THE ASSOCIATION OF SETTLEMENT COMPANIES (TASC) STUDY ON THE DEBT SETTLEMENT INDUSTRY

The following data was compiled as a preliminary study of the debt settlement industry conducted in September 2006, and updated in December 2007, from companies who are members of TASC.

Debt Settlement Company Data

Completion Rates. Completion rates vary between companies depending upon a number of factors, including client qualification requirements, quality of client services and the ability to meet client expectations regarding final settlement of their debts. Completion rates range from 35% to 60%, with the average around 45% to 50%. While most companies defined a completion as having all debts settled, there were two that considered a client completed if they had settled at least 80% of the debt and one if they had settled at least 50% of the debt.

This completion rate exceeds that of the Chapter 13 bankruptcy completion rate of 33% and the National Foundation for Credit Counseling reported completion rate of credit counseling companies at 21%. As the National Consumer Law Center ("NCLC") stated in its September 2006 report on ***The Life and Debt Cycle***, "…it appears that only consumers with considerable disposable income left over each month are able to get out of debt through a DMP." The report further states "[i]f consumers are not able to significantly lower the amount that they owe, they're more likely to fail in completing a three to five-year DMP."

The information in that September 2006 NCLC report referenced above supports TASC's position paper where TASC contemplates a higher completion rate for debt settlement than for DMP or a Chapter 13 Bankruptcy. TASC attributes this higher success rate to the fact that, in the debt settlement model, the consumer debtor has significant input into the amount and terms of the repayment. The consumer debtor is in the best position to determine the feasibility of and likelihood of compliance with a repayment plan. By empowering the debtor with this ability and combining that with the constant "hand-holding" of the debt settlement company's customer service representative, there is a greater likelihood of completion with a debt settlement program.

Legal Accounts. The mistaken impression with individuals unfamiliar with debt settlement is that the debt settlement companies tell their clients to stop paying the creditors. This, then, results in increased creditor calls and lawsuits being filed against their clients. In reality, this is not supported by the TASC data.

Most clients contacting a debt settlement have already stopped paying their creditors due to the financial burden of meeting minimum monthly payments. If they have not, it is normally because they have been "robbing Peter to pay Paul" by transferring balances between cards and getting cash advances. TASC standards prohibit a member company from telling a consumer to stop paying their creditors, and require members to both warn the consumer that not making their required payments may be considered a breach of their agreement with their creditors and of the possible consequences of such non-payment.

In terms of number of clients receiving a lawsuit on at least one account, we found a range from 6% to slightly over 10%, with most reporting around 7%. The data further shows a range between 1.8% and 3.5% of accounts that resulted in a lawsuit which could not be settled through negotiation. Most report the number being under 2%. Significantly, nearly half of these law suits came from less than 5% of the creditors. Most creditors have established informal working relationships with a number of debt settlement companies and do not often resort to litigation as the preferred course of practice against the consumer client.

There are several types of services available for a debt settlement client facing a collections lawsuit. TASC member companies determine which one or a combination is most suitable for their clients. The initial attempt is to settle the debt, which can be accomplished in most instances, even if the settlement involves a monthly payment arrangement. Some companies elect to retain counsel for the client at the company's expense. Other companies will refer the client to a national legal services program that is responsive to the needs of a debt settlement client. Finally, some companies provide an internal legal counsel to assist the client with their lawsuit. TASC and its members recognize the problems with providing any direct advice to a client who has been sued because it may raise the concern of unauthorized practice of law. Therefore, most will immediately inform the client of the options available to the client upon notification of the lawsuit.

Creditor Calls. Another mistaken impression is that all of the consumer's creditors barrage these clients with telephone calls. While this is one of the biggest reasons that consumer debtors call into their debt settlement company, it certainly is not every creditor constantly calling and in most instances the calls do not go on forever. Some debt settlement companies seek to limit these calls by sending a notice to each creditor to make them aware that the debt settlement company has been engaged, so the creditor will call the debt settlement company rather than the client. In other cases, debt settlement companies may counsel the client on appropriate methods of handling creditor calls. Still others instruct the client to simply have the creditor call the debt settlement company. Some companies refer clients to a consumer advocacy group which helps ensure that the consumer's rights are protected under the Fair Debt Collections Practices Act by contacting the creditors for the consumer to help reduce or eliminate harassing calls. One such consumer advocacy company has found that, at any given time, only about one out of five clients of debt settlement companies report being bothered by alleged creditor harassment. Furthermore, in over half of those reported instances, the creditors will heed the request of the consumer advocate in regards to the consumer's request without the need for a cease and desist letter.

Consumers who are unable to make minimum required payments, those who cannot afford a DMP and those who do not wish to or cannot file bankruptcy would be facing the same creditor calls, threats of law suit, and actual law suits, had they attempted to work something out with the creditors on their own. Even the NCLC acknowledges that while creditors will offer individual consumers settlements in some cases, they "usually require a fairly sizable lump sum." One settlement example cited by the NCLC found a required payment of 65% of the debt within 20 days, and another 55% of the amount owed, with half payable within ten days and the balance ten days later.

Examples of Completed Clients. One of the potential concerns raised pertains to how much the client saves overall by entering the debt settlement after paying the settled amounts to the creditor and the fees to the settlement company. The following is a representative sample: $20,000 of debt settled for $9,600, plus fees for the debt settlement company of $4,000, leaving the client a net savings of $6,400. Certainly, there are instances of higher savings and lower savings. Clients are advised prior to enrollment that the amounts and timeframes in their agreement are estimates. The agreements also reiterate that there are no specific guarantees in terms of settlement results.

Following are some typical examples of clients that have completed their program.

Debt Amount Settled	Settlement Total	Fees Paid	Net Savings	Months
$28,668	$12,518	$2,423	$13,727	30
$64,411	$26,988	$5,613	$31,810	36
$30,682	$14,940	$2,361	$13,381	36
$3,512	$2,459	$158	$895	30
$43,969	$18,418	$3,832	$21,719	36
$42,335	$25,026	$2,596	$14,713	36
$13,101	$7,446	$848	$4,807	24
$43,467	$16,037	$5,021	$22,409	30
$16,315	$6,200	$2,216	$7,899	14
$17,663	$7,155	$2,219	$8,289	29
$20,300	$10,196	$2,334	$7,770	34

In each instance, the total amount paid by the consumer is less than those enrolled in a DMP offered though credit counseling with the same amount of debt. In a typical credit counseling program, the consumer debtor with a $20,000 debt load pays interest and fees totaling over $10,000 over the life of the DMP. This brings the total to approximately $30,000. As shown above, a debt settlement program cost the consumer debtor significantly less. Additionally, the consumer debtor enrolled in a debt settlement program will be debt free after three years as opposed to a typical DMP program of 5 or more years.

Program Costs. TASC maintains that the cost to the provider of acquiring and administering a debt settlement program is greater than that of a DMP under the consumer credit counseling model. This is one of the differences between the two business models. One of the primary costs is the client acquisition. Credit counseling has been the predominant industry in the consumer debt management for decades. In comparison, debt settlement is a relatively new industry. Since the concept of debt settlement is not well-known to the public, debt settlement companies must spend more time, effort and money marketing their services. The lead cost for acquiring one debt settlement client ranges from $300 to $400. Once the intake costs associated with contacting the potential clients and the overhead costs are factored into the lead costs, the cost to acquire and set up a single debt settlement client can range from approximately $425 to $1,000. The data reveals that most debt settlement companies report this cost at $700 to $1,000 range.

This necessitates debt settlement companies to charge a greater portion of fees during the initial phase of the program.

Listed below are the typical activities involved in executing a debt settlement plan:

- Initial consumer contact: explanation of program and gathering of consumer data, including contact, financial, creditor and hardship information.

- Evaluation of gathered information to determine appropriateness for the program. This often includes review of the information by an underwriting department or a manager.

- Emailing, faxing, postal mail, or by other means of transmission of the proposed client agreement for review and approval.

- Upon return receipt of the client agreement, a review of the agreement and all accompanying information including accuracy of creditor listing and account statements.

- Entering all Client information into a database.

- Entering or scanning all creditor account data into a database.

- Sending the welcome package to the client.

- Making a quality assurance call to the client to provide an overview the program, confirm client and creditor data and answer any questions.

- Monthly calls to the client to provide status reports, answer questions, and address other concerns. Often times, clients will contact the debt settlement company each time they receive a call or letter from a creditor. This results in several calls per month per client for the debt settlement company.

- Some companies call creditor on a monthly basis on each account. Creditors and the collection companies also contact the debt settlement companies each time the account changes hand.

- Reviewing monthly creditor account statements, updating information, filing or otherwise storing these statements for each account.

- Monthly recording and verifying of client payments.

- On-going written and/or telephonic negotiation between the client and the creditor for each account.

- In all instances, accurate recording of the information regarding each call or email between the company and the client and/or creditor.

- Accurate, written documentation for the client, the debt settlement company and the creditor, of each final settlement.

While credit counseling companies incur marketing costs, they also receive free marketing from numerous other sources. Creditors will refer consumer debtors to a credit counseling company in hopes of recovering the full amount of the debt. The bankruptcy reform act of 2005 requires consumers to contact a credit counseling company prior to filing for Chapter 7 bankruptcy. Consumer debtors experiencing financial problems often go to the credit reporting agencies' websites to gather more information about their credit score. For example, on Equifax's web site, it states that consumer credit counseling services are "[o]rganizations that help consumers find a way to repay debts through careful budgeting and fund management. CCCS's are usually non-profit organizations funded by creditors. By requesting a longer pay-off period from creditors one-by-one, a CCCS can often design a workable repayment plan on behalf of the consumer."

In terms of customer service, debt settlement companies provide ongoing services throughout the term of a client's contract. The number of hours required to service, negotiate, and administer the accounts for the duration of the program far exceeds what is expected and provided by credit counseling agencies. Debt settlement companies do not simply negotiate the debts at the beginning of the contract and act as a repayment collection clearinghouse for the creditors, as is the case with credit counseling agencies. Debt settlement companies must negotiate and actively monitor the creditor's activities with respect to their client's accounts throughout the length of the program. Additional contacts regarding the client's account are needed each time the account is transferred from the original creditor to a third party collection agency. All of these activities result in a higher number of active hours per account and consequently a higher cost to a debt settlement company.

One credit counseling company reports that in 2005, they serviced 130,000 debt management plans and received 520,000 calls from clients and creditors. This averages to four calls per year per client. TASC's data indicates yearly client contact to be in excess of ten times that of this credit counseling company.

The following examples show the progression of three accounts through the creditor cycle. It is noteworthy that one account passes through several collection agencies which requires the debt settlement company to initiate dialogue on multiple occasions for the same account.

Monitoring accounts through the collection process	
One account for the first client	
Creditor	**Date**
First USA	12/10/2001
Surpas	01/06/2003
Creditors Interchange	08/09/2003
Financial Asset Mgmt	04/28/2004
Commonwealth	09/20/2004
NCC	11/03/2004
Commonwealth	11/23/2004
One account for a second client	
Wells Fargo	08/28/2001
Central Credit	11/07/2002
Professional Recovery	11/20/2003
Plaza Assoc	08/18/2003
MNK Law Office	01/29/2004
Risk Mgmt Alternatives	12/08/2004
One account for a third client	
Citi	02/04/2002
James West, PC	08/28/2002
Associated Recovery	12/31/2002
Lake Valley Retrievals	10/02/2003
Unifund	05/30/2006

Conclusion

Debt settlement is a necessary option for consumers who cannot otherwise afford a credit counseling program or do not wish or qualify to file bankruptcy. Just as a creditor has the right to contract with a collection company to collect from a consumer, that consumer has the right to contract with a company of their choice. More consumer options increases the likelihood that the consumer will find the program and the company that will help solve their current financial problem.

The NCLC agrees that consumers need options; that current work-out plans through credit counseling and outside of credit counseling do not serve the needs of the most vulnerable consumers. The NCLC also agrees that creditors should offer reductions in principal. Debt settlement offers these consumers the ability to turn around their life by working with creditors to reduce the principal.

While TASC cannot agree with many of the assertions of the 2005 NCLC report on debt settlement, NCLC acknowledges that separate laws should govern debt settlement companies from laws that govern credit counseling companies. This is precisely the position of TASC when asked of our position on the Uniform Debt Management Services Act.

To date, TASC has focused its efforts on affecting positive legislation in various States and developing industry standards for debt settlement companies. TASC is now expanding our focus towards setting standards for the collection of data from debt settlement companies. This will ensure uniformity and that data provided are reliable and reproducible. It is TASC's hope that industry-wide data will be available in the near future.