

LAW OFFICES

STEIN, MITCHELL & MUSE L.L.P.

1100 CONNECTICUT AVE., N.W., STE. 1100

WASHINGTON, D. C. 20036

GLENN A. MITCHELL
JACOB A. STEIN
GERARD E. MITCHELL
ROBERT F. MUSE
DAVID U. FIERST
RICHARD A. BUSSEY
ROBERT L. BREDHOFF
CHRISTOPHER H. MITCHELL
ANDREW M. BEATO
LAURIE A. AMELL
DENIS C. MITCHELL
ARI S. CASPER
JOSHUA A. LEVY
JULIE L. MITCHELL

OF COUNSEL
GEORGE A. FISHER
KERRIE C. DENT

BASIL J. MEZINES
(1973-2008)

TELEPHONE: (202) 737-7777
TELECOPIER: (202) 296-8312
www.SteinMitchell.com

February 6, 2009

VIA ELECTRONIC SUBMISSION ONLY

Office of the Secretary
Federal Trade Commission
Room H-135 (Annex K)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Debt Settlement Industry - Public Workshop

Dear Mr. Secretary:

The following comments are submitted on behalf of ACA International ("ACA") in response to the Federal Trade Commission's request for comments on the growth of the for-profit debt settlement industry. These comments supplement those filed by ACA on December 1, 2008 (*available at* <http://www.ftc.gov/os/comments/debtsettlementworkshop/536796-00038.pdf>).

After filing its comment with the Commission, ACA surveyed its membership to gather data about the experiences of third-party debt collectors with for-profit debt settlement companies. The survey was conducted through surveymonkey.com. The survey was composed of ten questions formulated by ACA. The response frequencies and count were tabulated by surveymonkey.com. Although the response count for the sample size is not statistically representative of ACA's third-party debt collector membership, the Association believes that the following survey results generally represent the experiences of its third-party collector members.

Office of the Secretary
 February 6, 2009
 Page 2

Question 1. How many contacts from debt settlement companies do you receive in an average month?		
Answer Options	Response Frequency	Response Count
0-20	56.5%	48
21-50	21.2%	18
51-75	9.4%	8
76-100	1.2%	1
More than 100	11.8%	10

Question 2. How many different debt settlement companies contact you on behalf of consumers in an average month?		
Answer Options	Response Frequency	Response Count
None	7.0%	6
1	8.1%	7
2	19.8%	17
3	10.5%	9
More than 3	54.7%	47

Question 3. How many contacts from consumers using debt settlement companies do you receive in an average month?		
Answer Options	Response Frequency	Response Count
0-20	64.7%	55
21-50	18.8%	16
51-75	8.2%	7
76-100	2.4%	2
More than 100	5.9%	5

Question 4. What percentage of your active consumer accounts do you estimate are on a debt settlement plan?		
Answer Options	Response Frequency	Response Count
None	11.8%	10
1% - 10%	76.5%	65
11% - 20%	9.4%	8
21% - 30%	1.2%	1
More than 30%	1.2%	1

Question 5. Approximately what percentage of communications from debt settlement companies suggest a settlement beyond your ability to negotiate?		
Answer Options	Response Frequency	Response Count
None	11.9%	10
1% - 35%	21.4%	18
36% - 65%	20.2%	17
66% - 99%	23.8%	20
All	22.6%	19

Question 6. What is the average balance on active accounts signed up for a debt settlement plan?		
Answer Options	Response Frequency	Response Count
\$0 - \$1,000	34.6%	28
\$1,000 - \$5,000	42.0%	34
\$5,000 - \$25,000	21.0%	17
\$25,000 - \$50,000	2.5%	2
More than \$50,000	0.0%	0

Office of the Secretary
 February 6, 2009
 Page 4

Question 7. Generally what are the three types of debts most commonly enrolled in debt settlement plans?					
Answer	First	Second	Third	Rating Average	Response Count
Utilities	3	8	8	2.26	19
Credit cards	44	11	2	1.26	57
Cellular phone service	0	8	9	2.53	17
Medical	35	18	8	1.56	61
Student loan	0	1	6	2.86	7
Automobile	0	14	15	2.52	29

Question 8. What is the estimated average delinquency period for accounts enrolled in debt settlement plans?		
Answer Options	Response Frequency	Response Count
0-30 days	1.2%	1
31-60 days	2.4%	2
61-90 days	9.5%	8
91-180 days	21.4%	18
More than 180 days	65.5%	55

Question 9. What is the estimated percentage of consumers enrolled in a debt settlement plan that have satisfied a settlement obligation in full?		
Answer Options	Response Frequency	Response Count
None	12.0%	10
1% - 35%	72.3%	60
36% - 65%	6.0%	5
66% - 99%	6.0%	5
All	3.6%	3

Question 10. How would you rate your overall experience with debt settlement companies in terms of knowledge of credit and collection laws and regulations?		
Answer Options	Response Frequency	Response Count
Extremely Positive	3.5%	3
Positive	9.4%	8
Neutral	29.4%	25
Negative	44.7%	38
Extremely Negative	12.9%	11

From these survey sample results, ACA draws the following illustrative conclusions:

1. More than 75 percent of members responding to the survey report up to 50 contacts on average per month from for-profit debt settlement companies. Nearly 12 percent of responding members reported more than 100 contacts a month. Assuming a conservative estimate of 15 contacts for each of the 3,500 third-party debt collector members of ACA, we estimate at least 52,500 contacts are made by for-profit debt settlement companies per month.

2. Nearly 65 percent of members responding to the survey report that they also receive between 0-20 contacts from consumers enrolled in debt settlement plans directly during an average month.

3. More than 76 percent of members responding to the survey reported up to 10 percent of their active accounts in collections are enrolled in a debt settlement plan.

4. Of the active accounts placed with ACA members responding to the survey and enrolled in a debt settlement plan, approximately 34 percent carry an average balance less than \$1,000. An additional 42 percent carry a balance of \$1,000 to \$5,000. This data generally is consistent with average account balance data compiled annually by ACA in its Top Market Survey. For example, ACA's 2007 Top Market Survey of its third party collection members contains the following account balance information:

Credit Unions	\$2,075
Student Loans	\$2,036
Autos	\$1,905

Office of the Secretary
 February 6, 2009
 Page 6

Commercial	\$1,090
Banks & Finance Companies	\$1,027
Hospitals	\$875
Credit Cards & Retail	\$843
All Other	\$759
Government	\$415
Telecommunications & Utilities	\$403
Healthcare, Non-Hospital	\$298
Checks	\$100

5. Credit card and medical debts are most commonly enrolled initially in a debt-settlement plan.

6. The average delinquency period for accounts enrolled in a debt settlement plan is more than 180 days in the majority of cases based on the survey results. The recovery rate for accounts placed with a third-party debt collector this far into delinquency is approximately 16.5 percent. Based on ACA's 2003 Top Market Survey of its members, the average recovery rates based on the age of the underlying account are as follows:

Category	Average Recovery Rate
Up to 30 days	39.67%
31 to 60 days	28.05%
61 to 90 days	26.29%
91 to 120 days	22.34%
121 to 150 days	18.81%
151 to 180 days	18.53%
181 to 210 days	16.53%
More than 210 days	15.54%

7. The overwhelming majority (84.3%) of consumers that enroll in a debt settlement plan do not satisfy the settlement obligation fully based on ACA members responding to the survey.

ACA believes this additional survey data further substantiates the concerns articulated by the Association in its initial comment. The experience of ACA members has been that for-profit debt settlement companies intentionally or unintentionally misrepresent the efficacy of their services and the negative impact on consumers' financial profiles precipitated by

Office of the Secretary
February 6, 2009
Page 7

enrolling in certain for-profit settlement programs. The consequences for consumers are potentially ruinous, especially where data suggests that so many consumers that seek refuge in these programs fail to complete them. Instead, the consumers are left in a far worse financial position based on the fees they incur to enroll in the program, the lowering of their credit scores, and the accumulated delinquencies on the enrolled accounts.

We welcome the opportunity to meet with you to discuss ACA's comments. If you have any questions, please contact Andrew Beato at 202-737-7777.

Sincerely yours,

Andrew M. Beato, Esq.
Stein, Mitchell & Muse L.L.P.
Federal Regulatory Counsel

Rozanne M. Andersen, Esq. 6
ACA International
4040 W. 70th Street
Minneapolis, MN 55435
Executive Vice President and General Counsel