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Testimony by TASC (The Association of Settlement Companies) regarding
Raised Bill No. 950 - February 24, 2009

My name is Wesley Young and I am the Legislative Director of TASC (The Association of Settlement Companies). TASC is the predominant national association of settlement companies with over 180 members. We support high operating standards for member companies, consumer protection, and fair legislation consistent with those goals. TASC self regulates its membership to ensure that its standards are followed by using a third party company to "secret shop" every member on a regular basis by posing as a consumer. The third party company further visits each member company's website to ensure that statements made are fair, accurate and consistent with TASC standards. Debt settlement can and is being performed in a fair manner by companies such as our members. Bill No. 950, however, restricts this service to nonprofits which will have the effect of removing completely the ability for Connecticut consumers to use debt settlement as a form of debt relief. As such, TASC opposes Raised Bill No. 950 as written, but supports regulation and a licensing requirement for the industry consistent with standards TASC already has in place.

(1) What is debt settlement?

Debt settlement is an alternative to other debt resolution programs such as debt consolidation and credit counseling. Debt settlement plans differ in that the amount of the debt anticipated to be paid is ultimately less than the amount owed yet accepted as full satisfaction of the debt. The company negotiates, on behalf of the debtor, a settlement of the debt in exchange for short term payment plans. In other words, the creditors accept less money in exchange for a quicker payment. Credit counseling/debt management plans are usually payments made in full over a long period of time. Debt settlement companies deal only with unsecured debt.

(2) Why Consumers need access to debt settlement as an option to help deal with debt.

The stress and despair that consumers face, here in Connecticut and nationwide, is real and often overwhelming. The debt settlement industry offers a solution when other debt management methods may not be a viable solution. Benefits provided to consumers by debt settlement include the following:

1. A method with which to pay back their debt at an affordable monthly payment level. Our typical client cannot afford a traditional debt management program and either does not qualify for or does not want to file for bankruptcy. In other debt management plans the consumer pays back his or her entire debt with fees and interest although creditors may grant concessions such as lower interest rates, fees and/or charges so that the entire balance may be paid over a period of approximately 5 years. In order to accelerate the payment into those 5 years, even with the concessions, a debtor must usually make monthly payments equal to or greater than the minimum payments required under the credit card agreements prior to the debt management plan. There are many consumers who, for hardship reasons such as the loss of a job, divorce, medical emergency, or unexpected increases of interest rates and fees, are now behind in their payments and/or are no longer able to afford their payments. As such, these individuals are often unable to afford traditional debt management plans.

2. Assistance with setting up a workable plan. While creditors claim that they can work directly with the consumer, they fail to consider that the typical consumer is dealing with 6 or 7 creditors, each of whom have no interest in a plan that works towards paying the others. Each creditor is concerned only about their own collections. Debt settlement plans are for most or all unsecured debt that the consumer owes.

3. Guidance to stay disciplined to stay with the plan. Whether the consumer exercised poor money skills or experienced a hardship, it is difficult to stay disciplined and on track with a long term program. Much like a personal trainer helps a person stay on track with an exercise or diet program, we help keep the client accountable and improve their success rate in completing the program; and

4. Consistent education throughout the plan to improve financial habits. In a survey of completed clients, 75% of respondents indicated that they were not interested in obtaining another credit card, and 50% said they were going to continue to save and invest the money that they had previously been setting aside for settlements.

Because of the change in bankruptcy law, many consumers are now also unable to qualify for Chapter 7 bankruptcy. Under the alternative, Chapter 13 bankruptcy, a debtor is placed on a plan to repay the debt in full over an extended period of time, and for reasons ranging from affordability to long term adverse effects, bankruptcy is often not

an appropriate or feasible alternative for the consumer either. The national rate of completion for confirmed Chapter 13 bankruptcy plans is only 33%.¹ Credit counseling companies historically have an approximate success rate of 21-26%.² Debt settlement completion rates are reported to be higher – between 40-55%.³

Thus, debt settlement companies serve a need for consumers that is not met by other means. Debt settlement is a necessary debt relief option for consumers especially in this economic environment when even Fortune 500 companies and state governments are unable to meet their financial obligations. Consumers do not receive direct governmental “bailouts” and thus debt settlement often is their best hope. Other options such as credit counseling/debt management or bankruptcy are often either unaffordable or unavailable. Mr. J. Thomas Rosch, Commissioner of the Federal Trade Commission, recognized last year that debt settlement is a viable and needed service for consumers. He recounted a talk show host’s comments about debt settlement⁴:

“But she also acknowledged that debt settlement even at a cost can play an important role in solving what may seem like insurmountable problems of indebtedness faced by many consumers. I thought those remarks were right on.”

(3) Raised Bill No. 950 appears to take away debt settlement as an option for consumers

Raised Bill No. 950 amends the definition of “debt adjustment” to include the activity of “arranging or assisting a debtor to arrange for the distribution of one or more payments to or among one or more creditors of the debtor in full or partial payment of the debtor’s obligations.” This potentially covers the activities of debt settlement companies who deal with unsecured consumer debt even if the company does not receive, hold or distribute money of the consumer to creditors.

¹ “Bankruptcy by the Numbers: Measuring Performance in Chapter 13” by Gordon Bermant and Ed Flynn, Executive Office for the U.S. Trustees.

² *Credit Counseling in Crisis: The Impact on Consumers of Funding Cuts, Higher Fees and Aggressive New Market Entrants*, Consumer Federation of America and National Consumer Law Center, April 2003.

³ TASC Position Paper, September 11, 2006.

⁴ J. Thomas Rosch opening address, FTC Debt Settlement Workshop, Washington D.C., September 25, 2008

Raised Bill No. 950 restricts debt adjustment services to IRS 501(c)(3) nonprofit organizations. The activity of debt settlement does not qualify as a tax exempt activity under IRS rules. Frankly, neither does most the activity of most credit counselors who use debt management plans for their clients. The IRS has revoked the nonprofit status of at least 50% of the credit counseling industry based on revenue over the last few years and is continuing to audit the nonprofit status of virtually every company in the industry. A report released by the IRS in 2006 revealed that only 3 of 100 new applications for tax exempt status for credit counseling programs was approved. The IRS holds that debt adjusting is not a tax exempt activity. Thus, restricting debt settlement to performance by 501(c)(3) nonprofits will result in Connecticut consumers not being given the choice to use debt settlement to resolve otherwise unmanageable financial debts. Especially in these economic times, consumers need more options to help deal with their debt, not less.

Just because debt settlement providers are for-profit companies does not imply that they are not good companies or are not interested in providing good services for the purpose of helping consumers. In fact, many in the industry strongly feel that we are the only true advocates for consumers who are struggling in dealing with large creditors and collectors since we receive no compensation from creditors. Many of our members are also active in community service and provide pro bono or discounted services to those who cannot otherwise afford debt settlement services. See attached Exhibit A as an example of a company that has started a program to identify and help those most in need. The company identified 10 individuals who needed the assistance most and donated \$1,000 to each family to help with serious financial needs. For profit debt settlement companies can and do provide consumer friendly, useful and needed services and they do care about the people they are helping.

(4) Raised Bill No. 950 can be amended to add regulations specific to debt settlement that gives them the choice of using debt settlement while providing additional protections to consumers.

TASC has met with the Department of Banking to discuss regulation of the debt settlement industry in Connecticut and has proposed some language based on its own standards that provide consumer protections specifically targeted at debt settlement plans. The protections being proposed by TASC include requirements for the debt settlement

providers to do the following:

1. only deal with unsecured debt;
2. not receive or hold consumer funds that are to be paid to creditors;
3. perform a financial analysis to ensure suitability for the debt settlement plan;
4. make mandatory disclosures to ensure the consumer understands the plan, the fees, and the risks of the plan;
5. enter a written contract before services can be provided;
6. abide by prohibitions of certain activity such as taking an overly broad power of attorney, agreeing to unauthorized settlements, making deceptive statements; and
7. only initiate payments from a consumer's account that are pre-authorized or in payment of an authorized settlement.

Conclusion

Debt settlement is an important option for consumers in managing their debt and an option that helps consumers when other options are not viable. Regulation of the industry should both allow access to debt settlement while appropriately regulating the industry for consumer protection. Limiting the performance of debt settlement services to nonprofit organizations will result in taking away from Connecticut consumers the choice to use debt settlement. Instead, regulations specific to the debt settlement industry should be adopted that provide specific protections such as disclosures to consumers. TASC, while opposing Raised Bill No. 950, supports regulations that accomplish our stated goals.

Debt Settlement Firm Gives "The Gift of Change" To 10 Worthy Families

A nationwide debt settlement company, headed by a woman who once worried about paying her own bills, has given 10 families \$1,000 each. The "Gift of Change" awards assisted worthy families struggling to meet their financial needs in a tough economy.

Irvine, CA (PRWEB) February 22, 2009 -- A 28-year-old blind woman who needs software to enable her computer to speak and a 91-year-old widow who can only afford one meal per day were recipients of a \$1,000 "Gift of Change" award from an Irvine debt settlement company.

The two recipients were among 10 people who received the checks from Nationwide Support Services, Inc., one of the oldest and largest debt settlement processing companies. Other recipients include families having difficulty feeding their children, paying medical bills or making a deposit on an apartment. The purpose of the program is to assist worthy families who are struggling to meet financial obligations.

"These individuals were nominated by our employees and then selected by a committee that reviewed each family's needs," said Joanne Garneau, the firm's president. "I understand the feelings of stress and worry their financial situations can cause. At one time in my life, I worried about how to pay my bills. That's why our company motto 'We Change People's Lives' is so important to us."

One of the recipients, Heather Handing, is a Huntington Beach single mother working to support her two daughters. "I was extremely surprised and blessed to be considered. This gift enables me to provide clothes for my girls," she said.

Gloria Camareno of Santa Ana works for minimum wage and struggles to pay bills and feed her children. "This gift will help provide some extra meals for us," she said.

NWSS provides debt negotiation and customer support services to thousands of individuals and families throughout the U.S. The firm's goal is to assist people in achieving a lifestyle that is not burdened by unnecessary debt. They also offer "DebtTalk"™ an online education program teaching consumers about living within their means, the basics of budgeting, spending plans and financial goals to help them achieve financial freedom. NWSS is a charter member of The Association of Debt Settlement Companies (TASC) and has met the "TASC Best Practice Standards" which are nationally recognized standards of quality, service and integrity.

<http://www.nationwidesupportservices.com>

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