



July 9, 2010

Federal Trade Commission Office of the Secretary Room H-135 (Annex T)
600 Pennsylvania Ave., NW
Washington, DC 20580

Re: Center for Responsible Lending comments re Matter No. R4110011

Dear Commissioners:

Please find attached corrected pages 5 and 6 for the comments of the Center for Responsible submitted on July 2, 2010.

Thank you.

Sincerely,

Diane Standaert

debts had been settled and including the more than 50% of costumers who terminated before completion – had already paid an average of \$1,666.

This data alone compels the prohibition of advance fee payments to debt settlement companies. Even if industry claims were true as to the minority of clients who completed the program, there can be no justification for extracting substantial fees from financially stressed consumers who do not obtain the desired settlement of their debts.

B. Even Clients Who Obtain Settlements Get Little Financial Benefit, Especially When Weighed Against The Attendant Risks And Harms

The alleged benefits claimed by industry for the minority of clients who successfully settle their debts do not justify the manifest harm to the majority of clients who do not. For this reason, industry's asserted benefits for some clients are not material to the propriety of the advance fee ban. Nonetheless, it is worth noting that industry's own data show that even for "successful" debt settlement clients, the benefits obtained are very small, and diminish further when taking into account other detrimental consequences of enrolling in a debt settlement program.

The TASC survey provides the most detailed and broadest scope of information relating to consumer fees paid versus debts settled. In order to get a full picture of the true outcomes for borrowers, it is necessary to compare the consumer's situation upon entering the program versus the consumer's situation after three years. To do so, it is necessary not simply to compare the fees paid versus debts settled, but to compare the amount of debt that the consumer originally enrolled with versus the total of (1) the fees paid; (2) the amount paid by the consumer to creditors to settle debts; and (3) the amount of debt remaining that was not settled. Not surprisingly, however, TASC does not disclose the amount of debt left unsettled for the three-year subset of consumers upon which it reported.

Even without taking into account the substantial debt left unsettled (and its growth over time), a closer look at the figures provided by TASC reveals that after paying \$199 million to creditors towards the settlement of debts and \$126 million to the debt settlement companies for fees, with respect to the debts actually settled, consumers in aggregate have saved \$39 million, or just over 10% over the enrolled amount of that debt.

When we consider the debt that has not been settled, however, the picture becomes much bleaker for consumers. Assuming an equal average enrolled debt by all consumers, and making assumptions favorable to the industry based upon data they provided, we can extrapolate that if \$364 million in enrolled debt was settled, then approximately ***\$482 million in enrolled debt was not settled***, and that unsettled debt has grown to \$587 million during the three year period through the addition of interest and fees.²⁷

Looking at the complete picture, it becomes clear that consumers are not receiving a benefit when they enroll in a debt settlement program,²⁸ and, in fact, ***in the aggregate end up paying millions of dollars more than what they originally owed.***

Including “Successful” Debt Settlement Still Results in Net Loss for Consumers	
<i>Total Amount of Enrolled Debt</i>	\$846 million ²⁹
<i>Fees Paid by Consumers to Debt Settlement Companies</i>	-\$126 million
<i>Payments Made by Consumers to Creditors to Settle Debts</i>	-\$199 million
<i>Unsettled Debt</i>	-\$482 million
<i>Additional Interest and Fees Imposed on Unsettled Debt</i>	-\$105 million ³⁰
<i>Aggregate Losses to Consumers in Debt Settlement</i>	= – \$66 million

Under either scenario, when the supposed benefits are weighed against the costs of debt settlement, including reduced credit scores, lawsuits, garnishments and bankruptcy, the industry’s arguments in favor of their unearned fees disintegrate.

C. Consumers Get Sued by Creditors and/or Forced into Bankruptcy, Even After Making Substantial Advance Payments to Debt Settlement Firm.

Consumers seek the help of debt settlement companies in order to avoid litigation with their creditors and to avoid bankruptcy. As shown below, industry submissions, however, make clear that a significant proportion of debt settlement clients end up being sued by creditors, forced into bankruptcy, or both. In these circumstances, the payment of unearned advance fees leaves consumers without what limited financial resources they might have had available to assist them in managing these difficulties.

- A report by Richard A. Briesch, issued by Americans for Consumer Credit Choice, a membership group made up of those in the consumer finance industry, found that, of the approximately 60% of consumers who cancelled their plans before completion, ***at least 13.5%*** of them cancelled due to forced bankruptcy.³¹
- Similarly, data provided by debt settlement law firm Morgan Drexden shows that ***14%*** of clients who canceled did so due to bankruptcy filing.³²
- The experience of the 20,000 debt settlement clients described in the data submitted by Arnold & Porter on behalf of NCC was even worse: ***24.9%*** of all cancellations from this individual company (more than 5,000) were attributable to the consumer entering bankruptcy.³³

These clients ended up with the worst of all worlds – they struggled to make payments to the debt settlement companies, and still ended up facing the total financial loss associated with bankruptcy. It is not possible to determine from the data what portion of these clients might have avoided bankruptcy had they instead directed their resources toward maintaining minimum payments with their creditors, or entered into a debt management plan through a credit counselor.

Nor is it possible to determine how many faced this outcome as a specific result of their having followed the debt settlement company’s instruction to cease payment on their debts.