**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT**
**IN AND FOR HILLSBOROUGH COUNTY, FLORIDA**

**STATE OF FLORIDA,**
**DEPARTMENT OF LEGAL AFFAIRS,**
**OFFICE OF THE ATTORNEY GENERAL,** **CASE NO.**

**Plaintiff,**

**vs.**

**CSA - CREDIT SOLUTIONS OF AMERICA, INC.,**

**Defendant.**

_____/

**COMPLAINT FOR INJUNCTIVE AND OTHER STATUTORY RELIEF**

Plaintiff, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS, OFFICE OF THE ATTORNEY GENERAL ("Attorney General") sues Defendant CSA - CREDIT SOLUTIONS OF AMERICA, INC., and alleges:

**JURISDICTION AND VENUE**

1. This is an action for monetary, injunctive, and other equitable and statutory relief, brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2009).

2. This court has jurisdiction pursuant to the provisions of Chapter 501, Part II, Florida Statutes. The acts or practices alleged herein occurred in the conduct of "trade or commerce" as defined in § 501.203(8), Florida Statutes.

3. The Office of the Attorney General seeks relief in an amount greater than Fifteen Thousand Dollars ($15,000.00), exclusive of interest, costs, and attorneys fees.

4. The violations alleged herein affect more than one judicial circuit of the State of Florida.

5. Venue is proper in this court as statutory violations have occurred and continue to occur within and without Hillsborough County.

6. All other conditions precedent to this action have occurred.

**THE PARTIES**

7. Plaintiff is an enforcing authority of Chapter 501, Part II, Florida Statutes, and is authorized to bring this action and to seek injunctive and other statutory relief pursuant thereto.

8. Plaintiff has conducted an investigation of the matters alleged herein, and Attorney General Bill McCollum has determined that this enforcement action serves the public interest.

9. At all times material hereto, Defendant CSA-CREDIT SOLUTIONS OF AMERICA, Inc. ("CSA"), has been a Texas corporation with its principal place of business in Richardson, Texas and is currently located at 2370 Performance Drive, Building D, Richardson, Texas 75082, with its current mailing address at 12700 Park Central Drive, 21st Floor, Dallas, Texas 75251.

10. From at least October 2005 through on or about October 12, 2008, CSA was not registered to conduct business in Florida and did not register a fictitious name. On information and belief, or about October 13, 2008, CSA filed an application for authorization to conduct business in Florida. On information and belief, CSA has not registered a fictitious name in Florida.

11. At all times material hereto, CSA has conducted business with residents of the state of Florida, and has advertised and marketed to residents of the state of Florida and across the country.

## DEFENDANT'S COURSE OF CONDUCT

*Overview*

12. Defendant CSA targets financially strapped consumers overwhelmed with credit card debt for enrollment in its debt settlement program. CSA systematically engages in numerous fraudulent, deceptive, and unfair business practices in its large-scale debt settlement operation, including, but not limited to, unlawfully charging significant advance fees before completing or, in many instances, commencing performance of its services, falsely representing the success rates of its program, and deceptively advertising and promoting its debt settlement program through misrepresentations and material omissions.

13. CSA, on information and belief, employs a scheme to defraud designed to entice debt-ridden consumers into its program based on false promises to settle consumers' debts for approximately one-half the amount owed within 12-36 months. Participation in the CSA program comes at great cost to consumers, including not only payment of significant front-loaded advance fees but also often increased penalties for nonpayment to creditors, lawsuits, damage to credit scores, tax liability, bankruptcy or worse.

14. CSA uses an arsenal of false and deceptive statements in its advertising and in telephone sales calls to enroll consumers into its program, vigorously promoting the likelihood of success, deceptively disparaging debt relief alternatives, and downplaying consumers' concerns about failing to pay creditors and resulting impacts on credit and finances. CSA's pitch focuses on the consumer's goal of getting out of debt and minimizes or omits discussion altogether of the harsh consequences of the program for consumers when their debts are not settled or they do not complete the program. CSA also makes numerous recommendations about consumers' credit, collections law, and the viability of other debt relief alternatives tantamount to legal advice, but

presents enrollment agreements which attempt to shield CSA from its obligations, representations and omissions. The terms contained in CSA's enrollment agreements and CSA's front-loaded fee payment structure ensure that consumer debt is not resolved until CSA collects all or substantially all of its fees, often to the severe detriment of the consumer.

**Defendant's Operations**

15. Defendant CSA- Credit Solutions of America, Inc. is the self-proclaimed "debt settlement leader," "industry leader," and "largest for-profit debt management company" in the United States. CSA advertises that it has enrolled more than 200,000 consumers nationwide and has approximately 90,000 active clients. The number of Floridians affected is believed to number in the thousands, but the exact number is unknown due to CSA's failure to provide this information as requested by the Attorney General via investigative subpoena duces tecum.

*Program Overview*

16. CSA's debt settlement program is an aggressive and risky form of debt relief targeted at financially strapped consumers who owe of thousands of dollars of unsecured debts, primarily credit card debt. CSA's Internet advertisements aggressively tout debt settlement as the solution for consumers to get out of debt in 12 to 36 months by currently promising to reduce consumers' debts by settling up to 50% amount owed**.** CSA, however, fails to reveal adequately the risks of debt settlement and the true extent of the significant monetary costs and sometimes catastrophic nonmonetary consequences borne by consumers who opt for debt settlement.

17. Rather than offering a program to enable consumers to repay their entire indebtedness on a payment plan, CSA's program purportedly offers a method of paying debts off, typically in a lump sum, at an amount significantly less than the total debt. The debt settlement plan operates on the premise that the consumer's default status induces the creditor to accept a

settlement for less than the amount owed. Therefore, during enrollment, CSA either expressly instructs, or indirectly encourages, consumers to stop paying their creditors, regardless of whether they are current on their obligations. Instead of paying creditors, consumers are directed by CSA to deposit funds into a savings account to accumulate purportedly for settlements; however, CSA debits its significant fees from such account, severely limiting savings accumulation.

18. In numerous known instances, consumers who have been paying fees to CSA for months face significant harm, including, but not limited to, a barrage of collection calls or litigation threats, decreased creditworthiness, increased debt balances due to interest and penalties as a result of ceasing payments to creditors, or a combination thereof. Even if sufficient funds were to accumulate in the consumer's account, creditors are not required to settle debts at less than the amount owed and may refuse, as a matter of course, to deal with debt settlement companies generally, or CSA in particular, or just plainly refuse to negotiate a settlement for a reduced amount. In other instances, CSA fails to fulfill its obligations to finalize any settlement or even respond to consumers. Therefore, consumers enrolled in the CSA program are often left in a precarious position and much worse off than they were in at the time of enrollment. The harm suffered by consumers of CSA includes, but is not limited to, one or more of the following:

A. **Fees:** payment of significant fees amounting to hundreds or thousands of dollars to CSA for services:
   (i) which were not performed at all;
   (ii) which were not performed as promised;
   (iii) which were paid before services were completely performed; or
   (iv) which were or are subject to a service guarantee;
   all or some of which has not been refunded;

B. **Credit:** negative impact to their creditworthiness, specifically their credit rating (and credit scores) due to reporting of delinquent payment history, charged-offs, or collections, judgment or bankruptcy status, including long term effects of credit reporting of negative payment history for 7 years (bankruptcies: 10 years) and affecting, by way of example:
   (i) current and future credit;

(ii) purchasing or renting a home or other lodging;
(iii) purchasing a car;
(iv) utility deposits;
(v) insurance, particularly car insurance rates;
(vi) employment; and
(vii) potentially, healthcare.

C. **Debt (Not enrolled with CSA):** increased debts, increased interest rates, default interest rates upwards of 30%, increased payments, credit limit reductions, interest accrual, late fees, other charges or penalties on debts, including debts paid "current," which are not enrolled with CSA. Actions by financial institutions to protect the institutions against increased risks of default are increasing, including subjecting credit cards to universal or global default clauses enabling an increased interest rate or other actions to be taken on an account due to late payment on another debt;

D. **Debt (Enrolled with CSA):** increased debt, increased interest rates, default interest rates upwards of 30%, interest accrual, late fees, other charges or penalties due to defaults on enrolled accounts;

E. **Collections**: lawsuits, garnishments, judgments, and increased collection calls and activities, once payments are stopped;

F. **Bankruptcy**: bankruptcy filing to stop litigation;

G. **Professional Fees**: legal or other professional fees for attorneys, accountants or others to assist consumers in filing bankruptcy or mitigating the harm suffered by consumer or damage to consumer's credit, as result of enrollment with CSA;

H. **Delays**: delays to pursuing and obtaining viable and more suitable alternative debt relief options, including bankruptcy, some of which were deceptively disparaged or advised against in the sale of CSA's program;

I. **Combination of one or more of the above** when creditors refuse to deal with CSA or refuse to negotiate debt reductions or CSA does not effect settlements, causing consumers to cancel their enrollment; or

J. **Taxes**: potential income tax liability for taxable income, due to significant amounts of debt reduction (more than $600) when settlements are completed, even though consumers do not receive money.

19. CSA has, on information and belief, employed and employs fraudulent, deceptive and unfair business practices in the advertising, promotion and implementation of its debt

settlement business, including engaging in a scheme to defraud consumers of their property and depriving consumers of their property.

20. Numerous consumers, including Floridians, have been induced to enroll in CSA's debt settlement program by CSA's false promises to obtain settlements at less than 50% of their principal debt and to eliminate debts within 12-36 months. Consumer reliance on these deceptive statements and material omissions has resulted in numerous instances of consumers paying significant fees for services not performed or ineffectively performed. CSA wrongfully retains these payments and willfully refuses to issue full refunds with the intention of temporarily or permanently depriving consumers of their property.

21. As of the date of this Complaint, CSA has been sued by the Attorneys General of Texas, New York, Missouri and Illinois relating to deceptive and unfair practices employed in its debt settlement business. The Better Business Bureau ("BBB") of Dallas reports that more than 1700 complaints were processed against CSA in the last 36 months and has issued an "F" rating to CSA for its business practices. CSA has continued to engage in unlawful practices, despite these lawsuits and complaints. CSA has even falsely represented that it has an "A" rating with the BBB. CSA continues to claim a 99.4% customer satisfaction rate and in statements to consumers dismisses the ongoing litigation as unimportant, rationalizing that many companies are sued.

*Claims of Success*

22. Through its internet website, creditsolutions.com, CSA entices consumers in financial distress to enroll in the program with promises that consumers can get out of debt for approximately one-half of what they owe. Creditsolutions.com has contained or contains advertisements prominently displayed on its homepage and repeated throughout the website, which make robust claims of success. By way of illustration:

"Get out of debt in as little as 12-36 months," and

"Settle your unsecured debt up to 50%*."

Prior versions of the advertisements promised completion in "12-36 months" and substantial debt reductions by as much as 70%, by stating, by way of illustration:

"Reduce debt 60%;"

> "Today, the most intelligent and effective way to reduce or eliminate personal debt is through negotiation and debt settlement. When you hire us, we negotiate with your creditors to settle your outstanding balance by eliminating 40-60% of your debt;" or

"Advisors negotiate debt reductions from 40 percent to 70 percent."

On information and belief, CSA deceptively represents successful completion and debt reductions and is unable to substantiate its claims of success. CSA failed to produce any documents evidencing substantiation of its claims in response to the Attorney General's subpoena. Similarly, CSA cannot substantiate its claim that the program resolves consumers' debts within 12 to 36 months or other claims represented such as "Get Rid of Debt in months." Notwithstanding its claims on its website and through its debt consultants or other representatives, CSA admits in documents that in most cases, the program takes between 18-36 months. On information and belief, CSA, in practice, does not even prepare a plan with a completion time of less than 36 months.

*Debt Reduction*

23. CSA has claimed or claims that it is able to settle a consumer's debt with reductions of 70%, 60%, or 50%, or settle a debt up to 50%, but a consumer's actual savings is far less than any reduction promoted. Assuming that CSA is actually able to obtain an offer from a creditor that reflects settlement at 60% or less of the debt owed, the amount paid by the consumer to settle the debt will be higher than what the creditor receives because the consumer will have

paid CSA's fees on top of the settlement amount. For example, if CSA is able to obtain an offer to settle a consumer's debt for 60% of the outstanding balance at the time of enrollment, what initially appears to be a reduction of 40% from the balance at enrollment is really only a reduction of 25%. As illustrated in the table below, this is because the consumer will in fact pay a dollar amount equal to 75% of the enrolled balance, comprised of the sum of the dollar amounts representing (1) 60% of the debt for the settlement and (2) the 15% fee to CSA.

| Balance of debt at enrollment | Debt settlement $.60 (40% discount) | CSA FEE 15% debt enrolled | Costs to consumer | True debt reduction, After CSA FEE |
|---|---|---|---|---|
| $10,000 | $6,000 | $1,500 | $7,500 | $2,500 or 25% |

Therefore, CSA misrepresents the amount of debt reduction savings to consumers in its advertisements and dealings with consumers, and thereby entices consumers to enroll with false statements and misleading, material information and authorize payment of fees to CSA. Consumers may even face more costs, as CSA also omits the potential income tax liability on the forgiveness of the debt at an individual tax rate of 15% or higher. Consumers rely to their detriment on the material false statements and suffer harm as a result.

24. In addition, CSA has failed to disclose and currently fails to adequately disclose the actual debt reduction savings to the consumer in its advertisements and representations during the sales process. At an unknown point in time, CSA added what purports to be a disclaimer to the very bottom of the www.creditsolutions.com web page along with the seldom read company address and privacy policy language. The disclaimer includes the following language:

> "Settlement estimates of 50% are examples of past performance of settled accounts and do not take into consideration our service fees or potential tax consequences."

On the page that includes this disclaimer, CSA prominently states at the top of the page "settle your unsecured debt up to 50%*. The disclaimer is presented far from this initial representation in

very small text against a light background with insufficient color contrast to enable consumers to easily see, read, and understand the text. Moreover, it is likely to be missed by consumers due to its remote location below what may be initially viewable website text for many consumers, as often consumers do not scroll down and seek out small print. CSA's disclaimer is ineffective to cure the deception resulting from the failure to disclose that once CSA service fees are considered, the net reduction of debt inuring to the benefit of the consumer is far less than 50%, and possibly even lower if the consumer is required to pay taxes on the forgiveness of debt.

*Sales and Enrollment Process*

25. CSA entices consumers to enroll with promises of quick and relatively affordable solutions to extensive credit card debt. By way of example, CSA states "our goal is to eliminate your debt in the quickest manner possible to get you back into a debt free situation so your life belongs to you again and not the creditors." Consumers generally enroll over the telephone either by calling a toll-free number, with debt consultants available 24/7, or by submitting an online contact form on creditsolutions.com for a "free consultation" which generates a call from a CSA consultant. During the telemarketing call, CSA's debt consultants make numerous false statements and deceptive representations to induce enrollment, some statements are consistent with the misrepresentations appearing on the website, and some are not found on the website or in the CSA contract. Introductory representations to consumers highlight industry position, purported debt settlements, industry awards, and media coverage. By way of illustration and without limitation, CSA makes certain specific oral representations to induce enrollment, including:

A CSA is regulated by the Federal Government;

B. CSA does business with the specific creditors which the consumer identifies for enrollment in debt settlement;

C. CSA could reduce indebtedness, e.g., approximately $20,000, in half and the accounts would be paid off within 3 years. Otherwise, paying off this debt at an estimated interest rate of 13.5% will take 28 years;

D. Consumers must close all credit accounts enrolled in the CSA program and stop making payments to creditors;
E. All accounts must be delinquent by at least 3 months before creditors will negotiate a lower payoff, as you must be in default;
F. Once you stop making payments, the creditors will see your situation as a financial hardship;
G. Creditors will learn about enrollment in CSA and offer $.80 on the dollar, which should be ignored;
H. Don't talk to creditors;
I. By making just the minimum payment on accounts, your [consumer's] credit score will actually worsen over time (as much as 7 points per month);
J. Under the CSA program, your credit score will be lower at first, but will improve;
K. CSA guarantees a 50% debt reduction with certain large creditors, due to the relationship they have established and due to CSA's bulk negotiations ability; this is a money back guarantee;
L. There are really only two ways to repair credit: 1) by paying off the debt, 2) going through bankruptcy, though because bankruptcy is considered subprime, it may leave the consumer with a higher interest rate once new credit is established;
M. One option to help improve credit is to leave one account open and make regular payments; and
N. Bankruptcy will remain on your credit report for 7 years, will result in disclosure of all assets and possible sale of assets, and chapter 13 may result in wage garnishment.

26. As the debt consultant directs consumers to navigate CSA's website to view various pages, including pages highlighting awards and settlements, many of the website representations are touted to the consumer. Debt consultants are further armed with prepared rebuttals to frequently asked questions, specifically including issues dealing with what if I get sued? or what happens to my credit? On information and belief, CSA utilizes deceptive representations or otherwise fails to adequately inform consumers of the harsh realities of CSA's program, in favor of booking the sale.

*Enrollment Agreement*

27. During the telemarketing call, consumers are guided to CSA's website to log in and then to commence and complete the enrollment process by executing an agreement with an

electronic signature. Consumers are then guided through a series of documents as part of the enrollment package, which generally consists of a Client Information Sheet, Estimated Settlement Plan Cost Statement, CSA Service Fee Payment Schedule, Estimated Personal Savings Plan, a form contract " Credit Solutions Terms of Agreement," an Electronic Funds Transfer Authorization, and a Limited Power of Attorney.

28. On information and belief, CSA debt consultants have been instructed in CSA scripts and internal documents to assist the consumer with the completion of the forms and to guide consumers through the disclosures and small print presented in the enrollment agreement to expeditiously execute the document. On information and belief, CSA debt consultants have, in fact, navigated consumers very quickly through the terms and conditions of the agreement to reach the electronic signature line, thereby eliminating consumers' opportunity to be informed. Specifically, CSA instructs debt consultants to advise consumers that the enrollment package has all of the information that has been discussed so far and to offer the consumer a few minutes to read the agreement carefully, although the debt consultant remains on the line waiting for consumer to finish, to ensure that the enrollment is accomplished.

29. The enrollment documents are not presented in a consumer-friendly, plain language format to enhance consumer readability and understanding, particularly when the consumer is clicking through the computer screen. On information and belief, consumers do not read or understand the agreement or its legal language while they are pressured to rush through the agreement to get to the next document in the process. The agreement contains critical disclosures and representations material to consumers' understanding of the risks and potential resulting consequences, which are not adequately explained or are omitted or misrepresented during the oral telephone sales presentation. By way of example:

> "9. Acknowledgement and Disclaimers. CLIENT expressly acknowledges that COMPANY does not provide investment, tax, or legal advice of any kind. If CLIENT needs legal advice, legal expertise or court filings, CLIENT should consult with an attorney. CLIENT agrees COMPANY has not represented it will assist CLIENT in the modification, improvement or correction of credit entries on CLIENT'S credit reports or that COMPANY can stop all collection telephone calls or correspondence. CLIENT understands this AGREEMENT is not a "debt consolidation" agreement and COMPANY will not disburse any funds to any CLIENT creditor accounts. CLIENT understands debts less than one thousand dollars ($1,000.00) may require payment of the full balance due at the time of settlement and are therefore not subject to the service guarantee stated above. CLIENT understands contracted credit accounts will continue to accrue interest and/or late fees until accounts are settled. CLIENT also understands creditors may continue to impose other penalties as a result of delinquent payments, including but not limited to: the reporting of adverse information to credit bureaus, the filing of a lawsuit to collect subject debts if the creditor is unwilling to accept a settlement offer, or CLIENT is unable to propose a settlement offer acceptable to the creditor. CLIENT understands the services of COMPANY may have a negative impact on some clients' credit reports. CLIENT understands the discharge of indebtedness may be considered taxable income to CLIENT.
>
> Client acknowledges that COMPANY has not nor shall it take any actions to disrupt the relationship between CLIENT and any creditors or persons with whom CLIENT has any contractual or business relationship. CLIENT further acknowledges that COMPANY has not provided CLIENT with any advice or recommendations regarding the reduction or termination of payments to creditors. CLIENT has engaged COMPANY for the sole purpose of negotiating a resolution of said creditors within the AGREEMENT."

Consumers may have difficulty understanding the document presented as just one part of a long process, let alone the paragraph above, consisting of over 300 words of dense text and more than 2000 characters, rendered even more difficult to expeditiously read and understand when presented online.

30. Other contract provisions, in addition to the provisions regarding fees and triggers to CSA performance as referenced in paragraphs 35 through 37 and paragraphs 39 through 41 of this Complaint, unfairly benefit CSA, to the exclusion of vulnerable, financially stressed consumers. Consumers bear substantially all of the risks while CSA bears virtually no risk. By way of example:

A. CSA induces consumers to sign the agreement, while disclaiming that it does not provide advice or recommendations regarding the reduction or termination of payments to creditors, thereby effectuating a falsehood, as CSA does orally tell consumer to stop making payments.

B. CSA disclaims it does not provide tax or legal advice, again effectuating a falsehood based on CSA's on self-professed expertise and offers of advice discussed in more detail herein.

C. CSA further includes an integration clause in an effort to exclude the damaging oral representations from comprising an agreement.

D. CSA prohibits consumers from changing authorization for payment of its fees or demanding reimbursement without the express written concurrence of CSA.

E. CSA makes a service guarantee that it will refund its 15% fee if it is unable to get a reasonable offer on an enrolled account. However, despite failures to perform, CSA in fact refuses refund requests in total, or performs "debt settlement" on consumers by offering a take it or leave it partial refund. CSA cites to a requirement of sufficient funds availability as a condition for eligibility, but fails to provide any further definition or detail and cites the agreement as its shield to issuing refunds. More recently, CSA has instituted a requirement that consumers show they have $.50 on the dollar to be eligible for the service guarantee.

F. CSA's policies regarding consumer cancellation have not been consistent and CSA has required consumers to discharge or withdraw through various means. Some enrollment documents specify that cancellation or withdrawal from the program must be made by telephone.

The enrollment agreement, on its own, and in conjunction with advertising and sales representations and the methodology for enrolling consumers over the telephone, reveals fundamentally unfair and unconscionable practices.

**CSA's Unfair Business Model**

*Goal of Debt Settlement*

31. While the stated goal of debt settlement is to enable consumers' debts to be settled in a lump-sum payment for a negotiated amount, the business model employed by CSA requires significant front-loaded fees to be paid during the time when consumers are attempting to accumulate funds to pay

their creditors in settlement of their debts. The practice of charging substantial up-front or "advance" fees before settlements are consummated is inherently inconsistent with the purported goal of accumulating savings to enable CSA to negotiate a pay off at a reduced sum.

*CSA's Admission*

32. CSA clearly acknowledges that the accumulation of funds for settlement is particularly important during the first three to nine months of enrollment with CSA because this is the time period most likely to produce the best offers from creditors. In CSA's Customer Enrollment Package, CSA states:

> "Because many of the best offers you will receive could come in the first 3 to 9 months of your enrollment, Credit Solutions highly recommends that any additional funds, which become available to you, be allocated towards your personal savings account. The quicker you save money, the sooner you can get your Total Unsecured Debt paid off." (Emphasis added).

CSA, in other communications, advises consumers that CSA:

> "frequently receives unsolicited settlement offers from your creditors very early in the program and that you may receive a message about a possible settlement before you have had ample time to save the amount."

Particularly in light of the admittedly favorable "window of opportunity" for consumers to act on early settlement options, if all of the consumer funds that are deposited into the savings account were retained for debt settlement, consumers would be in a better position to negotiate a debt settlement sooner, assuming that a creditor is amenable to settlement. However, CSA's own practice of drawing front- loaded fees from the savings account impedes the accumulation of settlement funds and facilitates great consumer harm.

*CSA's Fee Structure*

33. CSA's fees of 15% of the total enrolled debt are collected in advance, often amounting to several hundreds or thousands of dollars within the first year alone. CSA's practice of requiring advance fees violates the following provisions of Florida and federal law and is an unfair practice:

A. The federal Credit Repair Organizations Act, 15 U.S.C. § 1679b, bans advance fees.

B. CSA's fees far exceed any fees permissible by Florida's Credit Counseling Services Act, Section 817.802(1), Florida Statutes (2009), which prohibits debt management providers from charging or accepting fees in excess of $50 for an initial consultation (which CSA cannot include because it offers a free consultation), or a fee greater than $120 per year.

C. CSA's fees are unfair to consumers, in violation of Florida's Deceptive and Unfair Trade Practices Act, Section 501.204(1), Florida Statutes (2009), as unfair acts and deceptive practices are prohibited.

D. As CSA's fees violate Section 817.802, Florida Statutes, Section 817.806 explicitly provides that CSA commits an "unfair or deceptive trade practice as defined in part II of chapter 501, and therefore CSA violates Section 501.204(1), Florida Statutes.

E. As CSA's fees violate the Credit Repair Organizations Act, specifically, 15 U.S.C. § 1679a(3) (the prohibition on advance fees), pursuant to 15 U.S.C. § 1679h(b)(1), violations of CROA constitute unfair or deceptive acts or practices.

F. Pursuant to Section 501.203(3)(c), Florida Statutes, a violation of any law which proscribes unfair or deceptive acts or practices is a violation of Florida's Deceptive and Unfair Trade Practices Act, Section 501.204, Florida Statutes.

34. Many law enforcement agencies, including the Federal Trade Commission and Attorneys General, have brought or are instituting enforcement actions challenging and publicly criticizing "up-front or advance fees," as unfair to the consumers. Moreover, while unfair practices are covered by existing law, the Federal Trade Commission has initiated the rulemaking process to amend the federal Telemarketing Sales Rule to address widespread abuse in the debt relief industry and

specifically, to prohibit advance fees prior to documentation of complete performance of promised services.

35. Review of CSA's fee structure reveals the disproportionate monetary benefits inuring to CSA to the detriment of consumers. CSA's fee totals 15% of the amount of the principal debts enrolled with CSA for its service fees, paid over the first 17 months of the 36 month program. For example, a consumer with approximately $20,800 in enrolled debts would be provided with a payment schedule from CSA requiring the consumer to deposit $357.56 monthly into a savings account for 36 months with the goal of accumulating $10,400, which is the amount CSA estimates (at $.50 on the dollar) would be required to effect settlements of debts totaling $20,800. Typically, this monthly payment is a little less than the aggregate amount of the monthly payments consumers were making to creditors prior to enrollment with CSA. CSA specifically tells consumers that "the monthly amount you save [under the CSA program] should be far less than your old total monthly minimum payments on your credit cards, allowing you more cash for other purposes." CSA includes its service fee as a component of consumer's monthly payment. The commingling of the service fee and an amount for consumer savings is, on information and belief, an effort to convince the consumer that the service fee has already been calculated into the monthly savings amount, while denying CSA charges a fee up-front.

36. By way of illustration, the following table demonstrates a typical payment schedule for a consumer who enrolls $20,800 in debt, and makes payments in the amount of $357.56 per month according to CSA's recommendation. In the example scenario, during the first three months, CSA receives approximately $953 or 30.5% of its total fees ($3120), while the consumer accumulates $173 (approximately 15%), a paltry amount compared to CSA's fees.

| Payment Month | Total of Consumer Payments | Amount of CSA Fees (% of total payments) | Amount Saved for Debt Settlement (% of total payments) |
|---|---|---|---|
| 3 | $ 1,126.68 | $ 953.34 (84.61%) | $ 173.34 (15.39%) |
| 6 | $ 2,253.36 | $1417.62 (62.91%) | $ 835.74 (37.08%) |
| 9 | $ 3,380.04 | $ 1881.90 (55.68%) | $1498.14 (44.32%) |
| 17 | $ 6,384.52 | $ 3119.98 (48.87%) | $3264.54 (51.13%) |

37. Prior to 2008, CSA would allocate all of the first three monthly payments to its fees. Since 2008, CSA has allocated as fees substantially all (approximately 85%) of the first three monthly payments. Prior to 2008, CSA designated the "Savings Budget During Initial Payments" as "Optional." Prior to 2008, the consumer's next fourteen payments, months 4 through 17, were allocated to approximately a 50% CSA fees / 50% savings accumulation. Since 2008, the allocation has shifted slightly in the consumer's favor to approximately a 41% CSA fees / 59% savings accumulation. As a result of CSA's fees, a consumers' ability to accumulate funds for settlement is significantly affected due to depletion of the account for CSA's substantial fees.

*Settlement Prospects*

38. Scrutiny of a consumer's savings accumulation during the first nine months reveals the extent to which CSA's business model works against, not for, consumers. A consumer's accumulated savings in the first three and six months, as demonstrated above, is minimal and offers little realistic prospect for settlement. The amount of $173 accumulated in the first three months is unlikely to settle most debts. In fact, CSA advises that debts under $1000 may require full payment and CSA purportedly does not accept debts less than $600. At the end of 17 months, the sample consumer has made deposits totaling $6384 into the savings account, but only $3264

has accumulated for savings; the remaining $3120, or nearly 50% of the payments, has been retained by CSA as fees. Nearly a year and a half into the program, the consumer has accumulated only 31% of the $10,400 needed according to what CSA represents will suffice to get consumer out of debt within 36 months. Prior to 2008, consumers fared even worse and particularly so in the early months due to CSA's higher fee allocations.

*Commencement of CSA Services*

39. Aside from a few routine services such as file set-up, providing consumers with log-in access to an online portal, and purportedly sending engagement notification letters to creditors, CSA, on information and belief, performs no meaningful services for the consumer unless and until the consumer notifies CSA that sufficient funds have accumulated to begin the settlement negotiations. CSA's requirement that the consumer notify CSA to initiate settlement discussions places unfair burden on financially distressed consumers. Furthermore, on information and belief, CSA has not disclosed and does not disclose this obligation to consumers in its advertising, sales calls, or at any time prior to enrollment. The only mention of this consumer obligation is found buried in the enrollment agreement as a general obligation of CSA to perform upon verification of funds, without any further detail. In the buried text of another document, CSA instructs consumers that they should notify CSA when they have saved an amount equal to at least "sixty percent" of the consumer's highest debt. This requirement is not discussed in the enrollment agreement.

40. This 60% trigger is unfair. Not only is it inconsistent with the other terms of the CSA program that establish a savings of "fifty percent" of the debt as the threshold for settlement and as the threshold for determining consumer eligibility for the CSA service guarantee, but it is also another deceptive device employed by CSA to continue to collect fees upfront while delaying

any obligation by CSA to initiate any service on behalf of the consumer. To illustrate, using the example scenario provided above of a total enrolled debt of $20,800.00, it is highly unlikely that the highest debt of the consumer is anything less than $5000. Sixty percent of $5000 is $3000. The consumer does not accumulate $3000 until 16 monthly payments have been deposited. Therefore, under the CSA contract terms, the consumer would not be entitled to any settlement services on any debt enrolled until almost 16 months have elapsed.

41. Based on information and belief, consumers who have been enrolled in the CSA program for many months without receiving any debt relief or resolution with their creditors and are facing the repercussions of extremely delinquent accounts, must stop participation in the program. CSA then refuses to make refunds, citing no funds availability for services or noncompliance with the contract terms. The CSA program of front-loading fees is by design more likely to fail than succeed. CSA engages in a course of fraudulent and deceptive conduct, with unfair contract terms and deceptive marketing, in attempt to shield itself from liability for defects of its program.

*Success*

42. On information and belief, the overwhelming majority of Florida consumers who have enrolled with CSA have not successfully completed the program, success being defined as completion of the program with all enrolled debts settled. Florida consumers complain that fees were paid and services were not performed, and, as a result, they suffered great harm, including, but not limited to, ruined credit, higher debts, lawsuits, and bankruptcy. On information and belief, a significant majority of Florida consumers who enrolled in CSA's program have not had even one debt settled. In fact, CSA failed to provide documentation of the successful completion of any Florida consumers, when the information was subpoenaed by the Attorney General.

Inasmuch as the significant advance fees collected by CSA deplete the consumer funds available to pay creditors, on information and belief, the program is designed for failure and results in serious consumer harm.

43. To the extent that CSA is able to negotiate settlement offers at all, on information and belief, those offers are frequently negotiated and presented to the consumer before the consumer is able to accumulate enough money to accept them, or the offers may exceed the CSA-estimated 50% (or 40%, the percentage previously used) of the account's outstanding balance at the time of enrollment. Moreover, many consumers, already financially pressed, are not able to maintain the strict monthly deposit schedule mandated by CSA. Consequently, consumers are left with no choice but to drop out of the program before any settlements are negotiated, which leaves CSA with most or all of its fees paid in full and the consumers in a worse position than they were in before contracting with CSA.

44. The business model of CSA, as advertised, promoted and implemented is unfair, and CSA's business practices offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers and in addition to or, in the alternative, further constitute acts or practices that are likely to cause substantial injury to consumers which harm is not reasonably avoidable by consumers themselves, or outweighed by countervailing benefits to consumers or competition.

*Credit*

45. Creditworthiness as expressed in a credit report or through a credit score is material to a consumer's financial health. In today's environment, creditworthiness is frequently expressed as a credit score, which affects many components of consumers' lives, from qualifying for credit

and determining the terms of any credit to qualifying for insurance and the applicable rates determined by consumers' risk, and even employment opportunities.

46. While many credit scoring formulas exist, the formula reported as the most frequently used is the FICO score, which places significant emphasis on payment history; 35% of consumer's FICO score is determined based on payment history. On information and belief, based on information available from the provider of the FICO score, payment history encompasses "account payment information on specific types of accounts (credit cards, retail accounts, installment loans, finance company accounts, mortgages, etc.); presence of adverse public records (bankruptcies, judgments, suits, liens, wage attachments, etc.), collection items, and/or delinquency (past due items); severity of delinquency (how long past due) ; amount past due on delinquent accounts or collection items; time since (recency of) past due items (delinquency), adverse public records (if any), or collection items (if any) ; number of past due items on file; and number of accounts paid as agreed."

47. CSA fails to disclose adequately to consumers the importance of payment history on their credit rating or credit score, specifically including that credit reporting of negative experiences such as delinquent payments, collections, judgments, bankruptcies can be reported for seven to ten years. CSA unduly dismisses the short-and long-term impact of a negative payment history on consumers' credit in favor of focusing on payment of debt as improving consumers' credit score by helping consumers'credit utilization ratio. While 30% of the FICO score is determined by amounts owed, debt utilization is but one component of this calculation. On information and belief, the amounts-owed determination is based on: amount owing on accounts; amount owing on specific types of accounts; lack of a specific type of balance, in some cases; number of accounts with balances; proportion of credit lines used (proportion of balances to total

credit limits on certain types of revolving accounts); and proportion of installment loan amounts still owing (proportion of balance to original loan amount on certain types of installment loans).

48. CSA fails to disclose adequately the likely or potential consequences of the debt settlement program on a consumer's credit during the program and even more critical, the impact on consumers if they do not successfully complete the program, regardless of whether failure to complete is due to CSA's failure to settle or other reasons.

49. Not all debts enrolled in the CSA program are delinquent and CSA fails to disclose to consumers the adverse consequences to the consumer's credit score of stopping payments on these "current" debts. CSA instructs its debt consultants to discuss that consumers will notice a decrease in scores, but then significantly downplays the importance of credit. CSA instructs its consultants to advise that credit is always something that can be re-established. CSA presents consumers with the dilemma of having to re-establish credit or keeping good credit and taking over 30 years to pay off all of consumer's debt. On information and belief, CSA arbitrarily picks a high number of years of debt repayment, premised on minimum payments, to motivate the consumer to choose debt settlement as a solution over other options.

50. Through CSA's very name "Credit Solutions," and its website "creditsolutions.com," as well as by its representations on its website, in sales scripts, and in direct communication with consumers, CSA represents that it can improve a consumer's credit record. CSA expressly or, at least, impliedly represents that its services will not only reduce consumers' debt, but will also improve their credit report or credit rating, or at a minimum assist them in doing so. Such representations include, but are not limited to, the following:

A. "Bad credit can damage nearly every aspect of your life, but our debt-relief service helps clients improve their low credit scores by eliminating debt in a few months."

B. "Any debt management program will affect your credit in the beginning. However, as you begin to pay off the accounts and obtain zero balances, you will ultimately lower your debt to income ratio and therefore improve that specific portion of your credit score."

C. "Our service allows you to enroll without a credit check, which means you resolve debt problems and you can repair credit fast."

D. "Do not miss any more opportunities because of your bad credit. Call one of our debt consultants today to find out how to repair your bad credit quickly."

E. "There is no better solution to fixing your bad credit than Credit Solutions. Call one of our debt consultants and get rid of your credit problems today."

F. "Debt relief options such as debt consolidation and debt settlement are gaining in popularity, and have helped many remove their debt, rebuild their credit scores, and live a debt free life."

G. "After you're out of the program, your score will be as good if not better than it is now."

H. “Once you complete the program, you may challenge the marks on your credit report by using a credit repair company. It typically takes six months to a year to re-establish credit.”

I. “Poor credit scores result from having several negative lines of credit on a credit report. Our service can reduce our clients' total amount of owed debt to allow them to repay them. This repayment gives the consumer the opportunity to delete these negative lines on their credit report.”

51. CSA falsely represents that negative information that appears on a consumer’s credit report will or can be removed upon completion. CSA further fails to disclose adequately the fact that federal law prohibits creditors from misrepresenting a consumer’s payment history to credit reporting agencies, and that creditors are permitted to report accurate negative information such as delinquencies and charge-offs for seven years.

52. Despite disclaimers to the contrary, CSA offers “credit repair” services due to its use of debt settlement as a direct or indirect form of credit repair, its representations made in the course of advertising, promoting and implementing its program, and its offers of advice or

assistance to consumers about their credit. Credit repair organizations are subject to several requirements pursuant to federal law, including a prohibition on advance fees prior to completion of services, prohibitions on false and misleading statements, and specifically mandated disclosures addressing credit reporting of negative information as permissible, all directly relevant to CSA's practices.

*Advising Consumers*

53. CSA promotes its expertise, use of "certified debt consultants," availability of debt consultants 24/7, and goes to great lengths to earn the consumer's trust. In its advertisements on its website and in debt consultations, CSA disparages other alternatives to debt settlement through false statements and misrepresentations designed to favor CSA's program regardless of its suitability for a consumer's situation. CSA devotes several webpages to "Your Choices," purporting to offer advice about the viability of options to debt settlement, debt consolidation, credit counseling, and bankruptcy, but presents all of the options as clearly inferior to CSA's program.

54. By way of illustration, on the webpage discussing bankruptcy and comparing it with CSA's debt settlement, CSA represents that bankruptcy "requires you to pay your complete outstanding balance." CSA boldly represents that all bankruptcies require complete payment when, in fact, this is false-- Chapter 13 bankruptcies do not require full payment of unsecured debts in every instance. CSA creates its version of bankruptcy law by blurring the Chapter 7 and Chapter 13 Bankruptcy options together to induce consumers to enroll with CSA based on false statements which constitute legal advice. In fact, CSA acknowledges its generalized bankruptcy advice is false by its graphic Service Comparison Chart presented on the "Your Choices" page on its website. In response to the category, "Settle your debt up to 50%," CSA marks "YES" for

Chapter 7 Bankruptcy, clearly indicating that CSA knows that complete balances are not paid in a Chapter 7 Bankruptcy. CSA further misrepresents that "the residual effects of Bankruptcy will **never** go away." (Emphasis in original.) CSA makes another misrepresentation, as bankruptcy filings are reported on credit reports for 10 years, not for life.

55. In another illustration, on the webpage discussing credit counseling, CSA states:

> **"**Today, more than half of all consumers who begin with a CCCS program fail to finish. The reason is simple: CCCS companies work for the creditors; they seek to collect as much money as they can and typically charge a fee for their service."

CSA chooses to present negative information about consumer completion issues and cites fees as a factor, but fails to disclose at all or to objectively address consumer completions of its own debt settlement program, the risks of noncompletion for its program or the other alternatives, or the direct and indirect impact of its fees on consumer completion rates.

56. CSA repeatedly disparages and denounces alternative debt resolution options such as credit counseling, debt consolidation, and bankruptcy, indicating that only CSA's program will dramatically reduce your debt and get you out [of debt] in three years or less. Other representations include:

> "In today's economy, consumers are demanding the most effective means to resolving outstanding debt. Debt settlement offers you an intelligent solution to becoming debt free within a realistic time frame. … <u>Debt settlement is the best debt reduction option as it creates an environment that totally benefits the consumer.</u>"

(Emphasis added.)

CSA represents that its professional staff will consult with you about different debt resolution methods and will then outline a suggested payment plan to get you out of debt in three years or less. CSA's efforts to inform consumers of their "choices" invariably results in a recommendation

in favor of debt settlement, regardless of the lack of truthfulness of the statements about the choices.

57. To assuage consumer concerns about being sued, CSA holds itself out, both in advertising and in the enrollment materials, as an expert capable of deciding what is best for the consumer, despite disclaiming that it is not a law firm and that it does not provide legal advice. Despite the disclaimers, CSA portrays its vast knowledge and understanding of the whole process and offers that CSA will provide suggestions to any matter that should arise. On information and belief, by way of illustration, whether its enrollment with CSA in comparison with other alternatives such as bankruptcy, review or even preparation of litigation or pre-litigation documents, review and discussion with the consumer about creditor offers to reduce interest rates which come to the consumer, instruction on how consumers should handle or complete tax forms or action by CSA to reduce collection calls, CSA explicitly or implicitly presents itself as the source for consumer advice or "suggestions." Specific examples include:

A. "there is no law in any state that requires you to talk to anyone,"

B. "as professionals in the … industry, Credit Solutions knows the law where most of our clients do not. Sometimes, in order to get creditors to stop harassing you, we need to remind them of the law,"

C. "track all creditor calls in order for Credit Solutions to help minimize continued creditor contact…this log will benefit us both by helping to significantly minimize harassing phone calls."

D. providing a document captioned "Your Rights Under the Law" pertaining to the Fair Debt Collection Practices Act, on Credit Solutions.com identified documents.

Despite its disclaimers denying the providing of advice, CSA deceptively and unfairly provides consumers with misinformation and fails to present an accurate picture of the debt collection environment and CSA's ability to control creditors.

**COUNT I**
**DECEPTIVE AND UNFAIR TRADE PRACTICES**
**CONDUCT VIOLATING CHAPTER 501, PART II, FLORIDA STATUTES**

58. The Attorney General sues Defendant CSA- Credit Solutions of America, Inc., and alleges:

59. Paragraphs 1 through 57 are hereby realleged and incorporated herein by reference, as if fully set forth below.

60. As set forth in paragraphs 1 through 57 above, Defendant has engaged in and continues to engage in a pattern and practice of advertising, promoting and implementing its debt settlement program through deceptive and unfair acts and practices, specifically including false and deceptive statements regarding the true costs, risks and consequences of Defendant's program, the settlement process in concept and in practice, the likelihood of attaining success in the program, debt relief alternatives, and the impact of the program on consumers' credit, all in conjunction with inducing consumers to enroll through execution of agreements which are disproportionately beneficial to Defendant to the extreme detriment of consumers. Thereby, Defendant has committed and is committing acts or practices in trade or commerce which shock the conscience; has engaged in or is engaging in representations, acts, practices or omissions in trade or commerce which are material, and which are likely to mislead consumers acting reasonably under the circumstances; has committed and is committing acts or practices in trade or commerce which offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers; and has engaged in acts or practices that are likely to cause substantial injury to consumers which are not reasonably avoidable by consumers themselves, or outweighed by countervailing benefits to consumers or competition. Thus, Defendant has

engaged in and continues to engage in unfair or deceptive or unconscionable acts or practices in the conduct of any trade or commerce in violation of Section 501.204(1), Florida Statutes.

61. Defendant willfully engaged in deceptive and unfair acts and practices in that Defendant knew or should have known that the methods, acts or practices alleged herein were deceptive, unfair, or unconscionable, or prohibited by law.

62. As set forth above and in paragraphs 1 through 57 herein, Defendant has engaged in deceptive and unfair acts and practices in trade or commerce, in violation of Section 501.204(1), Florida Statutes.

63. Unless Defendant is permanently enjoined from engaging further in the acts and practices alleged herein, the continued activities of Defendant will result in irreparable injury to the public for which there is no adequate remedy at law.

## COUNT II

## VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES, THROUGH THE IMPOSITION OF EXCESSIVE FEES PROHIBITED BY § 817.802, FLORIDA STATUTES

64. The Attorney General sues Defendant CSA- Credit Solutions of America, Inc., and alleges:

65. Paragraphs 1 through 57 are hereby realleged and incorporated by reference, as if fully set forth below.

66. Defendant provides “debt settlement” services for a fee to effect the adjustment, compromise or discharge of unsecured debts including, credit card accounts, of consumer debtors residing in Florida, services included within “debt management services,” as that term is defined under Florida law.

67. In the Fraudulent Practices Act, Part IV, Credit Counseling Services, Section 817.801, *et seq*., Florida Statutes (2009), Section 817.801, Florida Statutes, provides the following definitions, in pertinent part, which apply to debt settlement services:

> (1) "Credit counseling agency" means any organization providing debt management services or credit counseling services.
> (4) "Debt management services" means services provided to a debtor by a credit counseling organization for a fee to:
> (a) Effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor, or
> (b) Receive from the debtor and disburse to a creditor any money or other thing of value.
> (5) "Person" means any individual, corporation, partnership, trust, association, or other legal entity.

68. Section 817.802(1), Florida Statutes, provides:

> It is unlawful for any person, while engaging in debt management services or credit counseling services, to charge or accept from a debtor residing in this state, directly or indirectly, a fee or contribution greater than $50 for the initial setup or initial consultation. Subsequently, the person may not charge or accept a fee or contribution from a debtor residing in this state greater than $120 per year for additional consultations or, alternatively, if debt management services as defined in s. 817.801(4)(b) are provided, the person may charge the greater of 7.5 percent of the amount paid monthly by the debtor to the person or $35 per month.

69. As set forth in paragraphs 1 through 57 above, specifically referencing paragraph 33 through 37, Defendant has clearly charged Florida residents fees in excess of the statutory limitations as set forth in Section 817.802(1), Florida Statutes.

70. Section 817.806(1), Florida Statutes, explicitly provides that a person who violates Section 817.802, Florida Statutes, commits an unfair or deceptive trade practice as defined in Part II of Chapter 501, Florida Statutes.

71. Section 817.806(2), Florida Statutes, provides that any person who violates any provision of this part commits a felony of the third degree. Section 817.806(1) and (2) evidence the strong public policy against excessive fees and violations of this part.

72. Defendant, by charging fees clearly in excess of the statutory limitations, Section 817.802(1), Florida Statutes, is engaging in and has engaged in deceptive and unfair acts and practices in trade or commerce, also in violation of Section 501.204(1), Florida Statutes, and is therefore subject to civil penalties and equitable remedies as imposed therein.

73. Pursuant to Section 501.203(3)(c), Florida Statutes, a violation of Chapter 501, Part II, may be based upon "[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices."

74. Unless Defendant is permanently enjoined from engaging further in the acts and practices alleged herein, the continued activities of Defendant will result in irreparable injury to the public for which there is no adequate remedy at law.

## COUNT III

## DECEPTIVE AND UNFAIR TRADE PRACTICES VIOLATIONS OF SECTIONS 817.034 (4)(a), (b), FLORIDA STATUTES FLORIDA COMMUNICATIONS FRAUD

75. The Attorney General sues Defendant CSA- Credit Solutions of America, Inc., and alleges:

76. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 57, as if fully set forth herein.

77. Beginning at an exact date unknown to Plaintiff, but at least within four (4) years prior to the filing of this Complaint and continuing to the present, in connection with the

advertising, promotion, enrollment and implementation of Defendant's debt settlement program, in Defendant's course of conducting:

A. internet advertising through its website;

B. internet advertising through sponsored links or search terms directing internet traffic to Defendant's website;

C. maintenance of an interactive online contact form on Defendant's website for consumers nationwide and in Florida to request a free consultation from Defendant, resulting in either telephonic communications or electronic communications in the form of e-mail from Defendant to the prospective client and responsive communications between Defendant and Florida consumers to effect communications in connection with Defendant's business;

D. maintenance of a toll-free telephone number through which prospective clients can seek a free consultation with Defendant's debt consultants 24 hours-a-day;

E. telephonic communications to or from consumers in Florida including such communication in the promotion of Defendant's debt settlement program, in the facilitation of enrollment of Florida consumers into Defendant's program, and in the course of the enrollment in Defendant's program;

F. internet-based operations through Defendant's website which it operates with a web portal to communicate using "electronic commerce" with currently enrolled consumers and prospective clients, including Florida consumers, enabling online enrollment through execution of multiple electronic documents through affixing electronic signatures, specifically including an agreement and an authorization for electronic debits of funds from Florida consumers' bank accounts by Defendant;

with such enrollment into Defendant's program and procurement of authorization to debit funds from consumers induced by false or misleading statements, willful misrepresentations or omissions to which consumers in Florida relied to their detriment, Defendant violated Sections 817.034(4)(a) or (b), Florida Statutes.

78. The Defendant, engages in and has engaged in, caused, benefitted from, or otherwise aided and abetted a systematic and ongoing course of conduct with the intent to obtain and did obtain the property of numerous Florida consumers by false or fraudulent pretenses, willful misrepresentations, false promises, and willful avoidance.

79. Defendant has made and continues to make numerous statements relating to its program or the associated risks and benefits, which were or are known by the Defendant to be misleading, untrue, or made with reckless indifference as to their truth or falsity with the intent to defraud. Such statements were made through communications, as described in Section 817.034(3)(a), Florida Statutes, and in violation of Section 817.034(4)(a) or (b), Florida Statutes.

80. False and misleading statements made in internet advertising, telephonic sales communications or during electronic communications concerning Defendant's programs were made with the intent to obtain money from Florida consumers, intentionally misleading them into believing that participating in the program would result in having their debts reduced 60% off, 50% off, or up to 50% of their outstanding debts and getting out of debt in 12-36 months.

81. Defendant's intentional use of fraudulent and misleading scripts and telephonic sales presentations, fraudulent and misleading websites, and fraudulent and misleading enrollment documents, overall composed a systematic ongoing course of conduct with the intent to obtain, and did obtain, the property of Florida consumers by false or fraudulent pretenses.

82. In reliance upon the Defendant's false and deceptive advertising and sales presentations soliciting enrollment, consumers gave personal identifying information and their bank account information as the means for Defendant to electronically debit funds from consumer, with the belief that they were going to have their debts reduced 60% off, 50% off, or up to 50% of their outstanding debts, and get out of debt in 12-36 months.

83. Defendant knew or intentionally avoided knowing that methods described in paragraphs 1 through 57 would result and did result in consumer deception.

84. By undertaking the acts and practices described in paragraphs 1 through 57 the Defendant has participated in, facilitated, and furthered and continues to participate in, facilitate, or further a Scheme to Defraud:

A. in violation of Section 817.034(4)(a), Florida Statutes, or

B. in violation of Section 817.034(4(b), Florida Statutes.

85. By undertaking the acts and practices described in Paragraphs 1 through 57 and thereby violating Section 817.034(4)(a) or (b), Defendant has engaged in and continues to engage in deceptive and unfair acts and practices in trade or commerce, in violation of Section 501.204(1), Florida Statutes.

86. Pursuant to Section 501.203(3)(c), Florida Statutes, a violation of Chapter 501, Part II, may be based upon "[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices."

87. Unless Defendant is permanently enjoined from engaging further in the acts and practices alleged herein, the continued activities of Defendant will result in irreparable injury to the public, in violation of Section 817.034(4)(a), Florida Statutes.

## COUNT IV

## VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES, THROUGH FALSE AND MISLEADING ADVERTISING PROHIBITED BY §§ 817.06 AND 817.41

88. The Attorney General sues Defendant CSA- Credit Solutions of America, Inc., and alleges:

89. Paragraphs 1 through 57 are hereby realleged and incorporated herein by reference, as if fully set forth below.

90. Section 817.06(1), Florida Statutes, provides in part:

> No person . . . shall, with intent to offer or sell or in anywise dispose of merchandise, . . . service or anything offered by such person . . . directly or indirectly, to the public, for sale or distribution or issuance, or with intent to increase the consumption or use thereof, or with intent to induce the public in any manner to enter into any obligation relating thereto . . . knowingly or intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding such . . . service or anything so offered to the public, which advertisement contains any assertion, representation or statement which is untrue, deceptive, or misleading.

91. Section 817.41(1) Florida Statutes, provides:

> It shall be unlawful for any person to make or disseminate or cause to be made or disseminated before the general public of the state, or any portion thereof, any misleading advertisement. Such making or dissemination of misleading advertising shall constitute and is hereby declared to be fraudulent and unlawful, designed and intended for obtaining money or property under false pretenses.

92. As set forth in paragraphs 1 through 57 above, Defendant has made and disseminated, and continues to make and disseminate, statements and materials containing statements to consumers that are untrue, deceptive, or misleading with regard to Defendant's debt settlement services, including the true costs, risks and consequences of Defendant's program, the settlement process in concept and in practice, the likelihood of attaining success in the program, alternative debt relief options, and the impact of the program on consumers' credit.

93. Defendant made and disseminated and continues to make and disseminate "misleading advertising" as defined by Section 817.40(5), Florida Statutes, to be statements to and before the public, which are known, or through the exercise of reasonable care or investigation could or might be ascertained to be untrue or misleading, and which are so made or disseminated

with the intent or purpose of selling services and to induce the public to enter into obligations relating to such services.

94. Defendant willfully engaged in the acts and practices alleged herein and knew or should have known at the time it advertised that its advertising and marketing materials contained assertions, representations, and statements which are untrue, deceptive, or misleading.

95. Pursuant to Section 501.203(3)(c), Florida Statutes, a violation of Chapter 501, Part II, may be based upon "[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices."

96. Defendant, by disseminating false and misleading advertisements, violated §§ 817.06(1), Florida Statutes, and 817.41(1), Florida Statutes, and therefore engaged in deceptive and unfair acts and practices in trade or commerce, in violation of Section 501.204(1), Florida Statutes, and are subject to civil penalties and equitable remedies as imposed therein.

97. Unless Defendant is permanently enjoined from engaging further in the acts and practices alleged herein, the continued activities of Defendant will result in irreparable injury to the public for which there is no adequate remedy at law.

## COUNT V
## VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES. THROUGH VIOLATIONS OF CREDIT REPAIR ORGANIZATIONS ACT

98. The Attorney General sues Defendant CSA- Credit Solutions of America, Inc., and alleges:

99. Paragraphs 1 through 57 are hereby realleged and incorporated herein by reference, as if fully set forth below.

100. As set forth in paragraphs 25, and paragraphs 45 through 52 above, Defendant has offered and continues to offer services to repair credit in the course of offering debt settlement

services as a form of credit repair, including offering to settle consumers' outstanding debt balances and consequently improve their credit rating, credit report, or credit score. Defendant further provides advice to consumers about their credit rating and improving their credit score or purports to assist consumers in improving their credit rating, report or score. Before providing any of the promised services, Defendant's representatives request and obtain payment for services. Defendant has violated the Credit Repair Organizations Act, 15 U.S.C. §1679, *et seq*.

101. Section 403(3)(A) of the Credit Repair Organizations Act, provides, in pertinent part, that the term "credit repair organization"

> (A) means any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of--
>
> (i) improving any consumer's credit record, credit history, or credit rating; or
>
> (ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i).

102. Based on a review of the representations which have been disseminated on Defendant's website, the representations that CSA makes through its debt consultants, and representations through documents provided to consumers or in communications with them, as well as through CSA's business name and domain name, Defendant acts as and has acted as a "credit repair organization" as that term is defined in Section 403(3) of the Credit Repair Organizations Act.

103. The purposes of the Credit Repair Organizations Act, according to Congress, are:

> (1) to ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services; and

> (2) to protect the public from unfair or deceptive advertising and business practices by credit repair organizations. Section 402(b) of the Credit Repair Organizations Act.

104. Section 404(a)(3) of the Credit Repair Organizations Act prohibits all persons from making or using any untrue or misleading representation of the services of a credit repair organization.

105. Section 404(a)(4) of the Credit Repair Organizations Act prohibits all persons from engaging, directly or indirectly, in any act, practice, or course of business that constitutes (or results in the commission of, or an attempt to commit) a fraud or deception on any person in connection with the offer or sale of the services of the credit repair organization.

106. In numerous instances, in connection with the performance of services for consumers by a credit repair organization, as that term is defined in § 403(3) of the Credit Repair Organizations Act, Defendant has made and continues to make untrue or misleading statements to induce consumers to purchase its services, including, but not limited to, the representation that Defendant can improve credit reports or profiles by the consumers entering the Defendant's program. In truth and fact, Defendant cannot improve substantially most consumers' credit reports or profiles by the consumers' participation in Defendant's program and in many instances, consumers' credit reports have been negatively impacted upon enrollment into Defendant's program. Defendant has further advised consumers to challenge and seek to remove negative marks from their credit, as specifically referenced in paragraphs 50 and 51. Defendant has thereby violated § 403(a)(3) and (4) of the Credit Repair Organizations Act.

107. Section 405(a) of the Credit Repair Organizations Act further requires credit repair organizations to provide consumers with a written statement containing prescribed language concerning consumer credit file rights under state and federal law before any contract or

agreement between the consumer and the credit repair organization is executed. Specifically included within the required disclosure is the following:

> "You have a right to dispute inaccurate information in your credit report by contacting the credit bureau directly. However, neither you nor any "credit repair" company or credit repair organization has the right to have accurate, current, and verifiable information removed from your credit report. The credit bureau must remove accurate, negative information from your report only if it is over 7 years old. Bankruptcy information can be reported for 10 years."

108. In numerous instances, in connection with the performance of services for consumers by a credit repair organization, as that term is defined in § 403(3) of the Credit Repair Organizations Act, Defendant has failed and continues to fail to provide a written statement to each consumer before any contract or agreement between the consumer and Defendant was or is executed, as required by § 405(a) of the Credit Repair Organizations Act in the form and manner required by that Act. Defendant has thereby violated § 405(a) of the Credit Repair Organizations Act.

109. Section 404(b) of the Credit Repair Organizations Act prohibits credit repair organizations from charging or receiving any money or other valuable consideration for services which the credit repair organization has agreed to perform before such service is fully performed.

110. In numerous instances, in connection with the performance of services for consumers by a credit repair organization, as that term is defined in § 403(3) of the Credit Repair Organizations Act, Defendant has charged or received money and continues to charge or receive money or other valuable consideration for the performance of services that the credit repair organization has agreed to perform before such service was fully performed. Defendant has thereby violated § 404(b) of the Credit Repair Organizations Act.

111. Pursuant to § 410b(1) of the Credit Repair Organizations Act, violations of the Act constitute unfair or deceptive acts or practices.

112. Pursuant to § 501.203(3)(c), Florida Statutes, a violation of chapter 501, Part II, Florida Statutes, may be based upon "[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices."

113. Defendant willfully engaged in the acts and practices alleged herein.

114. As set forth in paragraphs 45 through 52 and paragraphs 100 through 111,, Defendant violated the Credit Repair Organizations Act, and therefore engaged in deceptive and unfair acts and practices in trade or commerce, in violation of § 501.204, Florida Statutes.

115. Unless Defendant is permanently enjoined from engaging further in the acts and practices alleged herein, the continued activities of Defendant will result in irreparable injury to the public for which there is no adequate remedy at law.

## PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff, State of Florida, Department of Legal Affairs, Office of the Attorney General, respectfully requests that this Court:

1. Grant a temporary and permanent injunction against Defendant, its officers, agents, servants, employees, attorneys and those persons in active concert or participation with it who receive actual notice of this injunction, prohibiting such persons from violating the provisions of Chapter 501, Part II, Florida Statutes, Sections 817.802(1), Florida Statutes, 817.06(1), Florida Statutes, and 817.41(1), Florida Statutes, and 817.034, Florida Statutes, as specifically alleged above and any similar acts and practices, and specifically enjoining Defendant, as follows:

A. Prohibiting Defendant from initiating or directing electronic funds debits as payment of fees exceeding more than $120 per year or otherwise obtaining funds for the benefit of Defendant from the bank accounts of Florida clients who are currently enrolled in a debt settlement program with Defendant, prior to providing documentation of a completed settlement to its client, until further Order of this Court;

B. Prohibiting Defendant from initiating or assisting in the initiating of any communications by telephone, internet, text messaging or other electronic communications with Florida consumers who are not currently enrolled with Defendant, or responding to any communications from Florida consumers who are not currently enrolled with Defendant without immediately advising consumer that Defendant is prohibited from enrolling new Florida clients, unless and until Defendant complies with the prohibitions in paragraph A above and the Order of this Court with respect to requirements to do business in Florida, including:

(i) Defendant posts a performance bond issued in the amount of Five Million Dollars ($5,000,000.00) in favor of the State of Florida, Department of Legal Affairs Revolving Escrow Fund for the benefit of Florida consumers; such bond to be issued by surety or bonding entity licensed by and in good standing with the State of Florida, guaranteeing compliance with the injunction, any Order of this Court, or available as a fund for restitution to consumers;

(ii) Defendant delivers documentation of the bond to the Attorney General, prior to enrolling any new Florida consumers or doing any business in the State of Florida, including initiating new business or responding to any requests from Florida consumers regarding enrollment in Defendant's business; and

(iii) Defendant provides the Attorney General with expedited discovery in this matter in the form and substance required by the Attorney General within twenty (20) days or as otherwise ordered by the Court, specifically including documentation of the accounts of Florida consumers enrolled or previously enrolled in Defendant's debt settlement program.

C. Requiring Defendant to provide a detailed accounting, audited by an independent third-party accounting firm at Defendant's expense, of each and every account of a Florida consumer enrolled with Defendant from the period October 19, 2005 (or as otherwise ordered by the Court) through and including the date of Defendant's complete response, with such accounting

to include enrollment, completion or cancellation dates and the following, together with any further documentation requested by the auditor:

(i) the amount of fees required to be paid to Defendant;

(ii) the amount of fees to which Defendant has debited from consumer's bank accounts or otherwise collected from consumer, including the total of fees received by Defendant;

(iii) the total amount of debts enrolled by consumer;

(iv) documentation of each settlement consummated and effected by Defendant for the benefit of the enrolled account, including the creditor, amount and date paid; and

(v) documentation of each settlement offer communicated to the consumer, including the date, creditor and amount of the offer;

(vi) documentation of the amount of any refund paid to a consumer, indicating the purposes of the refund as general or service guarantee.

D. Requiring Defendant to designate a liaison, a webpage with a web contact and complaint form, an e-mail address, and a toll free number staffed with sufficient personnel, to assist with facilitating relief for Florida consumers currently enrolled with Defendant.

E. Requiring Defendant to utilize an amount equal to the aggregate amount of any fees paid to it for debt settlement for each Florida consumer who is currently enrolled to promptly facilitate and use its best efforts to consummate as many negotiated settlements for the respective Florida consumer as possible within thirty (30) days of the date of an Order.

F. Imposing reasonable restrictions upon the future activities of said Defendant, including posting of a bond, designating a liaison to assist with facilitating relief for Florida consumers, and submission of monthly reports of activity pertaining to Florida to the Attorney General and to an auditor.

2. Grant rescission of the contracts entered into by Florida consumers.

3. Grant rescission of any releases executed by Florida consumers, as a condition of receiving any portion of a refund.

4. Award restitution to consumers for the acts and practices of the Defendant in accordance with § 501.207(3), Florida Statutes

5. Award as disgorgement of all revenue, and all interest or proceeds

derived therefrom by Defendant as a result of transactions with Florida consumers, generated as a result of the unconscionable, unfair and deceptive practices as set forth in this complaint, to the Attorney General for deposit into the General Revenue Fund.

6. Assess against Defendant civil penalties in the amount of Ten Thousand Dollars ($10,000.00), pursuant to § 501.2075, Florida Statutes, or Fifteen Thousand Dollars ($15,000.00) in cases involving senior citizens or handicapped persons, pursuant to § 501.2077(2), Florida Statutes, for each violation of Chapter 501, Part II, Florida Statutes.

7. Award costs to Plaintiff for all expenses in bringing and maintaining this action, including reasonable attorney's fees pursuant to § 501.2105, Florida Statutes.

8. Award actual damages to all consumers who are shown to have been injured in this action, pursuant to § 501.207(1)(c), Florida Statutes.

9. Waive the posting of a bond by Plaintiff in this action.

10. Grant such other and further relief as this Honorable Court deems just and proper, including, but not limited to, all other relief allowable under § 501.207(3), Florida Statutes.

Respectfully submitted,

BILL McCOLLUM
ATTORNEY GENERAL

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JULIA A. HARRIS
SENIOR ASSISTANT ATTORNEY GENERAL
Florida Bar No. 884235
Department of Legal Affairs
Concourse Center 4
3507 East Frontage Road, Suite 325
Tampa, Florida 33607
(813) 287-7950
(813) 281-5515 (facsimile)