Joanne S. Faulkner
ATTORNEY AT LAW

123 AVON STREET NEW HAVEN, CT 06511-2422 TELEPHONE (203) 772-0395 j.faulkner@snet.net

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Re: H. B. No. 6482: OPPOSING AN ACT CONCERNING THE UNIFORM DEBT-MANAGEMENT SERVICES ACT.

Dear Banking Committee:

Please DEFEAT the above bill, and instead PROHIBIT debt management services that do not offer face-to-face, one-on-one, debt counseling.

In my experience as a consumer lawyer, debt management services prey on needy consumers, take their money, and ruin their credit, with little or nothing to show in return. (This observation does not apply to the longstanding legitimately nonprofit consumer credit counseling organizations that do one-on-one counseling.)

Statistics bear this out. The National Consumer Council's debt reduction program was touted as an opportunity to reduce debt by 25 to 50 percent and to then become debt free. Statistics provided by its receiver showed that a shockingly low 1.4 percent of the consumers that entered the program completed it. An astonishingly high 43 percent of all of NCC's clients cancelled the program after incurring fees that amounted to 64 percent of the funds remitted to NCC. Similar concerns about debt reduction/settlement were raised in an FTC lawsuit against Debt Management Foundation Services (DMFS) and affiliates. [The FTC complaint against NCC is available on-line at: http://www.ftc.gov/os/2004/05/040423ncccomplaint.pdf. The complaint against Debt Management Foundation Services, Inc. filed in July 2004, is available at: http://www.ftc.gov/os/caselist/0423029/040720cmp0423029.pdf.]

One person who ran a debt management service is in jail as a result of his business. http://www.rutlandherald.com/apps/pbcs.dll/article?AID=/20060204/NEWS/602040363/1003

Some creditors, such as Citicorp and Discover, refuse to deal with for-profit debt management services, Those creditors sue as soon as they learn that such a debt management service is involved, but the debt management services do not tell consumers that certain major creditors will not work with them.

There are many troubling aspects to the basic business model. To name just a few:

- Many firms advise consumers to stop paying their debts in order to become eligible for their programs.

- While enrolled in the program, consumers are not paying their debts and are thus subject to the entire range of creditor collection activity.
- The average debt settlement consumer has multiple debts. Debt settlement firms attempt to settle these debts one after the other, which can take years. It is unclear whether these consumers can ever bank sufficient money to pay off all of their debts. Without such ability, consumers will continue to suffer credit report as well as debt collection consequences over a long period of time even if they are able to get a settlement on some of their debts.
- Fees for these unproven programs are very high. A typical debt management firm will charge $300 to $600 simply to set up an account – before any work is ever done – a monthly maintenance fee and a settlement fee of 25 or 30 percent of the amount of money "saved."
- The contract terms I have seen are one-sided, oppressive, and unreasonable, including mandatory arbitration in a distant forum as the only remedy.

At a minimum, substantive regulation at a minimum should prohibit settlement firms from:

- Advising consumers not to pay back their debts;
- Charging <u>any</u> fees before settlement is achieved;
- Making any claims about the amount of settlement that could be achieved or the impact on consumers' credit record;
- Failing to advise consumers of the consequences of not paying their debts;
- Failing to provide access to appropriate legal services to assist consumers that experience collection efforts while enrolled in debt settlement programs;
- Failing to provide access to appropriate tax consultation services to help consumers understand the tax consequences of settlement;
- Including any predispute arbitration clause.

It is reasonable to ask whether the debt settlement industry should be allowed to offer a "product" that in the vast majority of cases it cannot deliver. The Committee should come to the conclusion that this is not a legitimate business model, and that for-profit debt settlement that is not one-on-one counseling should be prohibited, instead of legitimatized.

Respectfully,

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