Dear Commissioner Kovacic:

Thank you once more for the opportunity to meet with you on behalf of The Association of Settlement Companies ("TASC") to discuss our views about the proposed Rule. In our meeting with you we expressed our concern that the movement toward a Rule that limits the compensation of debt settlement companies exclusively to a "success-fee" methodology will jeopardize the ability of every company in the industry to remain in business. Our concerns have been met with a certain skepticism, which leads us to believe that no economic modeling has taken place, either before the Notice of Proposed Rulemaking was issued on July 30, 2009, or since. In order to address this perceived deficiency, and as promised during several of our meetings with the Commissioners, we are enclosing for your consideration an economic model that analyzes in detail the dramatically devastating effect of a contingency fee only model on a debt settlement company's cash flow, as well as the capital position necessary to survive to portfolio breakeven.

Below are the highlights of the economic model.[1]

- Average enrolled debt of $30,000.
- Average account accretion to time of settlement of 20% (yielding total debt at time of settlement of $36,000).
- Average number of creditors per client is seven.
- Average savings of 55%, based on balance at time of settlement (not time of enrollment)[2]
- Average program length of 39 months (this allows for a typical three year program, plus some margin for error relating to missed or suspended contributions to the settlement account).
- Average number of payments per settlement of three (i.e., a three-payment structured settlement; note that structured settlements commonly are spread out over four to six months, but the average is brought down by the number of single payment, lump-sum settlements). Success fees are not collected until after the final payment is made to the creditor.[3]

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[1] Many of these assumptions will vary from company to company. However, reasonable changes to these assumptions do not alter the overall conclusions of this letter.

[2] Settlements of 45% (and thus, savings of 55%) of current balance are in line with historical settlement experience. However, as we have consistently maintained, it may be unreasonable to assume that current settlement percentages will hold given the "power shift" expected to occur under a contingency fee model where the creditor controls the timing and amount of a debt settlement company's revenue event.

[3] This is based on the wording in the original proposed rulemaking. We note that, other things equal, this one requirement of the proposed rule increases the time to cash flow breakeven from 49 to 74 months (to view this effect in the attached Excel model, go to cell C11 and change the number "3" to "0". When we mentioned in our meetings that the time to breakeven would be approximately 4 – 5 years, we were not taking into

- A fee of 30% of savings, based on balance at time of settlement (not time of enrollment).
- Refunds, insufficient funds transactions and expenses are modeled to stay consistent with our members' experience.
- No enrollment fee.
- No monthly fee.

As you can see, under the foregoing assumptions a debt settlement company enrolling 2,000 clients per month would burn cash to the tune of more than $46 million before achieving profitability. Under these assumptions, breakeven for any given client does not occur until Month 28. On a portfolio basis, with new clients (and associated costs) joining the program each month, the company would not achieve cumulative breakeven until Month 74, more than six years after converting to an all-contingency fee model. We respectfully submit that no investor would be willing or able to support a business with significant enterprise risk and thoroughly unstable cash flow for over six years. Thus, under this model, we do not believe that any debt settlement company, no matter how successful its results for consumers, could survive.

However, by requiring that debt settlement companies provide a full refund up until the point of first settlement, as we have previously proposed, or, perhaps, prohibiting fees altogether up until the point of first settlement but then allowing the fixed fee structure permitted in the Uniform Debt Management Services Act (refer to the Tennessee model attached as Exhibit C to our letter of April 28, ,2010), the Commission could achieve a similar consumer benefit to that provided by the proposed advance-fee ban, while providing an economic structure, that, while capital intensive in the early months, still provides a path to profitability in an appreciably shorter timeframe. Unlike the prohibitively lengthy timeframe associated with the exclusive "success fee" model, this shorter timeframe could allow companies that are getting results for consumers at least a fighting chance to reach profitability and continue providing these valuable services to consumers.[4]

Mandating (or prohibiting) a compensation system for an important, measurable and effective service deserves painstaking attention to first, second and third order effects. As our model demonstrates, what appears to be a "consumer protective" fee structure on the surface would destroy the very

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consideration the fact that fee collection would be delayed in this way (which delay pushes the time to breakeven to over 6 years).

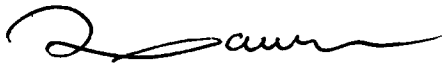
[4] Using the same general assumptions employed in the advanced fee model discussed above, we project that a ban on fees up until the first settlement, but then allowing flat fees of 15% spread over the program half-life, would require approximately $16 million in capital, and allow the business to reach breakeven in approximately 24 months.

businesses you are seeking to regulate and eliminate debt settlement as an option for consumers. In light of the attached cash flow model information, we respectfully submit that the utmost care should be taken before embarking upon a course of action that could not be undone and that due to unintended but inexorable consequences would result in irreparable injury to hundreds of businesses, tens of thousands of employees, and hundreds of thousands, possibly millions, of consumers.

We have truly appreciated the time we have been given to discuss with Staff and the Commissioners the industry's perspective. It has been our sincere goal to be able to work cooperatively with the agency so that the final Rule could be supported by TASC. I believe this good faith effort is demonstrated by our willingness to provide a variety of creative safe harbor solutions as well as alternatives to the advanced fee ban as worded in the original proposed rule. That said, the analysis we have provided further demonstrates that the advanced fee ban, as proposed in the original rulemaking, will lead to end of our industry. We do not believe this is the desired outcome of the Rule, and we respectfully implore you to keep these concerns in mind as you proceed with your deliberations.

We would welcome any opportunity to discuss this further with you or Staff at your earliest convenience, and we thank you again for your time and attention.

Very truly yours,



Andrew Housser
Member of the Board of Directors
The Association of Settlement Companies

CC: Elizabeth Schneirov