

To: Banking Committee

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I oppose House Bill No. 6482 because it legitimatizes for-profit debt management company practices (as opposed to the services of not-for-profit consumer credit counseling organizations) that are unfair to Connecticut consumers. I have practiced consumer collection law for eighteen years in Connecticut and my firm has witnessed case after case where a debt management company preys upon a local consumer and leaves them in FAR worse financial condition than prior to the engagement. Below are several actual examples of these unfair business practices, as recently relayed to me by staff.

In order to best protect Connecticut consumers, I suggest that the following be required of all for-profit debt management companies:

- 1) Consumers must never be advised to ignore creditors or debt collectors.
- 2) Companies must not make any claim about prospective monies that could be saved by the consumer.
- 3) Companies must advise consumers of consequences of not paying their debts.
- 4) Companies must not engage in the unauthorized practice of law.
- 5) Companies must charge fees that are reasonably related to the actual service rendered.

Until such reasonable safeguards are added to HB 6482, it must be opposed as potential unfair legislation.

Non-licensed for-profit Debt Consolidation companies often treat Connecticut consumers unfairly and therefore they act contrary to the spirit of Title 36a of Connecticut General Statutes. A few general examples of predatory practices include:

- 1) Often they mislead consumers re debt repair and do not act in the consumer's best interest.
- 2) They provide legal advice and are not lawyers.
- 3) They have a conflict of interest when the consumers' better legal alternative is bankruptcy. Only a lawyer can analyze this.
- 4) They advise consumers to not communicate with debt collection lawyers.
- 5) They mislead debtors re their obligations re litigation, filing answers, defaults, etc

Below are a few actual examples of unfairness that we have seen recently:

1 - "There have been at least half a dozen times when, either as part of their testimony in small claims court or in conversation before or after such trials, consumer debtors have told me that they paid anywhere between \$2500 to \$10,000 in fees to a debt consolidator before that outfit did anything for them. Sometimes the consumer debtor goes on to say either that they received little or no result from the debt consolidator at all or had the consolidator drop debts from their program when it turned out the particular creditor was going to pursue the debt aggressively.

To show how these consumer debtors are taken in, let this example stand for the universe of my experience. At a hearing, defendant explains to the Court that she paid \$2500 in fees to have an \$1800 debt consolidated, only to have that account wind up in the small claims action at bar. The magistrate looks at defendant and asks incredulously, "Why on earth did you pay *them that*, when you could have just paid *him*."

Her reply was priceless: "Well, I first saw their ad on MSNBC and, you know, if its on MSNBC, it's got to be good ... Not like if it was on Fox News at 4:00 A.M."

The consumer debtor involved had at least an associate's, maybe a four year college degree.”

2 - “At a pretrial the debtor was shocked that her debt consolidator had not been either sending in payments to us nor contacting us to negotiate with us.. She assumed they would take care of everything and can't understand why she's being sued. Debtors make the wrong assumption that so long as they're working with the debt negotiators that they are covered and somehow protected from being sued. So far she's been paying for a long period of time.. and we've received zero!! Even if they're legitimate, it's still not working in her favor.”

3 - “It is a constant thing to hear from the debtors several times a day about how they went into the program to help get them out of debt and settle their accounts only to be told by them not to pay their creditors that they would handle them, and then they go from ok credit to bad and everything they had was then put in collections, and lawsuits. One debtor told me he had 12 cases pending in court from doing business with a Debt Consolidator. He said his credit was not bad until he signed up with them, and now he is worse off than he was to begin with. Many times they think that if an account goes legal they will handle their issues, and they do not. We then get angry debtor calls because they were told by the debt consolidation company that they would reduce their debt, and keep their accounts out of litigation. Then they get suit papers and do not understand. False promises made by the debt consolidation companies is one of the biggest complaints.”

4 - “The debt consolidator typically forces us to communicate directly with them not the debtors, and the debtors become angry when we honor the instructions and refuse to speak to them. At the point this happens the debtor is usually not happy with the debt consolidator and we must request a writing withdrawing the exclusive communication instruction.”

5 - “I find that the debt consolidators will never explain (because they won't make money) the bankruptcy option. For a debt consolidator not to tell everyone who calls them to seek advice from a bankruptcy attorney first - to at least make an informed decision- is wrong and is a horror story I've heard many times. Additionally, I have had ones that go out of business and never pay the debts and the debtor never gets the money they paid back. The debtor tells the court the money was paid, but it was paid to the consolidator not the creditor.”

6 - “I had a friend who paid a company \$650 up front on the promise they could "clear" her credit. The debt consolidator did nothing (except keep her money).”

7 - “Debt Consolidators often tell the debtors to ignore the court papers, or they tell them to send them in to the company to handle, than they do not take care of them. I always strongly caution the debtors against these companies when they ask my opinion, and tell them to do their research before agreeing to anything.”

8 - “Many debt consolidators are out of state law firms and debtors believe they are getting legal advice from their attorney. When I objected to a motion stating the motion was "frivolous and without merit," the debtor took offense and responded with a letter stating he was "advised by legal counsel to answer with that response.” Debtors appear in court with a list of statements they are instructed to tell the court, which generally include a request for arbitration. Also, debtors are told that without a judge's signature on an agreement, they are not under a court order to comply with the agreement. Debtors are told to stop paying unless there is a court order.”