

**STORIES OF ACTUAL CONSUMERS
TARGETED BY “CHECK DIVERSION” COMPANIES**

Consumers who have consented to be available for contact by the press and Congressional offices are indicated below. For contact information, please call the Public Citizen Press Office at (202) 588-7703 or (202) 588-7742.

Lois Artz (Petaluma, California) – This 70-year-old retired bank employee lives in Petaluma, California on a small, fixed income. She wrote a \$28 check to local store that did not clear. Because she was occupied with caring for her terminally-ill daughter, she forgot to immediately take care of the deficiency. She then received a letter from the “District Attorney Bad Check Restitution Program,” demanding approximately \$200 in payments to avoid criminal prosecution. Terrified of going to jail, she called the Program—actually a private company known as American Corrective Counseling Services, Inc. (ACCS)—and arranged a payment plan, for which ACCS charged an additional \$25 fee. She later called back and explained that she was not physically able to attend the class. She was told that she needed a note from her doctor, so she paid for a doctor’s visit and obtained a note. She worked on a 48-page home study book over a number of weekends. At some point, she was told that there was also a \$6 dishonored check for which she had to pay over \$60 in additional fees. She was so humiliated and embarrassed that she hid the letters so that her children wouldn’t find them. **May be contacted.**

Simona Pickett (Middle River, Maryland) – Simona is a full-time employee at the U.S. Department of Justice who lives in suburban Middle River, Maryland. Her bank account had overdraft protection, but due to a mix-up at the bank, when Simona changed her bank account the overdraft protection did not transfer. She wrote a \$21.66 check to a local supermarket that was returned. She then received a letter from the “District Attorney Bad Check Restitution Program,” demanding the check amount plus \$185 in fees and threatening her with referral for prosecution. When she called the program, she was told that she would go to jail if she didn’t pay, so she paid the full amount they asked for. After reading an article in the *Washington Post* that raised questions about check diversion programs, she called back and asked whether there was a statute that required her to attend diversion class. She was told that, because she had paid all the fees, she wouldn’t have to attend the class. **May be contacted.**

June Saftenberg (Santa Rosa, California) – This 81-year-old California woman wrote a \$15 check to a Safeway grocery store. She had been in the process of changing banks and accidentally wrote the check on the closed account. She thought she had taken care of it when she received a letter from the “District Attorney Bad Check Restitution Program” demanding \$210.87 to avoid prosecution. Afraid of going to jail, she paid it. When she received the home study book, she found it too difficult to complete and was afraid she would be arrested. She ended up talking to a local reporter who contacted the real District Attorney’s Office, which informed her that she wouldn’t have to complete the class, and she would get the class fee back. The Program is keeping \$45 in collection charges, even though there is no legal basis for doing so because she isn’t taking the class.

Lydia Rosario (Fort Myers, Florida) – This Florida woman arranged for Eddie’s Auto Repair to work on her car. When she was told that the work was completed, she picked up her car and paid Eddie’s Auto Repair with a personal check in the amount of \$1,526.40. After she left the repair shop, she discovered that the repairs had not been properly made. Eddie’s Auto Repair was closed. Ms. Rosario stopped payment on her check. American Corrective Counseling Services, in the guise of the State Attorney, sent Ms. Rosario a series of letters threatening her with criminal prosecution if she did not pay the check amount plus a “returned check fee” of \$42.98, a “statutory fee” of \$76.32, and a “program fee” of \$75.00, for a total balance of \$1,720.70. Fearing arrest, Ms. Rosario paid ACCS this amount plus additional fees through installments over a period of time. The representative of the State Attorney has testified in a pending class action against ACCS that the dispute between Ms. Rosario and Eddie’s is not a criminal matter and would properly be resolved through civil litigation. The statute creating the Florida State Attorney check diversion program, Fla. Stat. § 832.08, does not authorize the additional fees ACCS collected from Ms. Rosario. The maximum amount of fees that can be charged is \$40.00. Fla. Stat. §832.08(5)(c). No other fees or charges are authorized by Fla. Stat. §832.08. **May be contacted.**

Audra Phillips (Fort Myers, Florida) – Ms. Phillips, a Florida consumer, wrote a check in the amount of \$9.62 to Albertson’s for groceries that did not clear. ACCS, posing as the State Attorney, sent Ms. Rosario a series of letters threatening her with criminal prosecution if she did not pay the check amount, plus a “returned check fee” of \$25.00, a “statutory fee” of \$25.00, and a “program fee” of \$75.00, for a total balance due of \$134.62. Ms. Phillips paid Albertson’s \$34.62, the amount of her dishonored check plus \$25.00. Nonetheless, ACCS continued to harass Ms. Phillips for the program fees. The representative of the State Attorney has testified that this was not a criminal matter and that no charges would be brought against her. **May be contacted.**

Maria H. (Mishawaka, Indiana) – Maria is a 53-year-old Indiana woman who suffers from multiple sclerosis and other physical ailments and lives on a fixed income of Social Security disability insurance. When she found herself in the hospital, she gave her disability check to her pregnant daughter to deposit. But before Maria’s daughter could deposit the check, she went into premature labor. Without these funds, Maria’s account could not cover checks she had written. Maria received a letter from the St. Joseph County prosecutor (actually the private company, ACCS). ACCS added its own \$35 administrative fee, inflated the returned check fees assessed by her creditors, and demanded \$168 to attend a financial management class, threatening to file criminal charges if she did not pay up. Despite its threats of prosecution, ACCS gave Maria no chance to defend herself against the charges. Maria even went to the prosecutor to request a criminal trial to clear her name. She was told she had to deal with ACCS directly. ACCS became her judge and jury. She was told she must pay for the class to avoid prosecution. By this time, Maria had paid back the amount of the checks (\$93.28), plus all the fees, for a total of \$168.28. She faced an impossible choice: either pay for her medication or pay ACCS an additional \$168.00. She paid for her medication and continues to fear prosecution.

Damon Wright (South Bend, Indiana) – Damon is a 33-year-old full-time Wal-Mart employee in Indiana. He wrote a check for \$48.69 to the grocery store. Damon believed he

had enough money in his account to cover the check. Apparently, however, he had failed to record a purchase he made with his debit card. Damon received a notice from the prosecutor (actually ACCS) telling him his check had bounced and he could go to jail. This was his first notice that the check had bounced. The letter told him that he must pay \$271.19 and attend an eight-hour class. He was a hard working, honest man, and did not want to be identified as a criminal, so he found the money to pay. He attended the class in August. Most of the people in the class were just like him—relatively low-income consumers who had made an innocent error in their checkbook. Damon’s simple slip-of-mind cost him \$222.50 and a day’s work.

Elena del Campo (Redwood City, California) – This California woman wrote a \$95 check to a local electronics store. When she found out that check wouldn’t clear, she called the store and was told to wait for a letter from the store. She never received a letter from the store, but she did get a letter from the “District Attorney Bad Check Restitution Program” demanding the check amount, plus \$170 in fees. Elena did not want to participate in the diversion program and instead sent in only the amount of the returned check. The program – actually ACCS – kept \$47.50, half the check amount, for itself, and remitted \$47.50 to the merchant. The program reported to the merchant that it had collected only \$47.50. **May be contacted.**

Kristy Schwarm (California) – Kristy, a mother of six children in Ukiah, California, wrote a check to a local supermarket that did not clear. Due to medical and other expenses she was unable to pay the check, and ultimately was forced into bankruptcy. After the check did not clear, Kristy received a series of letters from the “District Attorney Check Restitution/Prosecution Program,” threatening arrest and prosecution if she did not pay more than \$130 in fees and attend a diversion class. Interestingly, she could avoid the diversion class and the \$85 class fee if she paid \$45 in other fees within 15 days of the first letter. This particular debt collector, District Attorney Technical Services, Ltd., only holds diversion classes intermittently and does not keep track of who attends. **May be contacted.**

Jessica G. (California) – When this California woman wrote a check to a tire store that did not clear, she received a letter from the “District Attorney Check Restitution/Prosecution Program,” stating that she would be investigated, and possibly arrested, if she did not pay the check amount, plus more than \$115 in fees. Although she paid the full check amount directly to the merchant, Jessica continued to receive letters demanding that she pay the collection fees to avoid prosecution.

Marsha L. (California) – Marsha wrote \$91.72 check to Bed, Bath & Beyond. She later closed her checking account to open new account, thinking that all her checks had cleared. She never heard from the store that there was a problem and Ms. Lucas did not catch the error from her own bank records because she wasn’t keeping up with bookkeeping. She is disabled with lyme disease and had just moved to take care of her 90 year old mother, who had broken her hip and had a stroke. Ms. Lucas first learned there was a problem when she received a message on her answering machine from the “Sonoma County District Attorney,” telling her that she could be prosecuted and she had to call immediately. She called back and was told that her check had been returned. She contacted her bank, confirmed the check had not cleared, and called the “District Attorney” back, explaining

her mistake. She was surprised when the “District Attorney” told her that she could be prosecuted if she didn’t pay \$286.72. She was going to pay this until she read an article in the *Santa Rosa Press Democrat* exposing ACCS as impersonating the District Attorney. After talking with the newspaper reporter and a lawyer mentioned in the article, she decided to send in the check amount only, so that the merchant would be paid. If she had not read the newspaper story, she would never have known that it wasn’t really the District Attorney, and that she had not committed a crime.

Lynn A. (California) - Lynn is a 35-year-old woman who has been on medications since she was 18 for psychological problems, and survives on SSI because she is mentally disabled. Lynn does not live independently. She wrote a check for \$3.21 to a local pet store, and it did not clear because she made a mistake balancing her checkbook. She was confused about how to respond when she got letters demanding the check amount and fees. She finally paid the fees for the District Attorney Check Restitution Program and attended the class. She stayed for a few hours and left because it was too stressful. She completed a home study workbook. She does not understand what happened, or why she was told to go to the class.