, but also because it would be our way of reminding ourselves that money is not ineffable, that paying one's debts is not the essence of morality, that all these things are human arrangements and that if democracy is to mean anything, it is the ability to all agree to arrange things in a different way. It is significant, I think, that since Hammurabi, great imperial states have invariably resisted this kind of politics. Athens and Rome established the paradigm: even when confronted with continual debt crises, they insisted on legislating around the edges, softening the impact, eliminating obvious abuses like debt slavery, using the spoils of empire to throw all sorts of extra benefits at their poorer citizens (who, after all, provided the rank and file of their armies), so as to keep them more or less afloat—but all in such a way as never to allow a challenge to the principle of debt itself. The governing class of the United States seems to have taken a remarkably similar approach: eliminating the worst abuses (e.g., debtors' prisons)*, using the fruits of empire to provide subsidies, visible and otherwise, to the bulk of the population; in more recent years, manipulating currency rates to flood the country with cheap goods from China, but never allowing anyone to question the sacred principle that we must all pay our debts.

At this point, however, the principle has been exposed as a flagrant lie. As it turns out, we don't 'all' have to pay our debts. Only some of us do. Nothing would be more important than to wipe the slate clean for everyone, mark a break with our accustomed morality, and start again.

What is a debt, anyway? A debt is just the perversion of a promise. It is a promise corrupted by both math and violence. If freedom (real freedom) is the ability to make friends, then it is also, necessarily, the ability to make real promises. What sorts of promises might genuinely free men and women make to one another? At this point we can't even say. It's more a question of how we can get to a place that will allow us to find out. And the first step in that journey, in turn, is to accept that in the largest scheme of things, just as no one has the right to tell us our true value, no one has the right to tell us what we truly owe.¹

We all know that promises have been broken. The 1% have gambled with our livelihoods. In contrast to their recklessness, those of us who advocate debt refusal take our collective responsibility very seriously. By dissolving the bonds which bind us to the 1%, we seek to forge new and equitable bonds with one another. We recognize that everyone deserves adequate housing, meaningful work, short hours, fair wages, access to health care and a truly liberating education. We cannot fulfill these obligations if we continue to cooperate with the system as it currently exists. Why keep paying our money to the Wall Street mob? We know our resources could be better spent.

Remember: we don't owe Wall Street anything, we owe each other ev-

erything. The possibilities of organizing around debt resistance are only beginning to be realized. Strike Debt, like Occupy Wall Street, hopes to inspire autonomous action. It encourages all to resist. To contact Strike Debt, please email strikedebt@interoccupy.net or visit strikedebt.org.

RESOURCES:

ARTICLES AND BOOKS

George Caffentzis, “University Struggles at the End of the Edu-Deal,” *Mute Magazine*, April 15, 2010 (tinyurl.com/DROMCaffentzis1).

George Caffentzis, “Workers Against Debt Slavery and Torture: An Ancient Tale with a Modern Moral,” *Edu-Factory*, July 2007 (tinyurl.com/DROMCaffentzis2).

Harry Cleaver, Jr., “Notes on the Origin of the Debt Crisis,” *Midnight Notes*, 1990 (tinyurl.com/DROMCleaver).

Silvia Federici, “African Roots of US University Struggles: From the Occupy Movement to the Anti-Student-Debt Campaign,” *unsettling knowledges*, January 2012 (tinyurl.com/DROMFederici1).

Silvia Federici, “The Debt Crisis, Africa and the New Enclosures,” *Midnight Notes*, 1990 (tinyurl.com/DROMFederici2).

Silvia Federici, George Caffentzis, and Ousseina Alidou (Eds.), *A Thousand Flowers: Social Struggles Against Structural Adjustment in African Universities*, (Trenton, NJ: Africa World Press, 2000).

David Graeber, *Debt: The First 5,000 Years*, (New York, NY: Melville, 2011) (tinyurl.com/DROMGraeber).

Midnight Notes Collective and Friends, *Promissory Notes: From Crisis to Commons*, 2009 (tinyurl.com/DROMMidnight).

NOTES

1. David Graeber, *Debt: The First 5,000 Years*, (New York, NY: Melville, 2011) (tinyurl.com/DROMGraeber), 390–391.

APPENDIX A

This information is slightly modified from Carreon and Associates (carreonandassociates.com). We know you're probably broke, especially if you're in debt, but of the resources we've found, this one is really worth the money if you can afford it (\$29.95).

1. Request for investigation of credit report
 2. Dispute letter to credit bureau
 3. "Intent to sue" letter to credit bureau
- Reply to a CRA accusing you of credit repair

Send your letters to the address of the appropriate agency:

Experian
P.O. Box 9556
Allen, TX 75013

Equifax
P.O. Box 740241
Atlanta, GA 30374-0241

TransUnion Consumer Relations
P.O. Box 2000
Chester, PA 19022-2000

REQUEST FOR INVESTIGATION OF CREDIT REPORT

[Your Name]
[Your Address]
[Experian, Equifax or TransUnion address]
[Date]

Attn.: Consumer Relations

Consumer Relations Dept.:

I am requesting with this written notice that the following inaccurate items be removed from my credit report. The items are not correct and are causing me financial distress because of their derogatory information. The items are as follows:

[Creditor]

[Account number]

[Rating (e.g., curr was 30, charge off, 90 days, etc.)]

[Reason why it should be removed: i.e. not mine, never late, disputed before yet still remains, incorrect information like payment history, date opened or balance owed.]

I understand you are required to notify me of your investigation results within 30 days.

My contact information is as follows:

[Your Name, not signed]

DOB: [Date of birth]

SSN: [Social Security number]

[Address]

Sincerely,

[Your Name, signed]

DISPUTE LETTER TO CREDIT BUREAU

Provide any proof you have with this dispute.

[Your Name]
[Your Address]
[Experian, Equifax or TransUnion address]
[Date]

To Whom It May Concern:

In reviewing my credit report, I realized there are several inaccurate listings. These accounts are incorrect and several are outdated. The following accounts need to be investigated immediately to reflect my true credit history:

Acct: [-xxxx-xxx:]

This account is listed as being 60 days late. I have never been late on this account.

Acct: [-xxxx-xxx:]

This account is listed as being 30 days late. This account does not belong to me.

Acct: [-xxxx-xxx:]

This account is listed as being 60 days late. The creditor lost my check and agreed to correct the late notation. (Enclosed is a copy of their letter stating such).

Additionally you are reporting several other accounts as delinquent that are past the seven-year reporting time as allowed under the Fair Credit Reporting Act. The following accounts should be deleted immediately:

Acct: [-xxx:] over seven years old

Acct: [-xxx:] over eight years old

Acct: [-xxx:] over seven years and four months old

Please forward an updated copy to me at your earliest convenience with the above noted corrections. My current address is listed above.

Sincerely,

[Your Signature]

[Your Printed Name]

INTENT TO SUE LETTER TO CREDIT BUREAU

Send this letter to the CRA if you intend on suing them. You can sue them in your county for damages and subsequently send a copy of that to them, offering to settle or appear. If you sue them, be sure you have a case.

[Your Name]
[Your Address]

[Experian, Equifax or TransUnion address]

[Date]

To Whom It May Concern:

REF: Intent to file suit: violation of the FCRA

It is a crime to threaten suit with no intention of doing so, therefore you can take heed that I am very serious about filing suit against your company. I have sent [#] previous letters to you, all by certified mail (receipts enclosed) requesting that you remove inaccurate information from my file and you have failed to do so.

Accordingly, I can show a judge that these accounts are inaccurate and that you violated the Fair Credit Reporting Act by ignoring my requests to investigate the items. My previous letters—all sent certified mail—stated my reasons for an investigation and these reasons were not frivolous in any way.

If this final request does not prompt you to conduct a proper investigation of the accounts in question, and send proof to me of said investigation, I will file a civil suit in [name of your county, state] for damages. You can then travel to defend yourself.

I take my credit very seriously and your lack of professionalism and assistance disgusts me. I am well aware of my rights under the FCRA and intend to pursue them to the maximum.

I anticipate your response.

Sincerely,

[Your Signature]

[Your Printed Name]

REPLY TO A CRA ACCUSING YOU OF CREDIT REPAIR

Use this letter to demand that a credit bureau continue to investigate items you have initiated a dispute on. Often a CRA will accuse you of using a credit repair company, which by the way is your right! Here is a letter to put them in their place and to avoid slowing your disputes.

[Your Name]
[Your Address]

[Experian, Equifax or TransUnion address]

[Date]

To Whom It May Concern:

RE: Credit Repair Accusation

Please be advised that I have received your computer generated letter stating that you have ceased investigation of my credit reports because, in your opinion, you believe that I have used a third party credit repair agency. Not only do I believe this to be a stall tactic on your part to grant you an additional 30 days to comply with my original request, but I believe it to be a blatant violation of the FCRA.

You were advised by me on [insert date] by certified mail (copy enclosed) that I questioned the accuracy of a few items on my credit reports. That request was written by me and mailed by me—not a third party agency. It appears obvious to me that you are abusing your power under the FCRA to escape a complete investigation.

Additionally there is *no* law that states a consumer cannot use a third party, so using that as your excuse is a moot point. As a matter of fact, Congress has found the whole process so overwhelming that they afford consumers the right to use a third party on their behalf if the consumer so chooses. This is why your statement is so outrageous.

I reserve the right to sue a credit bureau for violations of the FCRA and I believe I can prove that you did not use reasonable measures to insure the accuracy of my credit reports and now you are stalling the process further.

I realize disputes may be expensive and therefore it is your job to stall them, but you do so at great risk. Please take notice that this letter dated [insert today's date] is formal notice to you that I am requesting that you continue forward with my original investigation request and send the results to me within 15 days. I therefore legally and lawfully refuse your "form letter," thus giving you only 15 days, not 30 more.

I am outraged at your accusation and I have fully researched my rights in regards to my credit file. I look forward to your expediting my original request immediately.

Sincerely,

[Your Signature]

[Your Printed Name]

APPENDIX B

All five sample letters have been modified from those made available on ChexSystems Victims (chexsystems victims.com).

ChexSystems/TeleCheck Letters

1. Initial dispute
2. Demand for removal to reporting agency
3. Procedural request

Financial Institution Letters

4. Demand for removal to financial institution (abuse/fraud)
5. Demand for removal to financial institution (non-sufficient funds)

Send your letters to the address of the appropriate agency:

TeleCheck Services, Inc.
Attention: Consumer Resolutions-FA
P.O. Box 4514
Houston, TX 77210

ChexSystems Consumer Relations
7805 Hudson Road
Suite 100
Woodbury, MN 55125

INITIAL DISPUTE

[Your Name]
[Your Address]

[ChexSystems or TeleCheck address]

[Date]

RE: Consumer ID # [Your Consumer ID #]

Consumer Relations Dept.:

I have recently been informed that there is negative information reported by [Name of Bank] in the file [ChexSystems/TeleCheck] maintains under my Social Security number. Upon ordering a copy of the report, I see an entry from this bank listing a “[condition, e.g., NSF, overdraft, account abuse]” in [month] [year].

I am unaware of ever having a “[same condition]” from this bank. Please validate this information with [name of bank] and provide me with copies of any documentation associated with this “[same condition]” bearing my signature. In the absence of any such documentation, I ask that this information be immediately deleted from the file you maintain under my Social Security number.

You have 30 days to verify this information and to provide me with a document bearing my original signature. If you cannot, I am demanding removal under the Fair Credit Reporting Act.

This report is *severely* restricting my banking abilities.

My contact information is as follows:

[Your Name, not signed]

[Social Security Number]

[Address]

Cc: [Lawyer’s name]

Sincerely,

[Your Name, signed]

DEMAND FOR REMOVAL TO REPORTING AGENCY

[Your Name]
[Your Address]

[ChexSystems or TeleCheck address]

[Date]

RE: Consumer ID # [Your Consumer ID #]

Consumer Relations Dept.:

This letter is in response to your recent claim that [Name of Bank] has verified this account to be mine. Yet again, you have failed to provide me with a copy of any viable evidence submitted by [Name of Bank]. Be advised that the description of the procedure used to determine the accuracy and completeness of the information is hereby requested, to be provided within fifteen (15) days of the completion of your reinvestigation.

Additionally, please provide the name, address, and telephone number of each person contacted at [Name of Bank] regarding this alleged account. I am formally requesting a copy of any documents provided by [Name of Bank]. If [Name of Bank] does not validate the debt, it is a violation of the FCRA [611 [15 U.S.C. § 1681i] a 6 B iii:

“a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the business name and address of any furnisher of information contacted in connection with such information and the telephone number of such furnisher, if reasonably available”

The listed item is entirely inaccurate and incomplete, and represents a very serious error in your reporting.

Failure to comply with federal regulations by credit reporting agencies is investigated by the Federal Trade Commission (see 15 U.S.C. § 41). I am maintaining a careful record of my communications with you for the purpose of filing a complaint with the FTC and the State Attorney General's office, should you continue in your noncompliance.

My contact information is as follows:

[Same as sample letter #1]

PROCEDURAL REQUEST

[Your Name]
[Your Address]

[ChexSystems or TeleCheck address]

[Date]

RE: Consumer ID # [Your Consumer ID #]

Consumer Relations Dept.:

As I have not heard back from you in over [15/30/45] days regarding my notice of dispute dated [date letter was sent], I must presume that no proof in fact exists.

You are currently in violation of the Fair Credit Reporting Act.

Your failure to respond, in writing, hand signed, and in a timely manner, will work as a waiver to any and all of your claims in this matter, and will entitle me to presume that you are reporting my name and Social Security number in error, and that this matter is permanently closed. Remove me from your records immediately.

Failure to respond within 30 days of receipt of this certified letter will result in a small claims action against your company. I will be seeking \$5,000 in damages for:

Defamation

Negligent enablement of identity fraud

Violation of the Fair Credit Reporting Act

For the purposes of 15 U.S.C. § 1692 et seq., this notice has the same effect as a dispute to the validity of the alleged debt and a dispute to the validity of your claims. This notice is an attempt to correct your records, and any information received from you will be collected as evidence should any further action be necessary. This is a request for information only, and is not a statement, election, or waiver of status.

My contact information is as follows:

[Same as sample letter #1]

DEMAND FOR REMOVAL TO FINANCIAL
INSTITUTION (ABUSE/FRAUD)

[Your Name]
[Your Address]

[Name and address of original bank]

[Date]

RE: Acct # [Your Account #]

To Whom It May Concern:

This is a formal notice of dispute regarding information that [Name of Bank] sent to [ChexSystems/TeleCheck], a consumer reporting agency.

The following false information was sent to [ChexSystems/TeleCheck]:

[List the information the way it is shown in the report]

This information was disputed with [ChexSystems/TeleCheck] on [date]; however, [Name of Bank] verified the information as accurate. This falsely reported information damages my financial reputation and should be removed immediately.

[Name of bank] reported [account abuse/suspected fraud/fraud] when in fact, no [abuse/fraud] took place. There was no illegal activity on the account.

[Only include these two sentences if no money is owed to the reporting bank]: [Name of Bank] did not experience any financial loss and no money is owed on this account. There was no violation of the account agreement that governed the account.

Under my rights under the Fair and Accurate Credit Transactions Act, I am asking for an investigation of this reported information, and removal of the false information reported to [ChexSystems/TeleCheck].

Sincerely,

[Your Name]

cc: [Bank branch where account was opened]

DEMAND FOR REMOVAL TO FINANCIAL
INSTITUTION (NON-SUFFICIENT FUNDS)

[Your Name]
[Your Address]

[Name and address of original bank]

[Date]

RE: Acct # [Your Account #]

To Whom It May Concern:

This letter is regarding account # [xxxx-xxx], which you claim [condition, e.g., "I owe \$100.00]. This is a formal notice that your claim is disputed.

I am requesting validation, made pursuant to the Fair Debt Collection Practices Act. Please note that I am requesting "validation"; that is, competent evidence bearing my signature, showing that I have, or ever had, some contractual obligation to pay you.

Please also be aware that any negative mark found on my credit reports, including [ChexSystems/TeleCheck], from your company or any company that you represent for a debt that I do not owe is a violation of the Fair Credit Reporting Act. Therefore if you cannot validate the debt, you must request that all credit reporting agencies delete the entry.

Pending the outcome of my investigation of any evidence that you submit, you are instructed to take no action that could be detrimental to any of my credit reports.

Failure to respond within 30 days of receipt of this certified letter will result in legal action against your company. I will be seeking a minimum of \$5,000 in damages for:

1. Defamation
2. Negligent enablement of identity fraud
3. Violation of the Fair Credit Reporting Act

For the purposes of 15 U.S.C. § 1692 et seq., this notice has the same effect as a dispute to the validity of the alleged debt and a dispute to the validity of your claims. This notice is an attempt to correct your records, and any information received from you will be collected as evidence should any further action be necessary. This is a request for information only, and is not a statement, election, or waiver of status.

My contact information is as follows:

[Same as sample letter #1]

APPENDIX C

This information is slightly modified from Carreon and Associates (carreonandassociates.com).

REQUEST TO VALIDATE MEDICAL DEBT

[Your Name]
[Your Address]

[Address of Collection Agency]

[Date]

Amount of debt: []

Date of Service: []

Provider of Service: []

Dear Collection Agent,

I received a bill from you on [date] and as allowed under the Fair Debt Collections Practices Act (FDCPA), I am requesting that you allow me to validate the alleged debt. I am aware that there is a debt from [name of hospital/doctor], but I am unaware of the amount due and your bill does not include a breakdown of any fees.

Additionally, I am allowed under the Health Insurance Portability and Accountability Act (HIPAA) to protect my privacy and medical records from third parties. I do not recall giving permission to [name of provider] for them to release my medical information to a third party. I am aware that the HIPAA does allow for limited information about me but anything more is to only be revealed with the patient's authorization. Therefore my request is twofold—validation of debt and HIPAA authorization.

Please provide breakdown of fees including any collection costs and medical charges.

Provide a copy of my signature with the provider of service to release my medical information to you.

Cease any credit bureau reporting until the debt has been validated by me.

Please send this information to my address listed above and accept this letter, sent certified mail, as my formal debt validation request, which I am allowed under the FDCPA. Please note that withholding the information you received from any medical provider in an attempt to be HIPAA compliant can be a violation of the FDCPA because you will be deceiving me after my written request. I request full documentation of what you received from the provider of service in connection with this alleged debt.

Additionally, any reporting of this debt to the credit bureaus prior to allowing me to validate it may be a violation of the Fair Credit Reporting Act, which can allow me to seek damages from a collection agent. I will await your reply with above requested proof. Upon receiving it, I will correspond back by certified mail.

Sincerely,

[Your Signature]

[Your Printed Name]

Certified mail No: []

APPENDIX D

Both sample letters have been modified from those made available on Debt Consolidation Care (debtconsolidationcare.com/letters).

1. Dispute letter
2. Cease and desist letter

DISPUTE LETTER

[Your Name]
[Your Address]

[Collection Agency's Address]
[Date]

Dear [Insert Name of Collection Agency]:

I am writing in response to your [letter or phone call] dated [insert date], (copy enclosed) because I am disputing the alleged debt.

Before you contact me again, please provide me with the following documentation:

proof that you own the debt and/or are authorized to collect on this debt on behalf of the current owner;

proof that the debt was actually incurred by me with respect to the original creditor;

a copy of any judgment (if applicable);

proof that you are licensed to collect debts in [insert name of your state]

Be advised that I have documented all correspondence with respect to this debt and will not hesitate to report any violations of the law to my State Attorney General, the Federal Trade Commission and the Better Business Bureau.

Finally, if you are not authorized to collect this debt thereon, I demand that you immediately forward this dispute letter to the original creditor to inform them of my dispute.

Sincerely,
[Your Signature]
[Your Printed Name]

CEASE AND DESIST LETTER

[Your Name]
[Your Address]

[Collection Agency's Address]

[Date]

Dear [Insert Name of Collection Agency]:

This letter comes in response to your repeated attempts to contact me regarding an alleged debt, which I am contesting.

I demand that you cease and desist from any further attempt to contact me at work or by phone.

Please be aware that I will continue to document all attempts to communicate with me with respect to the alleged debt, and that any further such attempts may constitute a violation of the Fair Debt Collection Practices Act (FDCPA). I will not hesitate to report violations of the law to my State Attorney General, the Federal Trade Commission and the national Better Business Bureau.

Sincerely,

[Your Signature]

[Your Printed Name]

STRIKE DEBT!

STRIKE DEBT EMERGED OUT OF A SERIES OF OPEN ASSEMBLIES IN NYC IN MAY 2012. IT IS SPARKING CONVERSATIONS ABOUT DEBT AS A GLOBAL SYSTEM OF DOMINATION AND EXPLOITATION.

STRIKE DEBT IS DEVELOPING TACTICS, RESOURCES AND FRAMEWORKS FOR LINKING DIVERSE INDIVIDUALS AND COMMUNITIES TO ACTIVELY RESIST THE DEBT SYSTEM. THESE INITIATIVES INCLUDE PUBLISHING THIS MANUAL; HOSTING DEBT TEACH-INS AND DEBTORS' ASSEMBLIES; SUPPORTING THE WORK OF THE OCCUPY STUDENT DEBT CAMPAIGN INCLUDING THEIR PLEDGE OF REFUSAL; LAUNCHING THE ROLLING JUBILEE, A MUTUAL AID PROJECT THAT BUYS DEBT AT STEEPLY DISCOUNTED PRICES AND THEN ABOLISHES IT; AND PLANNING CREATIVE DIRECT ACTIONS ACROSS THE COUNTRY, RANGING FROM DEBT BURNINGS TO TARGETED SHUTDOWNS OF PREDATORY LENDERS OF ALL KINDS.

JOIN THE RESISTANCE: STRIKEDEBT.ORG

a project of

**STRIKEDEBT /
OCCUPY WALL STREET**

TO THE FINANCIAL
ESTABLISHMENT OF
THE WORLD,
WE HAVE ONLY
ONE THING TO SAY:

WE OWE YOU NOTHING.