DEBT ADJUSTING BUSINESS

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HEARINGS

BEFORE

SUBCOMMITTEE NO. 5

OF THE

COMMITTEE ON THE DISTRICT OF COLUMBIA HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

FIRST SESSION

ON

H.R. 8929

TO REGULATE THE BUSINESS OF DEBT ADJUSTING

H.R. 9806

TO PROHIBIT THE BUSINESS OF DEBT ADJUSTING

SEPTEMBER 14 AND 15, 1967

Printed for the use of the Committee on the District of Columbia

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DEBT ADJUSTING BUSINESS

THURSDAY, SEPTEMBER 14, 1967

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10 o'clock a.m. in room 1310, Longworth House Office Building, Hon. B. F. Sisk (Subcommittee Chairman) presiding.

Members Present: Representatives Sisk (Chairman), Whitener, Walker, Horton, and Gude, also Representative Broyhill.

Also Present: James T. Clark, Clerk; Hayden S. Garber, Counsel; Donald Tubridy, Minority Clerk; and Leonard O. Hilder, Investigator.

Mr. SISK. Subcommittee No. 5 will come to order.

The first order of business before the Subcommittee this morning has to do with the subject of debt adjusting. There has been a considerable amount of discussion about apparent problems that have developed in the District of Columbia regarding this subject. Over the last several Congresses legislation has been introduced dealing with this subject. Early this session a bill, H.R. 8929, was introduced by our colleague from Michigan, Mr. Diggs, calling for the regulation of the debt adjustment business in the District. Without objection I will ask that that bill be made a part of the record.

Later a bill, H.R. 9806, was introduced by our colleague from Virginia, Mr. Broyhill, to prohibit the business of debt adjustment. Without objection, that bill will be made a part of the record at this point.

(H.R. 8929 and H.R. 9806 follow:)

[H.R. 8929, 90th Cong., 1st sess., by Mr. Diggs on April 20, 1967]

A BILL To regulate the business of debt adjusting in the District of Columbia other than as an incident to the practice of law

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act the term—

(1) "Debt adjusting" means an activity, whether referred to by the term "budget counseling", "budget planning", "budget service", "credit advising", "debt adjusting", "debt counseling", "debt help", "financial adjusting," "financial arranging", 'prorating", or some other term of like import, which involves a particular debtor's entering into an express or implied contract whereby the debtor agrees to pay an amount or amounts of money periodically or otherwise to a person who agrees, for a consideration, to distribute such money among specified creditors in accordance with a plan agreed upon between the debtor and the person to whom the debtor makes or agrees to make such payments.

(2) "Person" does not include an individual admitted to the bar of the United States District Court for the District of Columbia.

"(3) "Partnership" does not include a partnership all the members of which are admitted to the bar of the United States District Court for the District of Columbia.

SEC. 2. (a) No person, partnership, association, or corporation shall engage in the business of debt adjusting in the District of Columbia other than under the conditions and subject to the restrictions contained in this Act.

(b) Any person engaged in debt management shall be deemed to be rendering financial planning service, but this Act shall not apply to the following when engaged in the regular course of their respective businesses and professions.

(1) Attorneys at law.

(2) Banks and fiduciaries, as duly authorized and admitted to transact business in the District of Columbia and performing credit and financial adjusting in the regular course of their principal business.

(3) Title insurers and abstract companies, while doing an escrow business.

(4) Employees of licensees under this Act.

(5) Judicial officers or others acting under court orders.

(6) Nonprofit religious, fraternal, or cooperative organizations offering debt management service exclusively for their members.

(c) After January 1, 1964, it shall be unlawful for any person to engage in the business of debt management without first obtain a license as required in this Act.

(d) Any person desiring to obtain a license to engage in the debt management business in the District of Columbia shall file with the Board of Commissioners an application in writing, under oath, setting forth his business name, the exact location of his office, names and addresses of all officers and directors if an association or a corporation, and if a partnership, the partnership name and the names and addresses of all partners, and a copy of the certificate of assumed name or certificate of copartnership or articles of incorporation. At the time of filing the application the applicant shall pay to the Board of Commissioners a license fee of $50 for each office and an investigation fee of $100. At the time of filing the application the applicant shall furnish a bond to the people of the District of Columbia in the sum of $5,000, conditioned upon accounts entrusted to such person engaged in debt management, and their employees and agents. The bond or bonds shall be approved by the Board of Commissioners and filed in their office. No person, firm, or corporation shall engage in the business of debt management until a good and sufficient bond is filed in accordance with the provisions of this Act.

(e) Each licensee shall furnish with his application a blank copy of the contract he intends to use between himself and the debtor and shall notify the Board of Commissioners of all charges and amendments thereto.

(f) The license issued under this Act shall expire on December 31 next following its issuance unless sooner surrendered, revoked, or suspended, but may be renewed as provided in this Act.

(g) The application shall be accompanied by an appointment of the Board of Commissioners as agent of the applicant for service of process in the District of Columbia. Service upon the Board of Commissioners shall be sufficient service upon any licensee under this Act.

(h) Upon the filing of the application and the payment of the fees and the approval of the bond, the Board of Commissioners shall investigate the facts, and if they find that the financial responsibility, experience, character, and general fitness of the applicant and of the members thereof, if the applicant is a partnership or an association and of the officers and directors thereof, if the applicant is a corporation, are such as to command the confidence of the community to warrant belief that the business will be operated fairly and honestly within the purposes of this Act and that the applicant or the applicant and the members thereof or the applicant and the officers and directors thereof have not been convicted of any crime involving moral turpitude, or that such person has not had a record of having defaulted in the payment of money collected for others, including the discharge of such debts through bankruptcy proceedings, the Board of Commissioners shall issue the applicant a license to engage in the debt management business in acccordance with the provisions of the Act. The Board of Commissioners may require as part of the application a credit report and other information.

(i) Each licensee on or before December 1, may make application to the Board of Commissioners for renewal of its license. The application shall be on the form prescribed by the Board of Commissioners and shall be accompanied by a fee of

$50, together with a bond as in the case of an original application. A separate application shall be made for each office.

SEC. 3. Any person lawfully engaged in debt management in the District of Columbia of at least two years immediately prior to the effective date of this Act shall be entitled to receive a license within the provisions of this Act by filing an application, furnishing a bond, and paying the annual fee as herein specified within ninety days after the effective date of this Act.

SEC. 4. (a) The Board of Commissioners may deny, revoke, or suspend any license issued or applied for under this Act for the following causes:

(1) Conviction of a felony or a misdemeanor involving mortal turpitude.

(2) For violating any of the provisions of this Act.

(3) For fraud or deceit in procuring the issuance of a license under this Act.

(4) For indulging in a continuous course of unfair conduct.

(5) For insolvency, filing in bankruptcy, receivership, or assigning for the benefit of creditors by any licensee or applicant for a license under this Act.

(b) The denial, revocation, or suspension shall only be made upon specific charges in writing, under oath, filed with the Board of Commissioners, whereupon a hearing shall be had as to the reasons for any denial, revocation, or suspension and a certified copy of the charges shall be served on the licensee or applicant for license not less than ten days prior to the hearing.

(c) No license shall be transferable or assignable.

SEC. 5. Each licensee shall make a written contract between himself and a debtor and immediately furnish the debtor with a true copy of the contract. The contract shall set forth the complete list of debtor's obligations to be adjusted, a complete list of the creditors holding such obligations, the total charges agreed upon for the services of the licensee, and the beginning and expiration date of the contract. No contract shall extend for a period longer than twenty-four months.

SEC. 6. Each licensee shall maintain a separate bank account for the benefit of debtors in which all payments received from the debtor for the benefit of creditors shall be deposited and in which all payments shall remain until a remittance is made to either the debtor or the creditor. Every licensee shall keep, and use in his business, books, accounts, and records which will enable the Board of Commissioners to determine whether such licensee is complying with the provisions of this Act and with the rules and regulations of the Board of Commissioners. Every licensee shall preserve such books, accounts, and records for at least seven years after making the final entry on any transaction recorded therein.

SEC. 7. (a) The Board of Commissioners may examine upon five-day notice given the licensee the condition and affairs of said licensee. In connection with any examination, the Board of Commissioners may examine on oath any licensee, and any director, officer, employee, customer, creditor, or stockholder of a license, concerning the affairs and business of the licensee. The Board of Commissioners shall ascertain whether the licensee transacts its business in the manner prescribed by law and the rules and regulations issued thereunder. The licensee shall pay the cost of the examination as determined by the Board of Commissioners, which fee shall not exceed the sum of $50 per day of examination; said fee shall be deposited in the Treasury of the United States to the credit of the District of Columbia. Failure to pay the examination fee within thirty days of receipt of demand from the Board of Commissioners shall automatically suspend the license until the fee is paid.

(b) In the investigation of alleged violations of this Act, the Board of Commissioners may compel the attendance of any person or the production of any books, accounts, records, and files used therein; and may examine under oath all persons in attendance pursuant thereto.

SEC. 8. (a) The fee of the licensee shall be agreed upon in advance and stated in the contract and provision for settlement in case of cancellation or prepayment shall be clearly stated in the contract. The fee of the licensee shall not exceed 12 per centum of the total indebtedness of the debtor. The fee of the licensee shall be prorated monthly over the life of the contract. In addition to the prorated amount, the licensee shall be allowed to deduct from the first month payments a reasonable amount for filing fees, said amount not to exceed $25. In the event of total payment of the contract before the term of the contract has expired, the licensee shall be entitled to an amount equal to not more than 25 per centum of the remaining fee.

(b) Each licensee shall—

(1) Keep complete and adequate records during the term of the contract and for a period of seven years from the date of cancellation or completion

of the contract with each debtor, which records shall contain complete information regarding the contract, extensions thereof, payments, disbursements, and charges, which records shall be open to inspection by the Board of Commissioners during normal business hours.

(2) Make remittances to creditors within two working days after receipt of any funds, less fees and costs, unless the reasonable payment of one or more of the debtor's obligations requires that such funds be held for a longer period so as to accumulate a sum certain.

(3) Upon request furnish the debtor a written statement of his account each ninety days, or a verbal accounting at any time the debtor may request it during normal business hours.

(c) No licensee shall accept an account unless a written and thorough budget analysis indicates that the debtor can reasonably meet the requirements required by the budget analysis.

(d) In the event a compromise of a debt is arranged by the licensee with any one or more creditors, the debtor shall have the full benefit of that compromise.

(e) No licensee shall—

(1) Purchase from a creditor any obligation of a debtor.

(2) Operate as a collection agent and as a licensee as to the same debtor's account.

(3) Execute any contract or agreement to be signed by the debtor unless the contract or agreement is fully and completely filled in and finished.

(4) Receive or charge any fee in the form of a promissory note or other promise to pay, or receive or accept any mortgage or other security for any fee, both as to real or personal property.

(5) Pay any bonus or other consideration to any person for the referral of a debtor to his business nor shall he accept or receive any bonus, commission, or other consideration for referring any debtor to any person for any reason.

(6) Advertise his services, display, distribute, broadcast, or televise or permit to be displayed, advertised, distributed, broadcasted, or televised his services in any manner inconsistent with existing law.

SEC. 9. (a) Any person, partnership, association, corporation, or any other group of individuals, however organized, or any owner, partner, member, officer, director, employee, agent, or representative thereof who willfully or knowingly engages in the business of debt management without the license required by this Act, is guilty of a misdemeanor and shall be fined not more than $1,000 for each violation or imprisoned for not more than six months, or both.

(b) Any licensee under this Act who violates any provision of this Act is guilty of a misdemeanor and shall be fined not more than $1,000 for the first offense, and for each subsequent offense a like fine or imprisonment not to exceed one year, or both.

(c) Prosecution for violations of this Act shall be conducted in the name of the District of Columbia by the Corporation Counsel or any of his assistants.

[H.R. 9806, 90th Cong., 1st sess., by Mr. Broyhill on May 9, 1967]

A BILL To prohibit the business of debt adjusting in the District of Columbia except as an incident to the lawful practice of law or as an activity engaged in by a nonprofit corporation or association

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act the term—

(1) "Debt adjusting" means an activity, whether referred to by the term "budget counseling", "budget planning", "budget service", "credit advising", "debt adjusting", "debt counseling", "debt help", "financial adjusting", "financial arranging", "prorating" or some other term of like import, which involves a particular debtor's entering into an express or implied contract whereby the debtor agrees to pay an amount or amounts of money periodically or otherwise to a person who agrees, for a consideration, to distribute such money among specified creditors in acocrdance with a plan agreed upon between the debtor and the person to whom the debtor makes or agrees to make such payments.

(2) "Person" does not include an individual admitted to the bar of the United States District Court for the District of Columbia.

(3) "Partnership" does not include a partnership all the members of which are admitted to the bar of the United States District Court for the District of Columbia.

SEC. 2. Except as provided in section 3, no person, partnership, association, or corporation shall engage in the business of debt adjusting in the Distirct of Columbia.

SEC. 3. The provisions of this Act shall not apply to those situations involving debt adjusting incurred incidentally in the lawful practice of law in the District of Columbia nor shall anything in this Act be construed to apply to any nonprofit or charitable corporation or association which engages in debt adjusting even though the nonprofit corporation or association may charge and collect nominal sums as reimbursement for expenses in connection with such services.

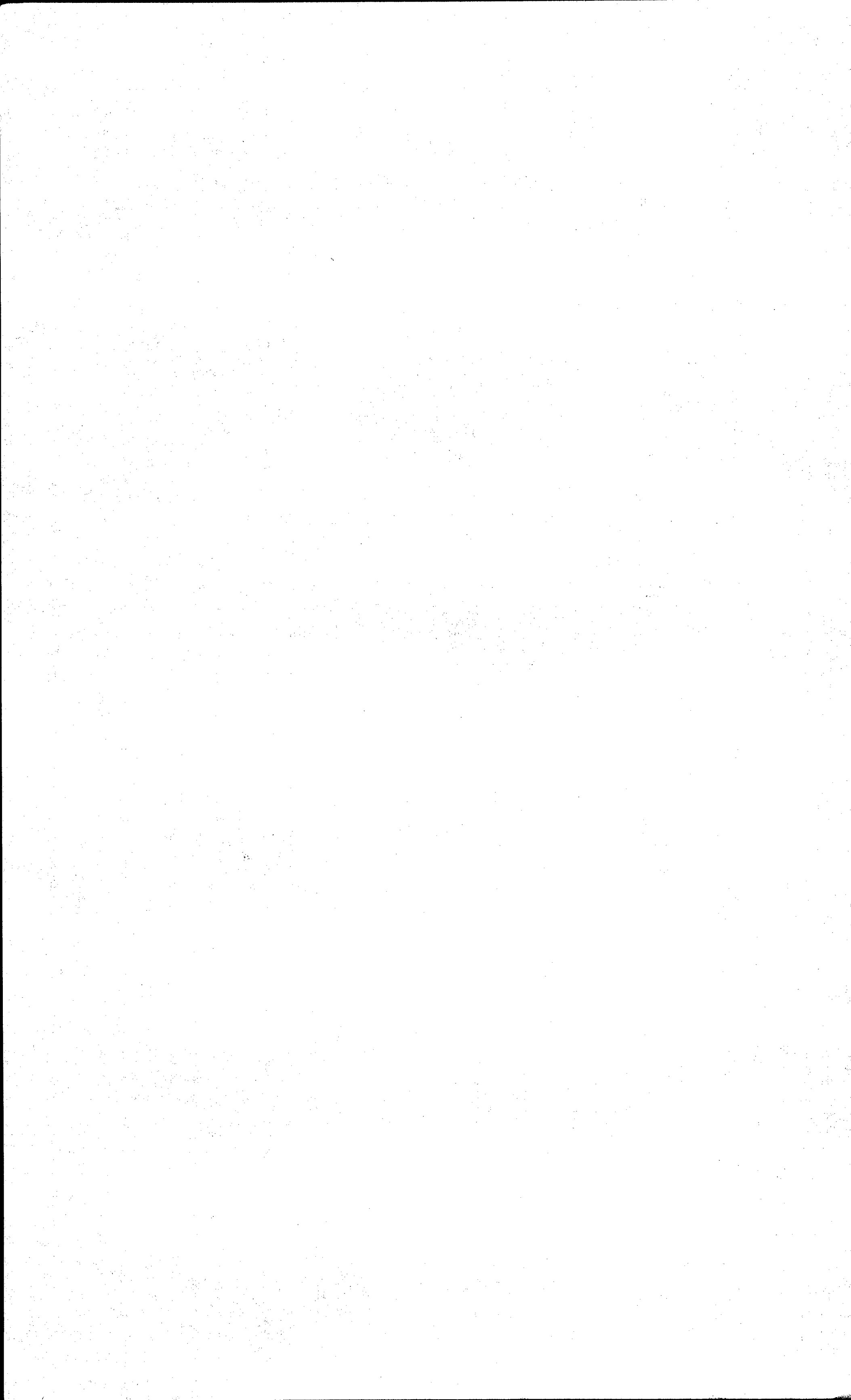
SEC. 4. (a) Whoever violates section 2 of this Act shall be subject to a fine of not more than $1,000 and to imprisonment for not more than six months, or to both.

(b) Prosecutions for violations of this Act shall be conducted in the name of the District of Columbia by the Corporation Counsel or any of his assistants.

Mr. SISK. The Subcommittee, of course, will try to determine as nearly as we can the facts regarding this subject and what would be in the best interest of the people of the District of Columbia. Upon the development of the facts, to the extent that we can, the Committee, I feel sure, will proceed accordingly.

Also at this time we will make a part of the record, without objection, a series of articles entitled "Debtor Beware," written by Miss Miriam Ottenberg, Staff Writer of the Washington Star, dealing with the subject of debt adjusters.

(The series of articles follow:)



DEBTOR BEWARE

By Pulitzer Prize Winner

Miriam Ottenberg

STAR STAFF WRITER

A series exposing
the "debt-consolidating" firms
in the Washington area
published by

The Washington Star

10 ¢

The Series

DEBTOR BEWARE

Payments Adjustor Won't Solve Your Money Problems

By MIRIAM OTTENBERG
Star Staff Writer

A plumber and his wife burdened with hospital expenses for a new baby, saw their bills mounting and signed up with a nearby Maryland firm to "adjust" their debts. They were adjusted right out of their $4,000 trailer home.

A District policeman, saddled with moving bills and getting further behind because his overtime stopped when he entered the police academy, also sought help from a so-called debt adjustor. He had paid in more than $250 before he found out only a few dollars had reached a creditor.

A day worker, who prided herself on paying her bills promptly, listened to a debt adjustor's advertising and figured she could save interest if she paid off everything in six months instead of 12. She wound up paying more interest because the debt adjustor neglected the first month's payment to take out his fee.

These are typical victims of the debt adjustors, debt poolers, debt consolidators or pro-raters now preying on Washington area families. They are called by those names—and a few less flattering ones, such as parasites and profiteers of poverty.

Actually, they're not interested in the true poverty class. They prefer people with a regular paycheck and a conscientious desire to extricate themselves from a mire of debt.

They promise to consolidate bills into one low monthly payment the customer can afford, avoid garnishments and free the customer to live happily ever after. They put in no money of their own—no loan, no advance, nothing out of their pockets.

For sending each creditor something—if the customer keeps paying—they charge a "filing" or "installation" fee of $25 more plus a percentage of the debt they are "adjusting"—usually from 12 to 15 per cent.

If the customer stays with the adjuster to the end—and that's a big if—he may get his "filing" fee back, but from everything The Star could find out, he'll never get back a unsullied credit rating.

Debt consolidators are capitalizing on the money problems that have made the personal bankruptcy rate sour across the nation, filled the divorce courts with debt-prompted family crises and contributed to suicides, alcoholism and mental illness. The runaway family debts that prompt these excesses are usually blamed on too-easy credit, too available charge accounts, the plethora of credit cards and the go-now-pay-later philosophy.

Problems that are unique to the Washington area make the Nation's Capital even more attractive to the debt adjustors. Here they find the transients—Government people coming and going with each administration, service people putting in their tour of duty beside the Potomac, people who run into heavy debt while closing their home back home and finding a place to live close to schools and stores here.

In the Washington area also they find the innocent and the ignorant, the Southern families migrating northward, the small-town girls pounding Government typewriters in the big city.

The largest of the debt firms now doing business in this area, Credit Advisors, Inc., has described its customers as "debtors who are relatively unsophisticated in matters relating to their outstanding debts, interest rates, penalty charges and the like."

The description was given in a suit filed here last month by Credit Advisors against another debt adjuster—Credit Budget, Inc. In the course of accusing its competitor of "unfair competition and "misappropriation of trade secrets" Credit Advisors pulled back a bit of its own veil of secrecy.

In the suit, Credit Advisors emphasized how much it had spent on advertising and how much value it placed on its advertising copy used "repeatedly and successfully."

Without saying how much it harvested from "extensive advertising," Credit Advisors charged that its competitor had already derived "large income, profits and advantages" which rightfully belonged to Credit Advisors.

The suit predicts the future will find more rather than fewer debt consolidators in the Washington area. Credit Advisors says Credit Budget is going to expand its debt adjustment business unless restrained.

The court action was cited by Credit Advisors' local attorney as the reason why the firm couldn't answer any of a dozen questions asked by The Star about its methods of operations—easy questions like how much time the "counselors" spend on a customer and whether they ever give the customer a budget to follow to help get himself out of debt and why they don't say in their ads how long it will take to pay off a $1,-000 debt at $15 a week.

Since Credit Advisors wouldn't talk, The Star got the answers to these and other questions from the customers. None of those interviewed had ever been given a budget to follow. More time reportedly was spent by the counsellor on how much money the customers could pay to Credit Advisors than how they were going to live on what was left. As for how long it would take to pay off a $1,000 debt at $15 a week, the answer was obvious—a discouraging span of months, particularly after interest and Credit Advisors' fees were piled onto the indebtedness.

There was no point in even asking about the advertised promise of "garnishments avoided" after The Star learned one creditor after another has from 12 to 15 per cent.

If the customer stays with the adjuster to the end—and that's a big if—he may get his "filing" fee back, but from everything The Star could find out, he'll never get back a unsullied credit rating. for deceptive acts, although salaries continue to be garnisheed and automobiles repossessed despite the services of the debt consolidators, the bait of a debt-free future continues to lure customers here.

Adjustors Increasing

Despite a widespread impression that the debt consolidators are on the wane here, The Star found just the opposite to be true.

The regional credit sales manager of a national chain of department stores reported more of the store's customers in this area had become involved with the debt adjustors in the last two or three years than ever before. He attributed the rise to the "tremendous advertising program."

Department stores, discount appliance stores and finance companies in the area all note a growing trend toward the debt consolidators—a trend they don't like at all.

Why are more debt adjustors thriving here when they're on the wane in many states? They came to Washington after they were outlawed or at least regulated elsewhere. Debt adjusters by any name are banned in 21 states, including Virginia. They are regulated in 10 other states, which discourages some—but not all—of them.

Rhode Island is among the states that prohibit them but several outfits operate a mail order business from there, getting their customers from everywhere but Rhode Island through magazine and newspaper advertising. Since they can operate freely here, at least one of these Rhode Island-based outfits lists a Washington address and telephone number. Repeated calls to that number have produced nothing but a tape recorded announcement of a number to call—a Rhode Island number.

Ban in Baltimore

Debt adjusting firms are banned in Baltimore, which is one reason why more of them are opening for business in nearbh Maryland. Credit Advisors of Baltimore, Inc., now operates from Mt. Rainier, Md., and another has established itself as Credit Advisors of Laurel, Md.

Unprotected by any law, Washington and nearby Maryland debtors likewise lack the free budget counselling service that puts the paid debt adjustors out of business almost as fast as a law.

When a man, free of charge, can get counselling on his debts and expert help in reducing his indebtedness to a managable level, when all he can afford to pay on his debts goes to his creditors, he has no use for a paid debt adjuster. Some 63 communities across the country provide that free service to debtors now—but not Washington.

That's why we have become a haven for debt adjusters.

DEBTOR BEWARE

Adjusters Shunned By Most Creditors

By MIRIAM OTTENBERG
Star Staff Writer

Debt consolidators can't guarantee protection from garnsihment and dunning because most creditors refuse to do business with them, a Star survey shows.

The survey covered department and discount stores, areawide chain stores and national chains, credit unions and banks, finance and loan companies—a cross-section of creditors.

Although the stores and some lenders accept partial payments sent in by the debt adjusters, they will continue to dun the debtor, not the adjuster, if a regular payment is missed.

When a customer tells his creditors a debt arranger is now handling the bills, the reply is always the same: "Our contract is with you, not anybody else."

That's why the Washington Better Business Bureau suggests to anyone asking about debt consolidators that the check with his creditors before signing up with a debt adjusting firm. In most cases, the BBB is aware, the creditor will discourage him from signing.

"You should understand," the BBB answers inquiries, "that if you go to a bill consolidator with 10 creditors, you come out with 11."

The debt adjusting agency theoretically pools or consolidates a debtor's bills and prorates what the debtor can afford to pay among all his creditors.

That would mean a slice for each of them which, in theory, a creditor would accept eagerly to recover something on an overdue bill. Also theoretically, the size of the payments is worked out through days or even weeks of negotiation between the debt adjuster and the creditors.

But that's only in theory. In practice, the adjuster just sends the creditors a form saying what they're going to receive and asking them to accept it. All the creditors checked by The Star said flatly they throw away the form and make no agreement with the paid adjusters.

One went even further. While talking with The Star, a finance company creditor manager found in his mail a notice from a debt adjuster that he would receive $5 a month in payment for a $174 television set bought only two months earlier.

"I'm going to send the check back," the credit manager said. "We just checked this customer's credit in February. If he can't pay $17 a month now, we'll have to take back the set."

Stores Willing to Help

All stores checked by The Star said if the debtor had told them he was in trouble and wanted to pay less until he was over the hump, they would have gone along with him if at all possible.

And usually it's possible.

Unless the debtor is a known deadbeat who shouldn't have been allowed to buy on credit in the first place, most stores will skip one or two payments until a customer gets back on his feet and tack those payments onto the end of the bill. Or they'll accept token payments for a while.

Banks may be able to arrange refinancing. Credit unions will help through counseling and negotiating with other creditors. Some merchants will cooperate with customers faced with an unexpected expenses by taking back the merchandise and marking it as a cancellation—saving their customer the stigma of a bad debt.

Several businessmen stressed that the man or woman who goes to a debt consolidator is usually the very type who would get the most sympathetic hearing from his creditors because he's conscientious about his debts and concerned about maintaining his credit.

More than one creditor added, however, that a debtor ruins his credit by seeking the help of paid adjusters. A loan company spokesman said he will never approve another loan for any customer who has gone to a debt consolidator.

Some stores with complex bookkeeping systems expressed concern for customers lulled into a false sense of security when they assume the debt consolidator has taken care of everything because they are not dunned. It may be as much as three months before a store's accounting machinery catches up with the debt consolidator's shrunken payments and the debtor is dunned.

A mail order house complained that customers who go to debt adjusters here may not get credit even for the short payments because the checks come in without the bill, without the customer's code number and sometims even without his home address.

Several creditors have been made ruefully aware that the debt consolidators instruct their customers to have nothing to do with their creditors. It doesn't make a store official any happier to have a telephone banged down when he calls someone who owes him money.

Creditors don't like a middleman coming between them and their customers. They don't like hearing a customer say,"But I paid the debt pooler every week. I don't understand why he hasn't paid you." And creditors recognize with the cynicism born of experience that the creditor who screams the loudest and duns his customers the most will get the largest slice of the available money. They don't like any part of it.

A number of firms make a practice of telephoning a customer as soon as a debt consolidator sends in the notice that from now on the consolidator will be paying the bill—or part of it. Credit managers urge their customers to get clear of the debt adjusters. They point out that the customer could pay off his smaller bills with the money he's paying these people to write checks for him.

The AFL-CIO Executive Council has gone on record against the debt adjustment business as an arrangement which, in too many cases has turned out to be an "abusive scheme" for deceiving and overcharging the debtor.

The debt adjuster, the council said, frequently imposes a

heavy economic burden on the already overloaded debtor who gets no effective relief in return since his property may be seized and his salary attached anyhow.

Even the best intentioned and most extensively regulated prorater, it was found, can't render effective relief without the consent of the creditors. Since The Star found that most creditors here don't consent and the proraters are free to operate any way they want here, labor's warning is particularly meaningful in the Washington area.

A formal statement from the AFL-CIO executive council concluded: "The AFL-CIO, therefore, is of the view that the debt adjustment business, regulated or unregulated, is not economically or socially desirable as a commercial activity and should be eliminated."

The statement came out in 1961 and Leo Perlis, national director of the AFL-CIO Department of Community Services, said that's still the official position.

"We're against debt consolidators," he explained, "because they add another debt on top of all the others. They don't solve the problem."

Story of One Brochure

The largest of the debt adjusting chains tries to give the impression that the Labor Department takes a different view. The Barden Investment Management Corp., which is under the same ownership as Credit Advisors, Inc., issued a brochure which played up this quotation from the Labor Department's Bureau of Labor Standards:

"If honestly operated, these agencies can perform a real service for persons deeply enmeshed in debt."

The quotation, it developed, was only a fragment of the whole message, like the one favorable line in a column-long unfavorable movie review.

The "if honestly operated" sentence was followed immediately by this: "Unfortunately, this has not always been the case. Sometimes the money has not been paid to the creditors at all, or only part of it paid. Frequently, creditors refuse to participate in the debt pooler's plan but the agency does not so notify the debtor.

"On many occasions the debt poolers have paid themselves their entire fee first, and it has been some time before money was available to pay the creditors.

"Accepting the services of a debt pooler has not always prevented garnishment proceedings. Frequently the debtor finds that instead of getting out of debt, he simply has another creditor—the debt pooler.

"Because of the distress caused by unethical debt poolers, many states have found it necessary to take legislative action."

The debt consolidator's brochure which neglected to include this part of the Labor Department's statement waxed enthusiastic about the debt management company's contribution to the debtor's welfare.

"Perhaps the agencies (sic) most important function," the Barden brochure stated, "is providing the debtor with a learning experience. With help, the debtor learns by the judicious handling of his monies to unentangle himself from the nightmare of oppressive debts. He finds himself no longer a victim of a too easy credit system; but, instead, master of his own financial ship."

Maybe, but The Star found a number of debtors whose "learning experience" consisted of plunging deeper into debt by dealing with a paid debt adjuster.

DEBTOR BEWARE

Consolidation Firms Increasing Clientele

By MIRIAM OTTENBERG
Star Staff Writer

One large mail order house reports more customers are getting involved with debt adjusters in the Washington area than anywhere else in the Maine-to West Virginia region.

Like area business leaders, the mail order company spokesman noticed more debt-consolidated customers here now than two or three years ago.

Nobody knows exactly how many debtors have signed up with the adjusters here, but the largest of them, Credit Advisors, Inc., claims to have 5,000 customers in the city and nearby Maryland.

Credit Advisors, however, has no monopoly on customers, as dozens of complaints reaching The Star indicate.

In The Star's collection of complainers are several who blame their financial nightmare on a firm manned most days by an answering service. Before getting into the debt adjusting business, the owner of this firm pleaded guilty to mail fraud in Baltimore in 1965 and received a suspended sentence.

Others are still smarting under losses suffered from two firms convicted here last year. Some complained of being plunged deeper into debt by newer arrivals in this wide-open market, while several blamed the loss of their cars and their credit on firms that have now moved on.

Among those who brought their troubles to The Star's Action Line was one involved by long distance. A divorcee with three children to support, she agreed to pay $35 a week to Nationwide Acceptance, Inc., on the understanding that the firm would start paying her bills as soon as she sent in her first payment and payment books.

When her first payment produced nothing but duns from her creditors, she scrambled to find money to pay them and started trying to get her $35 back from the debt consolidator. Calling the firm's Washington office brought only a tape-recorded message to telephone a number in Cranston, R.I. Nationwide is one of several debt adjustment outfits now being investigated by the Postal Inspection Service.

In addition to Action Line complainers, The Star discovered other debtor victims by checking Neighborhood Legal Services offices, credit unions and creditors who took pity on families in financial troubles.

A number of those interviewed spoke of other families they knew who had also been victimized and sometimes forced to pay up to $150 to extricate themselves from the debt consolidater. More often than not, however, these victims don't complain publicly.

Suffer in Silence

Attorneys, counsellors and investigators gave various reasons why victims suffer in silence. One said victims have been so brain-washed by fast-talking debt adjusters that they

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are easy to convince that whatever went wrong was their own fault. Thus, when creditors start dunning them again, the debt adjuster often says they are to blame for missing a payment. Since they have no receipts to prove they paid, they swallow the story.

Others know they have been taken but are too ashamed to tell anyone either that they sought help with their debts or put their trust in the wrong place.

What makes them turn to a debt adjuster? Either mismanagement or misfortune has overstrained their resources. They may have over-extended themselves because credit is too easy to get and have long forgotten the old maxim about not buying anything you can't afford.

Bordering on Panic

Just as often, however, a sudden illness in the family has brought unexpected demands. Or income has shrunk through lost overtime or lay-off. They are strapped but not poverty-stricken. Most of the victims interviewed were in the $6,000 to $10,000 income class. Some made a bit less and, at the other end of the scale, an $18,000 victim was reported.

Fear bordering on panic drove them to the debt poolers.

Some were afraid of being fired because most large employers follow a standing rule that if garnishment proceedings are started against an employe, out he goes.

Some feared the car they had to have for their work would be repossessed.

And some worried about their credit—the charge accounts they counted on to keep their children fed and clothed.

They could see debts mounting. They knew they couldn't pay all the bills, that the next notice of an overdue account would be less polite. Some in sensitive government jobs worried about losing their security clearance.

Less pressed but looking to the future was the engaged couple who wanted to start married life in solvent blessedness by pooling and paying off all their bills now. They not only got further behind but nearly lost the groom's car.

Youthful inexperience brought some of the victims to the proraters. A 17-year-old couple, just married and up to their necks in debt for trousseau and furniture, thought the debt consolidator would pay off all their bills at once and then they would gradually repay him.

The young people were about to pay their $59.32 installment on their car but the debt-adjusting salesman told them to give him the money and he would take care of it. Thereafter, they started sending the debt consolidator a $31 money order each week.

They had paid out more than $250, when they began getting calls from everybody they owed. Their friend, the debt adjuster, told them not to worry because he was taking care of everything.

The rude awakening came when the bride's mother, who had signed for the car because the girl was under age, was called at her job and informed that her salary would be garnisheed if she didn't make a car payment at once.

In three months, the debt consolidator had paid $7 on the car—not even the $59.32 installment the couple had turned over to him on the night they signed his debt adjusting contract.

In almost every case investigated by The Star where the

debtor lost by dealing with a debt adjuster, genuine counseling and some frankness with creditors would have given the story a different ending. But their fear and desperation made the debtors tongue-tied and wary of their creditors.

Sometimes, a fellow worker will convince someone a debt pooler will solve all their money problems just as his own problems have been solved. That's how a Rockville couple with a new baby got involved.

The young mother said a man at her husband's place of work told him how much help he was getting from a debt consolidator. She didn't know then that the debt firm would deduct from $5 up to $100 from a debtor's bill as a reward for referring other customers.

She and her husband signed a contract to pay $43 a week until all their bills were paid. Within a month, they were being dunned by their creditors. The debt consolidator told her the creditors were just trying to get more money out of her and she wasn't to pay any attention to them.

Trailer Repossessed

"Then, on May 6, 1966," the wife said, "our trailer was repossessed. The man gave us 15 minutes to get our furniture and baby out of our home. A few weeks later, our car was taken from us. I called all our creditors and found that none of them had gotten any of the money we paid to the debt adjuster.

"We lost everything we had. Our credit was ruined. We didn't even have money for food. It's been over a year now and we're just getting back on our feet. I'm glad of just one thing. I think I would kill myself if I had taken even $5 to refer anyone else to these people."

Another young couple also learned the hard way. In seven years of marriage, they had never been in a financial bind until moving expenses ate up their reserves and a debt pooler promised to bring their bills up to date.

"This man sounded on the up-and-up but after I started paying out $65 every two weeks, the bills I received were the same or larger than the ones I had before I started," the husband said.

Bank Sends Letter

"These people gave me the impression that all my creditors would be satisfied immediately but none of them were," he went on. "I figure the $260 I have given him was just paying his commission."

He was shaken when the bank he owed money back home sent him a copy of a letter the bank had written to notify the debt adjuster the bank refused to enter into an arrangement with him and "payments will be expected as contracted for by the borrower."

Finally, one of his creditors, a one-stop shopping center, warned him on debt consolidators.

"Why should you pay them?" the center's credit manager asked him. "Pay us directly and if you can't, just call and tell us. We'll work something out."

The wife picked up the story there.

"If it hadn't been for the way that credit manager helped us," she said, "we might still be hooked up with that so-called debt pooler. You know, you don't think of a creditor as a friend. You avoid him.

"Now I feel that if we have a problem, we are going to level with our creditors. They'll do more for us than any debt adjuster. At least, that's what happened to us."

DEBTOR BEWARE

Tricky Wording Baits The Adjuster's Hook

By MIRIAM OTTENBERG
Star Staff Writer

A debt consolidator convicted of mail fraud blames carefully worded advertising and double-talking "counselors" for giving debtors the false impression that debt adjusters will pay all their bills now and collect from them later.

It's a matter of total impression, explained the former consolidator. Neither the ads nor the salesmen promise in so many words that the debt pooler will advance any money. The fact is, though, that many debtors start out believing that, and nobody disabuses them.

Victims interviewed by The Star said they thought all their creditors would be paid off at once and they would reimburse the debt adjuster in easy stages. That's how they misinterpreted the ads that say, "If you owe $1,000, pay as low as $15 a week."

The ex-adjuster illustrated the technique used with this phrase from his former spiel; "At no time do we advance any cash directly to you." True enough, but it leaves the debtor with the impression that while he's not going to get any cash, his creditors will.

Victims cited such advertising messages as "garnishment avoided," "no co-signers or security" and "now you can pay all your bills regardless of condition" as meaning—to them, at least—that the debt adjuster would take care of everything for them. Even the phrase "not a loan" failed to straighten them out since they didn't expect any loan in the sense of cash.

From the former debt adjuster, from federal investigators, from victims and from the spiels of the pro-raters themselves, The Star collected these tricks of the debt-adjusting trade:

THE COME-ON

In addition to newspaper, magazine, radio and television advertising, the debt adjusters solicit prospects by postcard. They get names from court records of people sued for debt, from telephone crisscross (street address) directories for "good" neighborhoods and from some loan companies with whom they have an understanding.

Post cards to prospects simply say, "Please contact me on a matter of mutual importance." If the prospect is curious enough to call and ask for the man whose phony name is listed on the card, the salesman goes right into his opening pitch. "We understand from a mutual friend that you're having a little problem with some of your bills. We wonder if we could be of service to you."

If the prospect starts asking questions, the salesman knows he has hooked a live one and immediately makes a date to explain "exactly what we're going to do for you."

Debt adjusters who rely most on radio and television promo-

tion usually have their salesmen cruising the area so they can speedily contact anyone who calls in response to a broadcast before he changes his mind. Most of the victims interviewed by The Star said a salesman or "counselor" came to their home within half an hour of their call expressing interest.

In every case, their visitor was more salesman than "counselor." In the 20 to 25 minutes he stayed with them, he (1) found out how much they owed, (2) how much they used for living expenses, (3) how much money they could give him that night and (4) how much they could pay weekly. As soon as he had their names on a contract, he rushed off with their payment books and their first payment.

Those who described the encounter said the salesman talked so fast they never had a chance to ask questions about how their money was to be used. All one woman remembered was that she had only $70 in the bank and the salesman took $60 of it. Several victims were positive that the salesman had told them that payments to all their creditors would start immediately. They found out soon enough that that wasn't true.

The come-on that requires the least salesmanship and nets an important share of the customer is the referral technique. Debtors already signed up with debt firms will either get a small check to reward them for each new customer they refer or anywhere from $5 to $100 will be deducted from their outstanding debt.

THE SPIEL

Once he faces a prospective customer, the "counselor" finds some negative selling frequently pays off. "Shame on you," he chides the bill-weary prospect. "Poor management got you into this. You really don't need our services. With what you make, you could take care of all these bills yourself."

The prospective victim falls for the reverse psychology. "No, I can't," he says, right on schedule. "My wife blows everything I make and forgets o enter the checks."

"Well, maybe we can help you after all," the salesman concedes and the contract is signed.

Sometimes, there's a more direct sales pitch. "You pay us and we'll take care of all your bills. You'll be out of debt in half the time it would take by yourself." "Within four weeks all your creditors will be paid and you'll be on easy street." "Because of our reputation and volume, we can work better in your behalf than you can for yourself." "'One check to the store covering many accounts will be more acceptable than your one little check covering only part of your bill." (Not true, the stores say.)

THE CONTRACT

Since they base their fee on what the debtor owes and they can collect, the adjustors try to include everything in their contract — even car payments that must be paid in full and on schedule.

They will pro-rate all the debts whether or not that's the right solution for the debtor. It's always the right solution for the pro-rater.

They try to bind the debtor by a contract warning, "This contract cancellable only by 90 days' written notice." That's on the Credit Advisors, Inc., contract, and debtors get the idea they have to pay to get out sooner, but a spokesman for Credit Advisors, Inc., insisted that the firm never sues to collect.

When a debtor plugs along with his weekly payments to the debt adjustor until the end is in sight, he may be kept on the hook by an informal letter in longhand from a "counselor." "In reviewing your account," the debtor is told, "I find that I can now reduce your payments to $13 per Monday. If this will help you at this time please sign and return the enclosed."

What sounded as welcome as a gift actually meant the debtor was stringing out his payments longer and increasing his interest. And that friendly letter virtually invited the debtor to take on a new load of debt.

The contract sets up a payment schedule for the debtor but says nothing about how the debtor is supposed to live while he's meeting that schedule. Theoretically, the debtor is counseled about his living expenses but since the "counselor" is more con-man than economist, he sets up a budget so unrealistic that even the most determined debtor is rarely able to meet it.

A GS-6 Navy stenographer with take home pay of $340.80 a month signed up to pay the debt adjuster $170 a month. When her rent was deducted from what was left, she had $90 a month to cover food, clothes, medical bills, cosmetics and car maintenance.

Obviously, she couldn't make it. Nor can others. Many write off the filing fee they paid the debt adjuster as a bad guess and look for a more realistic way to get out of debt.

AFTER THE CONTRACT

Both debtors and creditors must be pacified, when bills aren't promptly paid by the debt adjuster. Credit Advisors handles the complaints they know are coming with a 16-point sheet of "customer advice."

In addition to cautioning customers against buying anything or paying any creditors without checking with Credit Advisors first, the "customer advice" warns:

"There may be a possible negative reaction from your creditors at first. There may be harassing phone calls at first. There may be routine duns and delinquent notices at first. It takes four to five weeks to get all creditors notified and make arrangements with them after the first full payment."

As for the creditors, most debt adjusters seek to pacify them by giving the biggest payment to the one who bothers the customer most. Doctors are put at the bottom of the list on the theory that you can't repossess a baby or an appendix.

Sometimes they can forestall creditors a while by saying they are cleaning up the small bills first and if he'll just wait a while, he'll get the biggest slice of the debtor's payment.

When the creditor gets tired of waiting, he sends the debtor a summons to appear in court to answer a judgment or garnishment. The debtor sends it on to the debt adjuster, who may try to get the creditor to drop the case. If the creditor refuses, some debt adjusters fail to tell their customers and the case is lost by default because the debtor isn't there to defend himself. The debtor learns what happened when his salary is garnisheed or he's notified there's a judgment outstanding against him.

Both debtors and Action Line, in behalf of debtors, have run into the same answer when things go wrong. It was used when a woman discovered the

figures had been changed on her contract after she signed. It was the explanation given Action Line after a car on which the debtor had paid regularly via the debt consolidator was repossessed.

Said the debt consolidator: "The employe who did that has been fired."

DEBTOR BEWARE

Firms Seek Controls To Forestall a Ban

By MIRIAM OTTENBERG
Star Staff Writer

The commercial debt adjusters, who make a tidy living from the fees they charge debtors, are trying to stay in business by the unique device of campaigning for laws to regulate themselves.

Since the adjusters, also known as debt consolidators, managers, liquidators, poolers and pro-raters, are now outlawed in 21 states, they strive to forestall more such laws by pushing regulation as an alternative.

They were behind efforts here to get laws regulating them. They didn't succeed but they confused the issue enough through several sessions of Congress to prevent passage of a law to put them out of business in the District.

They succeeded in pushing through a regulatory measure recently in the state of Washington—the 12th state to regulate to some extent rather than ban. They are making a determined push to keep Connecticut among the regulated states while the Hartford Times editorially campaigns for Connecticut to become the 22nd state to prohibit debt pooling.

To the debt adjusters, Maryland is very much a key state, since Baltimore already outlaws them, and they don't want the rest of the state to do likewise — particularly when business is booming for ex-Baltimore firms soliciting Washington area debtors from new locations in Mount Rainier, Hyattsville, Laurel and Marlow Heights.

Credit Advisors Inc., the largest of the adjuster firms with several offices in nearby Maryland as well as Washington, boasts of supplying every member of the Maryland Legislature with information on regulating the consolidators. They didn't win regulation at the latest session of the legislature, but you couldn't say they lost. A bill to outlaw debt consolidation throughout Maryland died.

Dr. Arthur Dorman, Prince Georges County delegate in the Maryland legislature, had introduced the outlawing measure and was joined by two other delegates concerned about debt poolers in their counties. Their combined measure passed the House, but opponents had flown in a spokesman from the Midwest to testify against it, and the bill was "lobbied to death" in the Maryland Senate. Dr. Dorman said he and his colleagues are going to try again at the start of the next session.

The abuses of debt adjusters, from back-breaking fees to pocketing of funds entrusted to

them, began prompting measures to prohibit the business in 1955 when three states—Maine, Massachusetts and Pennsylvania—outlawed them.

A year later, when Sen. Jacob K. Javits, R-N.Y., was New York's attorney general, that state outlawed them. At the time, Javits faced head-on the issue of regulation versus prohibition.

"As a matter of basic policy," Javits said, "I am opposed to outlawing any business, yet my office could suggest to the legislature no practical way to regulate properly such activities."

Baltimore's Experience

In Baltimore, City Councilman Leon A. Rubenstein did the same kind of soul searching as Javits had done a decade earlier in New York and arrived at the same conclusion.

Rubenstein, an attorney, got interested in the debt adjustment business when several clients complained that money they gave the pro-raters to spread among their creditors never got that far. After he found these firms were handling other people's money with no control whatever, he announced that he would introduce appropriate legislation.

Predictably, he was contacted at once by a debt pooler who said he wanted to cooperate and had just what Rubenstein would want—a nifty bill to regulate the business. After thinking it over, Rubenstein drafted an ordinance to get them out of town and both proposals went to the City Council Judiciary Committee.

The council chose to outlaw them, but the debt poolers made one more pitch. They tried to persuade Baltimore Mayor Theodore R. McKeldin to veto the ordinance. The death knell for the debt poolers in Baltimore was sounded at a mayor's hearing where the Legal Aid Bureau, a Bar Association committee, the Better Business Bureau, installment houses, finance companies, labor unions and retail merchants all urged the mayor to sign the ordinance. He did.

States Join Ban

The move by state legislatures to outlaw rather than try to control the debt poolers has attracted more advocates every year. Virginia and Georgia joined New York in outlawing them in 1956.

Rhode Island started out among the states regulating them but switched to an outright ban and now is figuring out what to do about the debt poolers who use Rhode Island as home base but prey on debtors all over the country—including Washington.

Other states which now forbid commercial debt consolidators are Arkansas, Delaware, Florida, Kansas, Missouri, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Texas, West Virginia and Wyoming.

The Case Against Regulating

Why do so many state legislatures, confronting the problem of debt pooling for profit, choose to outlaw rather than regulate the business? The Star got these answers:

1. If the business were regulated, official sanction would be at least implied and debtors would be misled into believing that the government was protecting their interests and that the debt liquidator would perform the miracles he promises. Since many creditors will have nothing to do with a pro-rater, he can't follow through on his assurance that creditors will agree to his terms.

2. None of the states which regulate instead of outlawing the debt poolers are said to have any effective supervision. It takes trained staffs to audit, examine and supervise. In the case of the pro-raters, license fees wouldn't pay for a staff large enough to police the debt poolers and make sure the money went where the debtor thought it was going.

3. Commercial debt pooling may constitute the unauthorized practice of law and cannot properly be authorized and regulated by statute. That was the reason given by the governors of Indiana and Nebraska for vetoing bills to regulate the pro-rater. The District Commissioners have taken the same position every time the debt poolers propose regulation here.

Opposed Diggs Bill

In 1965, the commissioners gave this last argument in opposing a bill introduced by Rep. Charles C. Diggs Jr., D-Mich. Detroit, Diggs' home town, is also home to Credit Advisors, Inc. An organization of debt poolers, the American Association of Credit Counsellors, was credited with interesting Diggs in the measure.

Asked for comment on the Diggs bill, Commissioner Walter N. Tobriner wrote House District Committee Chairman John L. McMillan, D-S.C., that the business of debt adjusting is "of such a nature as to lend itself to grave abuses against those in the lower income brackets."

"The commissioners," said Tobriner, "are inclined to the view that debt adjusting creates a relationship of trust in which the debt adjuster may, in a situation of insolvency, be engaged in marshaling assets in the manner of a proceeding in bankruptcy.

"The commissioners believe that under such circumstances the debt adjuster's client may need advice as to the legality of the various claims against him, legal remedies governing debtor-creditor relationships and provisions of the Bankruptcy Act."

Tobriner said the commissioners would not recommend the Diggs bill but would favor a measure banning the business of debt adjusting except as an incident to the lawful practice of law.

Typical of Moves

The 1965 effort by the debt poolers was typical of several moves to regulate rather than outlaw them here. Once they managed to switch the House District Committee from outlawing to regulating on the ground that any state violated the Constitution when it passed laws prohibiting the business.

That argument collapsed, however, when the Supreme Court in April, 1963, upheld the right of Kansas to make it a misdemeanor for any person to engage in the business of debt adjusting except as an incident to the lawful practice of the law. The high court thus ruled against Frank C. Skrupa, doing business as Credit Advisors.

Credit Advisors across the country, all 45 offices, are owned by Rudolph Barden of Detroit, whose Barden Investment Management Corp. is currently circulating a brochure— four years after the Supreme Court decision — which still raises a "serious question of constitutionality" about restricting debt adjusting to nonprofit agencies.

The profit-making Credit Advisors can be expected to fight any effort here to take the profit out of debt.

DEBTOR BEWARE

Free Aid Ousts Adjusters

By MIRIAM OTTENBERG
Star Staff Writer

Across the nation thousands of people are freeing themselves from the mire of debt and avoiding the stigma of bankruptcy without paying fancy fees to commercial debt adjusters.

They are lucky enough to live in the 63 metropolitan areas and medium-sized towns where a community answer has been found for the individual's debt problems. The answer: Nonprofit, free or nominal-cost debt counseling services sponsored by a cross-section of community leaders.

Where these services are in full operation, the so-called "counselors" who make a business of debt management leave town for lack of customers. That's what The Star found in surveying more than a dozen cities with community counseling services.

A measure of the effectiveness of these services is the virulence of attacks against them by the commercial debt adjusters. The head of the nation's largest commercial adjuster network calls the nonprofit services "diabolical in terms of any understanding of finance and the free enterprise system."

The Star's survey showed why debtors shun the commercial adjusters when nonprofit services open. The fact that these services are free or nominal cost is only one reason. Here are others:

1. Instead of being "counseled" by salesmen for the commercial debt adjuster, the debtor is advised and, where necessary, his debt payments are pro-rated by such experts, as longtime credit managers, budget counselors or retired bankers.

2. While in many places—including Washington — most creditors refuse to do business with the commercial pro-raters, any creditor will go along with a nonprofit community service which is largely creditor-supported and numbers creditors as well as consumers on its board of directors and advisory committee.

3. Duns cease and repossessions and garnishments are avoided when creditors are informed by the counseling service that the debtor is working his way out of debt with the help of the service.

4. The debtor knows that every dollar he can manage to put on his debts is going to the people he owes—and is not being held back by a commercial adjustor who takes his own cut first.

5. The community's counseling service is frank with the debtor from the start. Unlike the commercial adjuster who may convey the impression that he will advance the money to pay all the bills, the nonprofit counselor makes it plain that he's there to help the debtor help himself, that any money paid to creditors will be the debtor's money.

Like the Washington area now, a number of cities had experienced an invasion of commercial debt consolidators before business and civic leaders mobilized the community behind a nonprofit counseling service.

New Orleans had some professional pro-raters charging customers between 40 and 50 percent interest a year on the unpaid balance of their debts plus a $17 monthly service charge. In Salt Lake City, only two of the 10 consolidators were operating on a basis acceptable to the Better Business Bureau.

In Kansas City, Mo., where the paid adjusters were charging 18 percent of the debt to do anything for the debtor, businessmen launched a two-pronged attack. First, they went to the state legislature to get the fee-charging debt adjusters outlawed. Then their firms chipped in $1,000 apiece to launch the city's counseling service.

Baltimore followed a similar pattern. First, City Councilman Leon A. Rubenstein led the fight for local legislation to outlaw the commercial adjusters. Then he worked with civic and business interests to develop the nonprofit service.

Baltimore had been so badly burned by the commercial debt consolidators that the managing director of the new counseling service fears many potential supporters still associate any debt counseling with the outfits of the past. The new and the old couldn't be more different.

In addition to exploitation of the debtors by many commercial debt adjusters, the steadily increasing community services have been prompted by the nonstop surge of personal bankruptcies, as well as the credit binge which is driving more and more once-solid citizens into hopeless debt.

Indianapolis launched its service in January, 1965, after 2,824 bankruptcy cases had been processed there the previous year, a whopping 450 percent increase over the 1958 rate.

Salt Lake City's community service was started in April, 1964, primarily because of the zooming bankruptcy rate in Utah.

The rising tide of personal bankruptcies in California, now amounting to 18 percent of the national total, led to establishment of the only statewide organization to encourage local communities to set up counseling services.

The California pilot project proved its worth in its first year of operation. The amount of money involved in personal bankruptcies in Sacramento, after it was started, decreased from $7 million in 1964 to $4.3 million in 1965. In the same period, dollar losses through bankruptcy in neighboring areas without a nonprofit counseling service increased by 7 percent.

The decrease in bankruptcies is one of many benefits communities have derived from their investment in these services. Businessmen who take the lead in sponsoring and footing the bills for nonprofit counseling cite such intangibles as marriages kept out of divorce courts, debtors' jobs saved, a healthier economic climate in office or factory when employes don't lose time from work to answer debtor's summonses.

There are many tangible results, too, as The Star's survey showed. For instance:

- In Phoenix, Ariz., where the first community supported counseling service was begun in 1958, the service distributed $884,252 from debtors to their creditors in 1966.

- The Atlanta service has helped some 3,500 debtors since its founding in 1964, and so far none of them have returned with another load of debt—possibly because they are given an education in budgeting while freeing themselves from debt.
- In St. Paul, where both the increase in personal bankruptcies and the influx of virtually uncontrolled commercial debt adjusters spurred businessmen to launch the community service, debt payments to creditors via the service totalled $481,000 in 1966 and are expected to exceed half-a-million dollars this year.
- Chicago's non-profit counseling service, in addition to its counseling, educating and prorating successes, has chalked up another plus. It has bailed out several victims of the Chicago crime syndicate's juicey loan racket—with loans at such exorbitant rates of interest that the debtor is often forced into crime to pay off.

Of the many functions performed by the noncommercial counseling services, education is given top billing as the best hope for rescuing what has become a mortgaged generation.

Organized labor particularly has stressed the preventive role that a counseling service can play in showing workers how to use their credit wisely. Businessmen are concerned about young people who learn early how to drive a car but not how to pay for it.

To fill this void, counseling services are going into educational programs as soon as they can afford it.

The Phoenix service sponsors a speakers bureau which visits high school, college and adult groups with lectures on money handling.

The Albuquerque, N.M., service offers an educational movie. Atlanta has scheduled six educational television programs for this spring and summer. In Kansas City, members of the service's board of directors take on the speaking chores. Audiences for their lectures on wise budgeting have ranged from high school seniors to mothers of preschool children. Recently, a group of ex-convicts attended.

The director of the New Orleans service teaches a course in consumer credit to the inmates of the Orleans parish prison every week. Her "students" are mostly nonsupport and alimony offenders.

The great rise in nonprofit counseling services has occurred since 1963, and the catalyst has been the National Foundation for Consumer Credit, nonprofit, business-supported organization doing research and education in consumer credit.

The foundation has provided staff help and guidance to any bona fide community group interested in developing a nonprofit counseling service.

Of the 63 such services now in operation across the country, about two-thirds were created with the foundation's aid, use the foundation's plans and suggestions and have adopted the same name, "Consumer Credit Counseling Service." The uniformity of name and copyrighted insignia assures the creditor that he's dealing with a responsible nonprofit organization when he's asked to cooperate in the rehabilitation of a hard-pressed debtor. The debtors are sure that they haven't again fallen in with the commercial pro-raters.

In an unusual gesture to a private organization, the Ohio Senate officially commended the foundation in February for sponsoring the nonprofit counseling services, especially Ohio's

own in Cleveland and Columbus.

The most successful counseling services, the foundation has emphasized, are those with the broadest support. In the cities surveyed by The Star, the board of directors and advisory committee of each service covers the spectrum of the city's business and professional life.

All the bankers and finance company executives, the family service officials and labor leaders, the doctors lawyers and merchant chiefs share one common interest. They want to help debtors wake up from their financial nightmare and regain both their credit rating and their self-respect.

Aftermath:

2-Pronged Move On Adjusters Near

By MIRIAM OTTENBERG
Star Staff Writer

A Maryland Senator and a Virginia Congressman yesterday announced plans to push for legislation to outlaw the commercial debt adjusters now preying on Washington area debtors.

At the same time, the business community moved forward with its plans to replace the commercial pro-raters with a nonprofit Consumer Credit Counseling Service similar to services now aiding the debt-ridden in 63 communities across the country.

The two-pronged move to improve both the debtors' and the city's economic health was the immediate response to The Star's "Debtor Beware" series of last week.

Plans to Offer Bill

On the Senate side, Senator Joseph C. Tydings (D-Md.), chairman of the Senate District Committee's business and finance subcommittee, said he was shocked to learn of the practices taking advantage of those in need of financial counseling.

He said he will introduce legislation "to outlaw these deceptive practices." This will be one of the measures included when he opens hearings soon on the need for consumer protection in a number of activities here.

In the House, Representative Joel Broyhill (R-Va.) said The Star had pinpointed a problem which should have been corrected years ago "and which I attempted to do at the time through legislation."

Broyhill recalled that at earlier hearings on legislation to outlaw commercial debt managers, a "smoke screen was built up around the old argument of regulation versus prohibition and enough confusion was generated to prevent any positive action."

"We have now had enough time since the hearings," he said, "for evidence to be collected that protection of the public desperately requires outlawing rather than regulating the commercial debt adjusters."

Predicts Co-Sponsors

He predicted that there would be co-sponsors for the legislation because of the number of victims of the debt consolidators.

Recalling instances where he had personally counseled people who had got into financial jams, Broyhill also emphasized the need for a nonprofit, community-sponsored debt counseling service here.

"The lack of such a service in this area," he said, "is what leaves the door wide open for the unscrupulous to rob people in despair."

Both Tydings and Broyhill emphasized that the proposed legislation to outlaw the commercial debt poolers should specifically exempt nonprofit debt counseling services.

Meanwhile, District Commissioner Walter N. Tobriner disclosed that the Commissioners have approved legislation to prohibit the commerical budget planners and plan to send it to Capitol Hill soon.

As the Maryland and Virginia legislators emphasized, the Commissioners' measure will open the door to non-profit debt adjusting while slamming shut the door on the debt profiteers.

Strong endorsement for a nonprofit consumer counseling service under community auspices came from Assistant Secretary of Labor Esther Peterson.

At the Labor Department, she pointed out, an experiment in such counseling is now under way. The two-phase program starts with a series of consumer education lectures which Labor's employes are given time off to attend. The second phase is the development and training of 30 consumer advisers who will be available to all department employes for advice and counseling.

Mrs. Peterson, who until recently was also the President's special adviser for consumer affairs, said she hoped that the Labor Department's program for its own employes will illustrate the value of counseling and consumer education not only for other departments but for the Washington area under community auspices.

Plans for establishing a free credit counseling service in the metropolitan area have been in the talking stage here for the last year. Now, community action appears less remote.

Edward F. Garretson, secretary of the Retail Credit Association of Metropolitan Washington and vice president and general manager of Credit Bureau, Inc., heads the association's committee working on the counseling service in cooperation with the National Foundation for Consumer Credit, the Better Business Bureau, industry and civic leaders.

Garretson said support already has been offered by many national chains as well as local stores and financial institutions. The committee, he said, plans to contact all elements of the community for the key roles they are expected to play in the formation of the service.

Meeting Expected Soon

An organization meeting is expected as soon as sufficient support has been mobilized. The support, if it follows the pattern The Star found in other cities, will encompass educators, attorneys, family service officials, psychiatrists and other medical authorities, a representative of the military, and civic, labor and business leaders. In other cities, the business world is widely represented on both the board of directors and the advisory committee of the counseling service. Banks, stores, finance and loan companies usually foot the bills for the counseling service. They also provide considerable expertise in using credit wisely.

Until a nonprofit service is launched here, Garretson suggested that those who need credit advice should talk either to some of their own creditors or write an account of their particular problem to the Credit Bureau Inc., P.O. Box 1617, Washington 13, D.C.

The Writer

MIRIAM OTTENBERG

The author of "Debtor Beware" won a Pulitzer Prize in 1960 for a series exposing the used car racket in the Washington area.

As an investigative reporter for The Washington Star, she has uncovered crime and corruption on every level and campaigned successfully for new laws to correct old abuses.

Her stories have led to stronger enforcement tools against law breakers as well as pioneering laws in the fields of mental illness, sexual psychopathy, narcotics addiction and commitment of the criminally insane.

She was the first to reveal publicly that the Mafia still thrives in America as the Cosa Nostra. In the field of white collar crime, she has exposed the baby broker racket, phony marriage counselors, the wig racket and fake charities.

Her exposes of the used car and home improvement rackets as well as shoddy investment firms alerted the public to consumer pitfalls while triggering corrective legislation. Her series on the inadequacy of safety measures on many "pleasure" cruises was credited by maritime authorities with spurring "safety-at-sea" legislation.

Among her civic and journalistic honors are seven awards from the Washington Newspaper Guild, including two grand awards; testimonials from both her high school and her university, two citations for service to the armed forces and many others.

In an unprecedented tribute to a newspaper reporter, the law enforcement community and civic leaders gave a reception in her honor where she was presented with a plaque signed by the Attorney General of the United States, congressional leaders, judges, prosecutors and the chief of police.

Mr. SISK. We are happy to have with us the gentleman from Virginia, the author of H.R. 9806. The Chair is happy to recognize Mr. Broyhill for any statement he would like to make as I understand his services are needed in the Committee on Ways and Means.

STATEMENT OF HON. JOEL T. BROYHILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. BROYHILL. Thank you, Mr. Chairman.

I have a prepared statement which I would like to submit for the record.

Mr. SISK. Without objection, the entire statement will be made a part of the record at this point.

(The statement follows:)

STATEMENT OF THE HONORABLE JOEL T. BROYHILL ON H.R. 9806 BEFORE SUBCOMMITTEE NO. 5 OF THE HOUSE COMMITTEE ON THE DISTRICT OF COLUMBIA, THURSDAY, SEPTEMBER 14, 1967

Mr. Chairman: You are to be commended on holding hearings on the so-called debt-adjuster operations now proliferating in the District of Columbia. They are proliferating here because the District is one of the few jurisdictions left where the debt-adjuster can operate relatively unrestrained. The practice of so-called professional debt-adjusting or debt-pooling is generally a subterfuge to bilk the unwary; the shabby record nationally and locally proves this. The victims of the debt-adjuster are almost invariably those who are most vulnerable in our society—the untutored, the gullible and the poor.

It seems to me that the Committee is confronted at this point with three options concerning debt-adjusters: (1) ignore them—which we cannot—and which they'd love; (2) regulate them—which they would accept as a poor second to our first option; or (3) outlaw them. It is my earnest hope that the Committee will take the third option and completely ban professional debt-adjusters from the District because there is absolutely no valid economic or social justification for their existence.

H.R. 9806, which I sponsored, would completely outlaw—with certain exceptions—the practice of debt-adjusting, debt-counseling, debt-pooling or whatever else it is called in the District.

This is not the first time I have sponsored legislation outlawing debt-adjusting in the District; I did so initially in the 85th Congress by introducing H.R. 573. However, the Committee at that time elected instead to regulate the practice fearing that an outright ban might be unconstitutional on the grounds that Congress could not outlaw a "legitimate" business. My feeling at that time was, and still is, that there is absolutely nothing legitimate about the practice of debt-adjusting as it is currently practiced. Stealing is not a "legitimate business". My opinion was verified on April 22, 1963, when the Supreme Court upheld the Kansas statute which outlawed the practice of debt-adjusting in that State. The Court's decision resulted from the case of *Ferguson* v. *Skrupa*, 372 U.S. 726. The Court found that the Kansas Legislature could, indeed, in the public interest ban such activities and that there was no constitutional bar to enacting such legislation. My bill, incidentally, is patterned after the Kansas statute.

What are debt-adjusters? Theoretically, the debt-adjuster operates by taking charge of a debtor's income and spreads it thin among his creditors charging him a small percentage of the amounts they pay on his bills, and leaving him a small living allowance.

That is the theory; but, in practice, it is just another detestable gimmick to gouge the public—especially those who in spite of their plight have every sincere intention of paying off their debts. The debt-adjuster has lured thousands of debt-ridden families into a scheme of paying off all their financial obligations. It's an incredibly vicious, parasitic racket. The adjuster takes a whopping fee and usually leaves his victim more hopelessly in debt than ever.

Who should seek the services of a debt-adjuster? The people who turn to debt-adjusters are truly desperate. In most cases they are the poor, the untutored and the gullible. Generally they owe about $2,500 to $3,000 to small loan com-

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panies, automobile finance firms and installment houses. There are myriad reasons why they get into debt. One might be that overtime work is no longer available or a costly crisis illness suddenly makes their burden of debt unbearable. Easy credit and the proliferation of easy-to-obtain credit cards form the quicksand into which the less sophisticated and more gullible sink. They quickly find themselves almost inextricably up to their necks in debt with the resultant dunning by creditors from every direction. In their desperation, they become easy prey to the glib debt-adjuster.

The debt-adjuster, through craftily-designed misleading advertising, seems to offer these debtors a way out of their predicament. One need only read the newspaper ads and the yellow pages and note the clever way in which the ads are written. These ads do not offer to pay off the debtor's creditors nor do they offer credit to the debtor, but the less sophisticated could easily interpret otherwise. This is the bait.

Once the debtor is in the hands of the debt-adjuster, the adjuster usually takes his fee right off the top and frequently this fee runs up to phenomenal amounts—25% is not unusual—and the creditors are not satisfied. So instead of the creditors receiving partial payments on a pro-rata basis, in most cases they receive nothing with the result that the original debt is not only increased but that the payment of the debt is delayed even longer and the dunning of the debtor by his creditors increases to a shrill pitch. Meanwhile, the debt-adjuster invariably has airily advised the debtor to ignore his creditors and assures the debtor that he, the adjuster, will handle everything. For instance, I was recently advised by the credit manager of one of Washington's major department stores that even though he had cautioned an individual that his credit card for that particular store should no longer be used, a debt-adjuster advised the individual to go right ahead and use the credit card. The truth is that once the adjuster takes his fat fee right off the top, it isn't surprising that he is no longer interested in whether the debtor maintains his payments—in fact, if the debtor drops out it relieves the adjuster of further paper work. The adjuster has made his killing and the debtor is left holding the bag.

Many of the firms currently operating in the District are chiseling outfits that migrated here because they have been outlawed in 22 States including, happily, my own State of Virginia. The State of Maryland is currently considering legislation; the City of Baltimore, to its credit, has itself adopted an ordinance completely outlawing debt-adjusting in that City. It is important to note that all those States and local jurisdictions, which approximate 70 in number, have outlawed debt adjusting as an evil.

To summarize the major reasons why professional debt-adjusters should be outlawed, I would underscore:

1. Their use of deceptive advertising. They use no description of their method or the fees they charge.
2. The fees are unconscionable.
3. A careful questioning of creditors fails to show even a reasonable percentage of cases where a debtor's credit problems were solved.
4. Consistent failure to fulfill agreements.
5. The debtor's debts are actually increased by the adjuster's high charges for a service which a debtor could do for himself. Most of the debt-adjusters take all or a major part of their initial fees out of the first monies paid in by the debtor. By doing so debt-adjusters brashly exhibit their unwillingness to place themselves and their fees on an equal pro-rated basis with the debtor's creditors. In this regard they completely unmask the pose of sincerity which they present to the public and the debtors. It seems reasonable to ask how can debt adjusters pretend ability to act as acceptable liaison agents with a debtor's creditors when they cynically collect their fees ahead of these creditors and before they perform the service for which they charge the debtor?
6. Most important, many creditors absolutely refuse to deal with debt-adjusters. This is easily verifiable in the District. That alone should prove the uselessness of the debt-adjuster.

According to the District authorities, the complaints against debt-adjusters, in addition to those just mentioned, fall into approximately three major categories:

1. The adjuster, upon receipt of the debtor's pay check, fails to make any part of it or enough of it available to the debtor to live on.
2. The adjuster fails to pay a creditor with whom he has made an arrangement on behalf of the debtor resulting in the creditor attaching the debtor's salary.
3. Some adjusters have favored certain creditors over others for his own personal gain but at the expense of the debtor.

A question invariably might be asked—what have the District Commissioners done to control this type of operation? It is my understanding that the District Commissioners, under Title 47 of the D. C. Code, have the general authority to require licensing and regulation of this business, but have chosen not to do so on the grounds that such would be a tacit admission of the worth of this type of practice. The Commissioners see absolutely no value in so-called debt-adjusting and have consistently supported my position of outlawing debt-adjusters in the District.

The next question might be asked—what do the District authorities do about complaints they receive against debt-adjusters? The problem, I'm led to believe, lies in the apparent difficulty that a prosecutor has in pressing such cases because the elements of embezzlement or some other type of fraud are difficult to prove in court.

However, in 1963 the U. S. Postal Inspection Service nationally conducted 20 investigations of debt-adjusters who were alleged to have used the mails for fraudulent purposes. The outcome of these investigations was the conviction for mail fraud of 7 local debt-adjusters in the U. S. District Court for the District of Columbia on July 1, 1966.

At this point, Mr. Chairman, may I respectfully suggest that appropriate spokesmen from both the Justice Department, which prosecuted the aforementioned cases—and the Post Office Department, which made the investigations—be asked to give their viewpoints on this problem.

It was most heartening to me to learn that approximately 70 jurisdictions, including many of our large cities such as Baltimore, have undertaken to sweep their areas free of the professional debt-adjuster by setting up non-profit credit counseling services which are financially supported by the various businesses, labor and civic interests in those jurisdictions. The profit motive is thereby removed and debtors are counseled free of charge. This is a commendable step forward and has resulted in the drying up of the debt-adjuster con-men in those areas. I am even more heartened to learn that such an organization is currently on the drafting board here in the District. I understand that this organization will come to fruition very shortly.

Also, I want to take this opportunity to commend *STAR* reporter, Miriam Ottenberg, for her excellent series entitled "Debtor Beware", which exposed in great deail this obnoxious con-game.

Mr. Chairman, the so-called professional debt-adjusters, as I have outlined, not only deserve severe condemnation, but should have been outlawed in the District many years ago. As is usual, everytime a jurisdiction threatens to outlaw this operation, the operators flock in crying for regulation; but when the subject is quiescent, the operators are deathly silent. The debt-adjusters beat their breasts for regulation in 1958; they did a repeat performance again before the Committee in 1963; and I'll wager they'll be here today loaded for bear.

I am hopeful that the Committee will act expeditiously and in favor of this bill to outlaw the practice of professional debt-adjusting in the District. Thank you.

Mr. BROYHILL. I will briefly hit some of the high spots about the nature and intent of this bill.

I would also like to express my appreciation to the Chairman for arranging these hearings. I know the Chairman has a lot of legislation he is interested in, pending both in this Committee and in the Rules Committee, and it is not easy to arrange hearings on all of the bills. So I am grateful to the Chairman for arranging this hearing.

As pointed out by the Chairman, H.R. 9806 will prohibit the so-called debt-adjusting, debt-counseling or debt-pooling business that has been going on in the District of Columbia. At best it is a shoddy business; it serves absolutely no useful purpose and makes no contribution to the people of the District of Columbia. Also, the people who are engaged in it put up no capital of their own and assume no risks whatsoever, and the victims are, without exception, the poor, the uneducated, the untutored, or the gullible. They are people who are desperate, having gotten over their heads in debt and having the garnishment of their salaries hanging over them. They hear of these so-called debt-counseling or debt-servicing outfits—their advertisements are in the news-

papers and in the telephone book—and they call on these people for help and as a rule pay 12.5 to 25 percent of their total debt as a fee for their services. And generally the people who are in debt will turn over their entire pay check to these so-called debt counselors, and the debt counselors take their fees right off the top. They get theirs first, and then they tell the people who are in debt they will consolidate all their debts, get in touch with the creditors and pay to them a certain amount of their pay check. Frequently the amount left out of the pay check is not sufficient for the person in debt to live on.

Then in many instances the debt adjusters fail to pay the creditors, and the creditors turn around and attach the salaries of those in debt. In many cases the debt counselors favor certain creditors at the expense of others. In many instances, the people who have paid these debt counselors in advance, even though the so-called debt counselors have provided no services whatsoever, are given no refund, and thus the people who are in debt wind up being more in debt after having contacted these debt counselors than they were before.

Many of my constituents, Mr. Chairman, have been victims of this type of operation. In many instances people have come to me—and I am sure they have gone to the Chairman and members of the Committee—in desperate financial trouble, having many creditors threatening to attach their salaries. I know I have in many instances served in the capacity of a debt counselor myself, and have contacted the creditors and arranged for some other means of payment, stretching out the payments over a longer period of time in order for these people to get by. But, unfortunately, many of the people who have come to me had gone to the debt-adjusters first, and thus were hundreds of dollars deeper in debt than they were before. They have been the victims of these unscrupulous debt counselors.

Ten years ago, I introduced a bill similar to the one I have now introduced, H.R. 573. At that time, the constitutionality of the bill was challenged and there was a question whether Congress could prohibit an operation such as this. As a result of these questions, we amended the bill to provide for the regulation and policing of the practice. That bill was passed by the House on August 12, 1958, but it failed of action in the Senate.

However, Mr. Chairman, subsequent to this action back in 1958, the Supreme Court ruled that the prohibition of this type of business is constitutional. The Supreme Court ruled on a similar law approved by the Kansas Legislature in the case of *Ferguson* v. *Skrupa* in 1963. This cleared up the constitutional question as to whether the Congress has the right to prohibit this debt counseling business.

Furthermore, there have been 22 States, including Virginia, that have outlawed debt-adjusting and debt-pooling services. As recently as last year, convictions were obtained against seven people involved in two debt-counseling firms in the District of Columbia and Baltimore for fraudulent use of the mail. The Post Office Department investigated, and the convictions were obtained by the Department of Justice. So we have actual court cases showing that this type of operation is sometimes illegal.

Now, the Committee is confronted as far as this legislation is concerned with three options concerning debt adjusters. First, we can ignore them, which in my opinion is unthinkable because the victims

are the poor, the uneducated, or the gullible. Or, we could regulate them; but as I understand it, the District Commissioners, under Title 47 of the District of Columbia Code, have the general authority to require licensing and regulation of this business, but they have chosen not to do so on the grounds that it would give official recognition to this type of unscrupulous operation.

Thirdly, we can outlaw this type of business in the District of Columbia. There is no reason whatsoever for the existence of this type of business. The legislation I have introduced will outlaw this type of operation but will not prohibit debt-adjusting services incurred incidentally in the practice of law, nor will it prohibit nonprofit or charitable corporations or associations from providing debt-counseling services. Neither will it prohibit public officials from helping their constituents who have problems of this kind, but it will prohibit the type of practices brought out by Miss Ottenberg, and I might say I am glad the Chairman has inserted in the record the articles on this subject written by Miss Ottenberg, of the Evening Star.

I believe that if the House and the Congress will pass this legislation, we will perform a real service in protecting the unfortunate people in the District of Columbia and in the area who have been the victims of these unscrupulous operators.

Thank you.

Mr. SISK. I thank my colleague, Mr. Broyhill of Virginia, for his statement. I might say to my colleagues who arrived in the room since Mr. Broyhill began his statement that we have inserted in the record two bills, one by Mr. Broyhill that would prohibit the debt adjustment business in the District of Columbia, and one by Mr. Diggs which would regulate the practice of debt adjustment in the District. The Committee, of course, is attempting to gather as many facts as possible in order to determine the type of legislation needed.

I might mention to you gentlemen Mr. Broyhill has another appointment in the Ways and Means Committee this morning and we were happy to give him an opportunity to make his statement first.

I believe the gentleman from North Carolina has a question.

Mr. WHITENER. I wondered why the gentleman from Virginia approached the problem in the manner set out in H.R. 9806 rather than the approach of Mr. Diggs in H.R. 8929?

Mr. BROYHILL. Mr. Diggs' bill, as I understand it, is to regulate the industry, and it is my understanding that legislation is not necessary to regulate this business because the Commissioners have that authority now. Secondly, enacting legislation to regulate the business would in effect be acknowledging that the business is needed and would give dignity to these debt-adjusting services which I think are not needed and are actually injurious to the people of the District of Columbia. They furnish no real service to the people who are in trouble. They give them no money, they charge them a fee off the top of their salary, and the people in debt wind up being in more trouble than they were before.

Mr. WHITENER. Of course in your bill certain other business organizations would be prohibited from managing debtors' debts, while in Mr. Diggs' bill it provides they might. This could, it seems to me, run into trouble with a non-lawyer giving advice and working with a debtor under Chapter 13 proceedings, which are provided for in the Bankruptcy Act. And there are many other areas in which you could

run into trouble. As I understand Chapter 13 proceedings, you do not necessarily have to have a lawyer. I do not think there is anything in the Bankruptcy Act that requires that the petition in Chapter 13 proceedings be prepared by an attorney.

Mr. SISK. If my colleague will yield, we will have testimony on that shortly.

Mr. WHITENER. I worked with this problem in the Judiciary Committee and have tried to encourage a broader use of the Chapter XIII proceedings, the so-called Wage Earner's Plan under the Bankruptcy Act (11 U.S. Code 1046 *et seq.*). I think it is one of the best approaches available in the United States now for an honest debtor or wage earner to manage his debts. I certainly would not want to see us do anything here on a local level which would in any way interfere with the proper utilization of Chapter 13 proceedings.

I appreciate your position and I think this is a field to look into, but I think we ought to be very careful that we not take the approach of outlawing debt management if regulation would turn out to be a more salutary approach to it. I do not know enough about the background of your bill to make any other comment.

Mr. BROYHILL. In section 3 of the bill we make it clear——

Mr. WHITENER. That it does not apply to debt-adjusting incurred incidentally in the lawful practice of law, but when you go on down it applies to everybody else.

Mr. BROYHILL. I would like to point out that it is my understanding that this bill is similar to the North Carolina law. North Carolina is one of the 22 States which has prohibited so-called debt-counseling business.

Mr. WHITENER. The Legislature of North Carolina has no right to outlaw anybody operating under Chapter 13 of the Bankruptcy Act.

Mr. BROYHILL. And the Supreme Court, in 1963, upheld a similar act passed by the Kansas Legislature and declared it constitutional.

Mr. WHITENER. Let me say there are a lot of things the Supreme Court does that I do not agree with.

Mr. HORTON. Will the gentleman from North Carolina yield.

I think the point you are trying to make is that by our enacting a bill prohibiting this business we would have to specifically except the provisions of the Bankruptcy Act. Is that your point?

Mr. WHITENER. I certainly think we would have to do that.

Mr. HORTON. In other words, we are not acting as a State Legislature but as the Congress and by implication it might appear we repealed Chapter 13.

Mr. WHITENER. Maybe not repealed it——

Mr. HORTON. But affected it materially?

Mr. WHITENER. Yes.

Mr. SISK. Does the gentleman from New York have any questions of the gentleman from Virginia?

Mr. HORTON. I have no questions. I will say I am in agreement with his statement but I certainly agree with Mr. Whitener that the matter he points out should be considered. I notice my own State of New York has a law prohibiting debt-adjusters and I see no reason why debt-adjusters should be tolerated in the District of Columbia. It seems to me it is a wide-open opportunity for the unscrupulous to

take advantage of an individual who has financial problems. I would tend to agree with the gentleman from Virginia.

Mr. SISK. Does the gentleman from New Mexico have any question?

Mr. WALKER. No questions.

Mr. SISK. The gentleman from Maryland.

Mr. GUDE. Thank you, Mr. Chairman. I would like to commend my colleague from Virginia for his interest in this matter. I also would like to commend Miss Ottenberg, who has written these excellent articles on the subject. The State of Maryland does not have a statute on the books dealing with debt-adjusters, but the City of Baltimore has outlawed debt-adjusters, and certainly the conditions in Baltimore have a great similarity to those in the District of Columbia. This debt-adjuster operation seems to be a part of the fiber of the poverty problem and where we have low economic conditions we seem to have the so-called debt-adjuster. So I hope these hearings are fruitful.

Mr. SISK. I thank the gentleman from Maryland and we thank our colleague from Virginia, Mr. Broyhill, for his testimony this morning. Prior to the time these gentlemen came in we had placed a complete statement of the gentleman from Virginia in the record.

Mr. WHITENER. Mr. Chairman, before the gentleman from Virginia goes I might point out to him also, and to the other members of the Subcommittee, that pending in Subcommittee No. 4 of the Judiciary Committee is a bill which was introduced by Mr. Poff of Virginia which would have the effect of creating a compulsory Chapter 13 proceeding giving the Federal Courts authority to require that a wage earner debtor go into a proceeding whereby he parcels out his salary to his creditors. That has not come out of the Committee yet, but if it comes out you will have a proceeding in a compulsory way. I have serious reservations about that bill. Mr. Poff thinks it is a good one, but if you get that you may really have some debt adjustment going on.

Mr. BROYHILL. Mr. Chairman, may I include in the record certain debt-adjuster advertisements that have appeared in our Washington newspapers.

Mr. SISK. Yes, without objection they will be made a part of the record.

(Another news item and the advertisements referred to follow:)

[From the Washington (D.C.) Post, July 2, 1966]

7 BUSINESSMEN CONVICTED IN MAIL FRAUD SCHEME

Seven local businessmen were convicted in District Court yesterday on charges of luring financially troubled persons into a phony scheme for paying off their debts.

The six-week trial before Judge Howard F. Corcoran was against the officers and managers of two now defunct "debt consolidation services," called *National Budget Services, Inc.* and *General Budget Corporation.*

The firms were headquartered in Washington and Baltimore and had branch offices throughout the central and south Atlantic states.

Justice Department prosecutors Thomas A. Kennelly and John R. Risher Jr. charged that they schemed by mail to attract customers to "consolidate" their debts by paying them off through the firms in installments tailored to their income.

Witnesses testified they were charged "initiation" and "service" fees, which subsequently were increased without their consent. Also, they said, they were

Washington Post

Wednesday, Sept. 13, 1967 D

PERSONALS 7

SLASH
BILL PAYMENTS

3130
WE BUDGET YOUR INCOME! MANAGE YOUR DEBT PAYMENTS AND CREDIT FIGHTS!

You can change from:
1. Many check payments-TO 1 payment each pay day.
2. Creditor calls at night-TO peaceful sleep.
3. Worry over unpaid bills-TO security in paid up bills.
4. Fear of job and health-TO a carefree happy life.

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NO CO-SIGNERS
NO SECURITIES
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IN MT. RAINIER, MD.
277-8181
608 Washington Blvd.
LAUREL, MD.

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Let us consolidate all your bills past due or not; why let your lack of credit knowledge & inexperience keep you in debt for life? We help solve your bill-paying problems and leave you more spending money.

IF YOU OWE	YOU MAY PAY AS LOW AS
$ 750	$10 PER WEEK
$1000	$15 PER WEEK
$2000	$25 PER WEEK
$3000	$35 PER WEEK

BONDED
FOR YOUR PROTECTION
AVOID
. . . GARNISHMENTS
. . . REPOSSESSIONS
FREE HOME APPOINTMENT
CALL COLLECT
393-2772
FINANCIAL
ARRANGERS
711 14th St. NW. Suite 816

GET OUT OF DEBT.
Without Borrowing
Let Us Consolidate
Your Bills Into One
OLD BILLS—CURRENT BILLS
PAYMENTS YOU CAN AFFORD
ONE PLACE TO PAY
No Co-Signers or Security
CALL 638-1250
HOME OR OFFICE APPT.
FAMILY BUDGET PLAN
Rm. 411, 711 Bldg., 711 14th St. NW

A DEBT
PLAN

LET US CONSOLIDATE your bills, past due or not into one low payment you can afford. Garnishments avoided. For example.

$1000	$15 per week
$2000	$25 per week
$3000	$35 per week

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NO CO-SIGNERS OR SECURITY
AMERICA'S LARGEST & MOST
REPUTABLE CREDIT
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CREDIT ADVISORS
INC.
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1420 NEW YORK AVE. NW.
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3510 Rhode Is. Ave. NE.
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Eve. office or home appointments

INCOME TAX RETURNS 7B

D.C. Telephone Directory
The Yellow Pages, 1967

Debt Adjusters

COMMUNITY BUDGET SERVICE 711 14thNw-737-7222
Credit Advisors Inc—
1420 NY AvNw ---------- 393-7865
4165BranchAv MarlowHts ---------- 423-4850
3510 RI Av MtRainr ---------- 277-8181
608WashBlvd Laurel ---------- 776-7820
Credit Budget Inc 1404NewYorkAvNw --- 628-7000
CREDIT BUDGET INC

CREDIT BUDGET INC
1404NewYorkAvNw ---------- 628-7000

Credit Budget Inc 3200 Otis MtRainr ---- 927-7481
Downing Collection Agcy
4660NicholsAvSw - 562-5633
Federal Ofc Serv 1522 K Nw ---------- 659-1244

Washington
Daily News
Sept. 8, 1964

PERSONALS

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Credit Bad? Slow?
Get out of debt today. Consolidate your present obligations into one, yes, we mean one, low monthly pymt. Financial relief for any purpose. Call today for an appointment.
332-2990
LOAN ARRANGERS
A financial management firm
NOT A BUDGET CO.
9:30 A.M. TO 8 P.M.
Mon.-FRI. & SAT. 9:30-1 P.M.

A DEBT
PLAN

LET US CONSOLIDATE your bills, past due or not into one low payment you can afford. Garnishments avoided. For example:

IF YOU OWE	PAY AS LOW AS
$1,000	$15 per week
$2,000	$25 per week
$3,000	$35 per week

NOT A LOAN
NO CO-SIGNERS OR SECURITY
AMERICA'S LARGEST & MOST
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News Sept. 8, '64

GET OUT OF DEBT
Without Borrowing
Let Us Consolidate
Your Bills Into One
Easy Payment You Can Afford

If you owe	Pay as low as
$800	$12 per week
$1500	$20 per week
$3000	$35 per week

No Co-Signers or Security
CALL 638-1250
FOR HOME OR OFFICE APPT.
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STOP DEBT
PROBLEMS
without borrowing money
We Will Consolidate
Your Bills Into One
Low Payment you can Afford
NO CO-SIGNERS
OR SECURITY
CALL NOW FOR
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OPEN 7 DAYS
9 A.M.-9 P.M.
FINANCIAL ADVISORS

BILLS
PRESSING?

Let us consolidate all your bills past due or not; why let your lack of credit knowledge & inexperience keep you in debt for life? We help solve your bill-paying problems and leave you more spending money.

IF YOU OWE	YOU MAY PAY AS LOW AS
$ 750	$10 PER WEEK
$1000	$15 PER WEEK
$2000	$25 PER WEEK
$3000	$35 PER WEEK

BONDED
FOR YOUR PROTECTION
AVOID
. . . GARNISHMENTS
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FREE HOME APPOINTMENT
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ARRANGERS
711 14th St. N.W. Suite 816

. Like Autos and Racing? Read Ev Gardner in The News.

told the firms would make arrangements with the creditors for the debt consolidations but later were told they would have to do it themselves.

Several witnesses said they continued to be dunned by creditors even though the firms said they would handle such matters.

Kennelly and Risher charged that officers of the firms diverted more than $30,000 of the customers' payments for their own use between July, 1959, and August, 1963, when the firms folded. All their bank accounts were overdrawn and they owed $38,000 to creditors of 300 of their customers, the prosecution charged.

The convicted men are Michael D. Callahan, Ralph Galope, Joseph C. McHale, Robert L. McHale, Francis R. Miller Sr. and James E. Moser, all of Washington,

and Martin J. McHale of Baltimore. The McHales are brothers. One other defendant, Peter J. Firra is still at large and has not been tried.

Kennelly said this is the first mail fraud conviction against a debt consolidaton business in the country. Several states, including Virginia, have outlawed such businessees.

Judge Corcoran will sentence them later.

Mr. SISK. The Committee will now hear from Mr. Robert F. Kneipp, Assistant Corporation Counsel of the District of Columbia. Mr. Kneipp, if you have anybody you want to bring to the table with you we will be happy to have them.

I might add we do have the report of the Commissioners on this legislation. Without objection, a copy of the letter of May 1, 1967, on Mr. Broyhill's bill, H.R. 9806, signed by Mr. Walter N. Tobriner, President of the Board of Commissioners of the District of Columbia, on behalf of the Commissioners, will be made a part of the record; and a copy of a letter dated May 9, 1967, dealing with the subject of the bill introduced by our colleague from Michigan, Mr. Diggs, and signed again by Mr. Tobriner will be made a part of the record.

(The letters follow:)

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, May 1, 1967.

The Honorable the SPEAKER
U.S. House of Representatives,
Washington, D.C.

MY DEAR MR. SPEAKER: The Commissioners of the District of Columbia have the honor to submit herewith a draft bill "To prohibit the business of debt adjusting in the District of Columbia except as an incident to the lawful practice of law or as an activity engaged in by a non-profit corporation or association."

The Commissioners are of the view that the business of "debt adjusting" as defined in the bill, is of such nature as to lend itself to grave abuses against distressed debtors, particularly those in the lower income brackets. The Commissioners are informed that the City of Baltimore and twenty-one States, including the nearby States of Pennsylvania, Delaware, West Virginia, Virginia, and North Carolina, have found these abuses to be of such gravity as to justify the prohibition of the business, while ten other States have found it necessary, in the public interest, to regulate the business.

The Commissioners believe that the business of debt adjusting can give rise to a relationship of trust in which the debt adjuster, in a situation of insolvency, may be engaged in marshalling assets in the manner of a proceeding in bankruptcy. Under such circumstances, the debt adjuster's client may need advice as to the legality of the various claims against him, legal remedies governing debtor-creditor relationships, and the applicability of the Bankruptcy Act. In view of this, the Commissioners believe that the activity known as "debt adjusting" should be an activity engaged in in the District of Columbia principally by persons who have been admitted to the bar of the United States District Court for the District of Columbia. However, since, in some areas of he country, non-profit or charitable corporations or associations have performed a service to their com-
the District of Columbia. However, since, in some areas of the country, non-profit
munities by providing a debt adjusting service, section 3 of the bill also would allow any non-profit or charitable corporation or association to engage in debt adjusting, even though it might charge nominal fees to cover its expenses in connection with providing these services.

Accordingly, the Commissioners urge the enactment of legislation prohibiting the business of "debt adjusting" in the District of Columbia, and strongly recommend enactment of the bill.

Sincerely yours,

(S) WALTER N. TOBRINER,
President, Board of Commissioners, D.C.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, May 9, 1967.

Hon. JOHN L. MCMILLAN,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

MY DEAR MR. MCMILLAN: The Commissioners of the District of Columbia have for report H.R. 8929, 90th Congress, a bill "To regulate the business of debt adjusting in the District of Columbia other than as an incident to the practice of law."

The Commissioners are of the view that the business of "debt adjusting", as defined in the bill, is of such a nature as to lend itself to grave abuses against distressed debtors, particularly those in the lower income brackets. The Commissioners are informed that the City of Baltimore and twenty-one States, including the nearby States of Pennsylvania, Delaware, West Virginia, Virginia and North Carolina, have found these abuses to be of such gravity as to justify the prohibition of the business, while ten other States have found it necessary, in the public interest, to regulate the business.

The Commissioners believe that the business of debt adjusting can give rise to a relationship of trust in which the debt adjuster, in a situation of insolvency, may be engaged in marshalling assets in the manner of a proceeding in bankruptcy. Under such circumstances, the debt adjuster's client may need advice as to the legality of the various claims against him, legal remedies governing debtor-creditor relationships, and the applicability of the Bankruptcy Act.

In view of this, the Commissioners believe that the activity known as "debt adjusting" should be an activity engaged in in the District of Columbia principally by persons who have been admitted to the bar of the United States District Court for the District of Columbia. However, since, in some areas of the country, non-profit or charitable corporations or associations have performed a service to their communities by providing a debt adjusting service, the Commissioners believe that such organizations also should be allowed to engage in debt adjusting, even though they might charge nominal fees to cover their expenses in connection with providing these services.

Accordingly, the Commissioners do not recommend the enactment of H.R. 8929. They would, in lieu thereof, recommend enactment of the draft bill "To prohibit the business of debt adjusting in the District of Columbia except as an incident to the lawful practice of law or as an activity engaged in by a non-profit corporation or association", which they submitted to the Speaker of the United States House of Representatives on May 1, 1967.

Sincerely yours,

(S) WALTER N. TOBRINER,
President, Board of Commissioners, D.C.

STATEMENT OF ROBERT F. KNEIPP, ASSISTANT CORPORATION COUNSEL, DISTRICT OF COLUMBIA

Mr. KNEIPP. I am Robert F. Kneipp, Assistant Corporation Counsel of the District of Columbia. I am appearing here this morning representing the Commissioners of the District of Columbia on H.R. 9806 and H.R. 8929.

Mr. SISK. Mr. Kneipp, I notice we have a copy of your statement which, without objection, will be made a part of the record and you may proceed by reading it or making an oral statement.

(The proposed statement of Mr. Kneipp follows:)

STATEMENT OF ROBERT F. KNEIPP, ASSISTANT CORPORATION COUNSEL, D.C., REPRESENTING THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA

Thank you, Mr. Chairman, for giving me this opportunity to present the views of the Commissioners of H.R. 9806, a bill "To prohibit the business of debt adjusting in the District of Columbia except as an incident to the lawful practice of law or as an activity engaged in by a nonprofit corproation or association", and H.R. 8929, a bill "To regulate the business of debt adjusting in the District of Columbia other than as an incident to the practice of law."

As the Commissioners have stated in their letter transmitting to the Congress the proposed legislation which has been introduced as H.R. 9806, they are of the view that the business of debt adjusting is of such a nature as to lend itself to grave abuses against distressed debtors, particularly those in the lower income brackets. The Commissioners, in their consideration of the problem created by the debt adjusters, recognized that even at best the practice works to the disadvantage of the debtor, since an additional debt is added to the debts he already finds burdensome. Further, in their consideration of the matter the Commissioners could find no economic justification for the so-called "service" which allegedly is provided by the debt adjusters. Accordingly, in the belief that the whole situation was one which could, and according to the articles by Miss Miriam Ottenberg in the Star last April, does, lead to grave abuses, the Commissioners determined to recommend that the practice be prohibited.

CONSTITUTIONALITY

With respect to the constitutionality of the proposed legislation, the Supreme Court of the United States, in the case of *Ferguson* v. *Skrupa* (372 U.S. 726, decided April 22, 1963), reversed the decision of a three-judge District Court enjoining the enforcement of a Kansas statute making it a misdemeanor for a person to engage in the business of debt adjusting except as an incident to the lawful practice of law, and held constiutional the type of law here under consideration. In *Ferguson*, the Court rejected the contention that the Kansas statute prohibiting the business of debt adjusting was in violation of the Due Process Clause of the Fourteenth Amendment (in the District of Columbia, the Fifth Amendment), stating that—

> "* * * the Kansas legislature was free to decide for itself that legislation was needed to deal with the business of debt adjusting. * * * We refuse to sit as a 'superlegislature to weigh the wisdom of legislation.' and and we emphatically refuse to go back to the time when courts used the Due Process Clause 'to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought.' "

The general tenor of *Ferguson* is that it is for the legislatures rather than the courts to decide on the wisdom and utility of legislation, and that the legislatures have the power to legislate against what are found to be injurious practices in the internal commercial and business affairs of the States (or the District of Columbia, as the case may be) so long as the laws do not run afoul of some specific federal constitutional prohibition or some valid federal law.

In *Ferguson* the Supreme Court also rejected the contention that the Kansas statute's exception of lawyers was a denial of equal protection of the laws to non-lawyers in violation of the Fourteenth Amendment, stating "Statutes create many classifications which do not deny equal protection; it is only 'individious discrimination' which offends the Constitution." Pointing out that the business of debt adjusting gives rise to a relationship of trust in which the debt adjuster will, in a situation of insolvency, be marshalling assets in the manner of a proceeding in bankruptcy, the Court stated that if a State wants to limit debt adjusting to lawyers, the Equal Protection Clause of the Fourteenth Amendment does not forbid it.

The Commissioners, in addition to recognizing that lawyers in the course of their practice may find it necessary to engage in activities in the nature of "debt adjusting", also recognize that in some areas of the country nonprofit or charitable corporations or associations have performed a service to their communities by providing a debt adjusting service, at no expense to the debtor except for charges designed to cover expenses in connection with providing such services. In the belief that such a nonprofit service might be of use to those debtors seeking advice on how to manage their debts, without further increasing them, the Commissioners believe that the bill should also except from its application any such nonprofit or charitable organization which provides this kind of service.

I think, therefore, Mr. Chairman, that any question with respect to the constitutionality of H.R. 9806 has been resolved by the Supreme Court in *Ferguson* and that there exists no legal impediment to the enactment of the bill by the Congress if Congress finds that the potentiality of grave abuses inherent in the business of debt adjusting is such as to justify the enactment of legislation prohibiting it.

COMMISSIONERS' POSITION

The Commissioners are opposed to the regulation of the business of debt adjusting, as provided by H.R. 8929, for the reasons stated in their letter of May 9, 1967, which I ask be included in the record. In that letter, the Commissioners stated that they believe that the business of debt adjusting can give rise to a relationship of trust in which the debt adjuster, in a situation of insolvency, and, I might note, this is probably the case in the majority of the transactions, may be engaged in marshalling assets in the manner of a proceeding in bankruptcy. As the Commissioners point out, under such circumstances the dept adjuster's client may need advice as to the legality of the various claims against him, the legal remedies governing debtor-credit relationships, and the applicability of the Bankruptcy Act. This means that in virtually every debt adjusting transaction, there is need for careful scrutiny of the underlying contracts which gave rise to the debts which have been accumulated by the debtor. It is quite possible that one or more of the underlying contracts are unconscionable within the meaning of section 28:2—302 of the Uniform Commercial Code, and, if subjected to a court test, would not be enforceable. If the debt is one owing a finance company, the finance company may not be a holder in due course. The debtor may have a real defense against the person with whom he contracted or any subsequent holder of a note which the debtor may have given, in that the note may lack legal efficacy in its inception, as, for example, where there was fraud in the execution, or where there was an illegality making the security void, as opposed to voidable.

Obviously, determinations as to the legal rights of the debtor with respect to the claims against him are within the province of the lawyer, and their determination by any other person, no matter how capable he may be, of necessity involves the unauthorized practice of law. It is, however, greatly to be questioned whether those in the debt-adjusting business even approach the necessary level of capability. I understand that the average employee in the business has two years of college education. It would hardly be conceivable that employees with this level of education are qualified to advise a debtor concerning his legal rights and any defenses he may have to the claims against him, and it could be said, in a situation where the debt adjuster fails to recognize that the debtor has a defense to a claim against him, that it is a case of the blind misleading the blind.

Moreover, the debt adjuster has a vested interest in *not* advising a debtor that the underlying contract giving rise to some portion of the debtor's total debt is not a valid one, or that the debtor has a defense to a claim against him. Obviously, since the fee of the debt adjuster is a percentage of the debtor's total debt, it is to the debt adjuster's advantage to maximize that debt, rather than minimize it, and there could be present in such a situation a tendency to find that all of the underlying contracts are valid and enforceable, and that the debtor has no defenses to the claims against him. This is, of course, the exact opposite of the situation which would obtain were the debtor to seek legal advice, since the duty and self-interest of the attorney would dictate that he make every effort to minimize the debtor's obligations, challenging those which give indication of being unenforceable or invalid, and compromising the others to the maximum extent possible. This means that there is involved in the business of debt adjusting a very high potential for deceit and actual fraud.

COURT ACTION

In this last connection, the Committee may take note of the fact that on July 1, 1966, seven persons who operated two debt consolidation services headquartered in Washington and Baltimore, with branch offices throughout the central and south Atlantic States, were convicted in the United States District Court for the District of Columbia on mail fraud charges. It is this high potential for deceit and fraud that would seem to indicate that regulation of the business is just not feasible.

If there is to be protection of the debtor from being taken advantage of by the debt adjuster, and if there is to be protection of the legal rights of each such debtor, then it is necessary that *every* transaction be carefully scrutinized by the regulatory agency. And I think it obvious that the regulatory personnel required to scrutinize these transactions would have to be qualified to determine, and be able to determine, whether the legal rights of the debtor had been given the fullest consideration. This means, of course, that those examining a debt-adjusting transaction would have to be given access to the underlying contracts

and other data supporting the claims against the debtor to determine whether in every instance there was a valid, enforceable claim. Obviously the administrative burden would be considerable.

To a certain extent this burden could be reduced by a requirement, either in the bill or in regulations adopted by the District government (and I note, incidentally, that H.R. 8929 does not, except by implication, authorize the District government to make regulations), that no debt adjuster shall enter into a contract with a debtor until there has been a determination, *by impartial counsel* (*not* "house" counsel), that the claims against the debtor are valid and enforceable. There still would remain the problem of fair dealing, but at least the validity of the claims against the debtor would be established.

REGULATIONS

Those who urge the regulation of the debt-adjusting business have suggested some twenty-one regulatory conditions. Perhaps chief among these are the requirements that those licensed as debt adjusters give bond (the bill establishes the amount of the bond at $5,000), that they be limited in the maximum rates they may charge, and that they be prohibited from making any charge unless the licensee has been able to secure the approval and consent of the *majority* of creditors, both in number and amount of indebtedness. With respect to the bond, it is to be questioned whether this would be of any value to a debtor who may have had his wages garnished and perhaps have lost his job as a result, by reason of the failure of the debt adjuster to make payment to a creditor. The bond requirement would seem to be of value only if it were coupled with a self-policing provision whereby any debtor injured by an act of commission or ormission on the part of a debt adjuster could claim treble damages, and proceed against the surety for this amount of damages. Such a requirement would offer considerable incentive for the debtor to bring to the attention of the appropriate authorities any incident indicating that he is being misled, deceived, or defrauded, or the debt adjuster is not performing in accordance with the agreement.

The third of the suggestions set forth above also poses an interesting question. Those urging the regulation of debt adjusters would require a licensee to secure the approval and consent of only a *majority* of the creditors. This means that if a debtor has eleven creditors, the licensee need secure approval and consent of only six, whereupon he can fix his fee on the basis of the debtor's total debt. But the remaining five creditors may not accept the arrangement, and may insist on dealing directly with the debtor. I find nothing in any of the suggestions made by those urging regulation that the debt adjuster shall make a rebate to the debtor of so much of his fee as may have been based on the debts owing those creditors who refuse to deal with the debt adjuster, or basing his fee only on the total of the debts owing those creditors who have given their approval and consent to the transaction.

DEBT ADJUSTING CHARGES

Mr. Chairman, as lengthy as my testimony has been, I have touched only the fringes of what must be considered a grave problem. According to the debt adjusters, the average debt of those who patronize them is of the order of $3,000. I understand that the fees of the debt adjusters range from twelve percent to as high as twenty-five percent. If we take fifteen percent as a conservative average, this means that the total debt owed by the average person patronizing a debt adjuster is increased $450. In return for this amount, the debt adjusters have indicated that each such transaction may involve one or two hours at the inception of the transaction and perhaps fifteen minutes a month thereafter for the life of the transaction. Even were there no potential for deceit or fraud. there seems little justification for increasing the total debt of a group of persons the majority, and perhaps the great majority, of whom are already insolvent. Obviously, with this amount of money involved, and this financial burden imposed on those of the community who can least affort it, there would devolve on the government of the District of Columbia the duty of scrutinizing in the greatest detail the transactions engaged in by debt adjusters, and even then it might be impossible to prevent injury to these persons. In view of this, the regulation of the debt adjusting business does not appear to be appropriate, and in view of the great potential for deceit and fraud inherent in this type of activity, its prohibition, in the view of the Commissioners, is the desirable course of action—a course of action presently effective in the City of Baltimore and in

22 of the States, including Rhode Island, which after attempting for little more than two years to regulate the debt adjusting business, now prohibits it.

Thank you, Mr. Chairman, for permitting me to take this statement, and, unless there are questions, this concludes my testimony.

Mr. KNEIPP. I would like to proceed extemporaneously. Mr. Broyhill has covered the constitutional question so well in his opening statement that I see no reason for repeating it, so I will skip on to page 5 of the prepared statement that I furnished the Committee.

Mr. SISK. If I might interrupt, Mr. Kneipp, you do take the position there is no constitutional question involved in the provisions of the Broyhill bill?

Mr. KNEIPP. That is correct. The Broyhill bill is patterned after the Kansas statute that was considered in the case of *Ferguson* v. *Skrupa* referred to in my statement, and the constitutionality was affirmed by the Supreme Court in 1963. The Broyhill bill has been modified to a slight extent but it is substantially the same as the Kansas statute.

I would like to say I disqualify myself as an expert on the wage earner provisions of Chapter 13 of the Bankruptcy Act. I understand there is someone in the room who is an expert on that and I defer to him. I see no reason, however, why there should not be inserted in the bill a new section saying nothing in the bill shall be construed as superseding or amending the Bankruptcy Act, so that the two are parallel to the extent necessary. But I would like to ask for an opportunity to study that, if I may, because I am not an expert on Chapter 13 bankruptcy proceedings.

Mr. SISK. I hope we can get to a witness representing the Bar Association.

Mr. WHITENER. It might be helpful for Mr. Kneipp to talk to Mr. Ben Zelenko of the Judiciary Committee, who has studied Chapter 13 a great deal.

Mr. KNEIPP. I will do that.

LICENSING

As Mr. Broyhill has indicated, there is already general statutory authority for the Commissioners to regulate the debt adjustment business. They have not done so because, first, the administrative burden would be considerable; and second, they did not want to give the impression of government approval of a business they felt there was no need for. Licensing debt-adjusters would be tantamount to licensing lions to eat lambs, and the Commissioners have avoided giving any semblance of approval of this business.

Mr. SISK. Title 47 of the District of Columbia Code has to do with general authority to require licensing and regulation of businesses?

Mr. KNEIPP. I think so. I think there is general authority in the Licensing Act.

Mr. SISK. So actually the Commissioners do have authority to regulate at the present time?

Mr. KNEIPP. Yes, under that provision the Commissioners have from time to time licensed about 80 businesses that are not specified in the Licensing Act, and they have licensed under the Licensing Act about 80 more. Debt adjustment could be one of those businesses and this has been within the authority of the Commissioners for some years, but they have indicated they prefer the prohibition of the business.

Starting at page 5 of my statement, the Commissioners feel this type of business involves the marshalling of assets and, more important, under these circumstances the debt adjustment client may need advice as to the legality of the various claims against him, the legal remedies governing debtor-credit relationships, and the applicability of the Bankruptcy Act. This means that in virtually every debt-adjusting transaction there is need for careful scrutiny of the underlying contracts which gave rise to the debts which have been accumulated by the debtor. But this does not seem to be done in the debt adjustment business.

On page 7 of the pamphlet that you have included in the record (the articles written by Miss Miriam Ottenberg), it seems that the debt adjusters ask four questions of their clients: (1) How much they owed; (2) how much they used for living expenses; (3) how much money they could give them that night; and (4) how much they could pay weekly. Where is the determination as to whether the creditor has a valid claim against him? For example, he himself might consider he owed a debt to the Scrooge Finance Company, but the contract may be an invalid contract that the debtor just presumes is valid. The debt adjuster makes no determination thereon. So here there is every opportunity for the debt to be increased needlessly and, as I point out in my statement the debt adjuster has a vested interest in maximizing the debt because his fee is a portion of the debt. Obviously, determinations as to the legal rights of the debtor with respect to the claims against him are within the province of a lawyer, who has an interest in minimizing the debt. I go on to say that these legal determinations by nonlawyers are in fact the unauthorized practice of law.

According to testimony given in the other body the average employee in the business of debt adjustment has two years of college education, and it would hardly be conceivable that employees with this level of education are qualified to advise a debtor concerning his legal rights and any defenses he may have to the claims against him. It could be said, in a situation where the debt adjuster fails to recognize that the debtor has a defense to a claim against him, that it is a case of the blind misleading the blind, because the debt adjuster doesn't know there is this defense and, moreover, he probably does not care because the higher the debt the higher the fee.

Mr. HORTON. Would you mind an interruption there? Has the District of Columbia Bar Association made any recommendation in this matter to your knowledge?

Mr. KNEIPP. I do not know.

Mr. HORTON. Has this been brought to the attention of the District of Columbia Bar Association?

Mr. KNEIPP. I cannot answer that but I will find out.

Mr. SISK. If I may interupt, the American Bar Association has a representative here who will testify, we are advised. I do not have a request from the local Bar Association to appear.

Mr. KNEIPP. Mr. Broyhill has already mentioned the fact that last July 1, a year ago, seven persons who operated two debt consolidation services headquartered in Washington and Baltimore were convicted in the United States District Court for the District of Columbia on mail faud charges. Three of them, I believe, have taken an appeal and the case is pending in the United States Court of Appeals. But the

nature of the business, really, is such that if the public is to be protected it will requires careful scrutiny of every transaction. This means that the regulatory personnel would have to be given access to the underlying contracts and other data supporting the claims against the debtor in order to determine if there was a valid and enforsceable claim against him. The bill H.R. 8929 makes a brave show of allowing the District to have access to the books of the debt adjustment concern. But of what value is that from the standpoint of determining whether there was a valid claim against the debtor in the first instance? It is of some value, perhaps, in determining whether there were excess charges against the debtor. The maximum, incidentally, is 12 percent. In your own State it is 12 percent for the first $3,000; 11 percent for the next $2,000; and 10 percent for any amount thereafter. Also, I might mention California has a bond requirement of $10,000, whereas the bill requires only $5,000. And the conditions of the California bill regulating this business are more stringent, in my opinion, than those in H.R. 8929.

I have been furnished by Mrs. Frank Sinatra of the Department of Labor, Bureau of Labor Standards, who is in the room, a copy of a publication published by the United States Department of Labor, entitled "Summary of State Laws Prohibiting or Regulating the Business of Debt Pooling." I would like, if I may, to offer this to the Committee as a quick summary of all the State laws on the subject in question. I see Mr. Horton has a copy.

Mr. Sisk. What is the date of the publication?

Mr. Kneipp. July, 1967.

Mr. Sisk. Without objection, it will be made a part of the record at this point.

(The document follows:)

SUMMARY OF STATE LAWS PROHIBITING OR REGULATING THE BUSINESS OF DEBT POOLING

U.S. Department of Labor, Bureau of Labor Standards, Washington, D.C., July, 1967

The spiraling increase in consumer credit since World War II has resulted in problems of overindebtedness to a great many wage earners and their families. The Federal Reserve Board estimated that the personal indebtedness of American consumers at the beginning of 1967 was almost 95 billion dollars. This estimate covers installment buying of automobiles, other consumer goods, and loans to individuals for household, family, and other personal expenditures, except real estate mortgage loans. For many people the debt is manageable, but any unforeseen occurrences such as illness in the family, a job layoff, or an accident makes repayment at the proper time difficult. It may also lead to additional indebtedness. To extricate themselves from debt and the harassment of creditors, many individuals have turned for help to debt-pooling firms.[1]

Debt pooling firms are not loan companies; they do not use their own funds in assisting the debtor to pay off his creditors. Rather, their purpose is to work out a plan with the debtor and his creditors for paying off the debts over a period of time. The debtor agrees to turn over to the firm a certain portion of his earnings each payday, which the firm agrees to pay to the creditors, less specified fees and expenses. Putting the plan into operation depends on the voluntary consent of the creditors. The agency's fee is usually a percentage of the indebtedness listed by the debtor.

[1] Variously called "debt consolidation," "debt adjustment," "debt management," "budget planning," "financial management," "debt lumping," "prorating," and other names.

CIRCUMSTANCES LEADING TO LEGISLATION

Complaints to the Better Business Bureau, the National Legal Aid Society, and court cases in several of the States have indicated that unscrupulous debt poolers, instead of helping the debt-ridden, have actually created additional problems for them. Freqeuntly, creditors have refused to participate in the debt-pooler's plan but the debtor has not been notified of this fact. Sometimes the debt-poolers have paid themselves their entire fee first, and it has been some time before money was available to pay the creditors. Accepting the services of the debt-pooler has not prevented garnishment or repossession of merchandise although contrary promises had been made or implied. Because of these and other abuses the States found it necessary to take legislative action.

EARLY LAWS

The first two laws dealing with debt pooling as a commercial business were enacted in Minnesota in 1935 and in Wisconsin in 1937. These laws regulate the business by requiring operators to obtain a license, post a bond, and meet other specified requirements. However, until 1955, debt-pooling firms were generally free to operate unhampered. Numerous abuses by some of these firms, followed by indictments in several instances, led to pressure for enactment of laws curbing their activities. That year, Maine, Massachusetts, and Pennsylvania enacted laws prohibiting the business of debt pooling. Similar laws were enacted in Georgia, New York, and Virginia the following year.

PRESENT STATUS

There are now 34 States with laws prohibiting or regulating the business of debt pooling. The following 22 States prohibit debt pooling as a commercial business[2]:

State	Year enacted	State	Year enacted
Arkansas	1967	New York	1956
Delaware	1966	North Carolina	1963
Florida	1959	Ohio	1957
Georgia	1956	Oklahoma	1957
Hawaii	1967	Pennsylvania	1961
Kansas	1961	Rhode Island	1964
Maine	1955	South Carolina	1963
Massachusetts	1955	Texas	1965
Missouri	1966	Virginia	1956
New Jersey	1963	West Virginia	1957
New Mexico	1965	Wyoming	1957

The following 12 States regulate this type of business:

State	Year enacted	State	Year enacted
California	1957	Minnesota	1935
Colorado	1965	Nebraska[4]	1967
Connecticut[3]	1967	Oregon	1963
Idaho	1963	Utah	1963
Illinois	1957	Washington	1967
Michigan	1961	Wisconsin	1937

LAWS PROHIBITING THE BUSINESS OF DEBT POOLING

Most of the 22 State laws prohibiting the business of debt pooling outlaw debt-pooling activities, as defined, and provide penalties for violations. The laws of Massachusetts, South Carolina, and Virginia differ from the majority in that they provide that the furnishing of advice or services for a debtor in connection with a debt-pooling plan is deemed the practice of law. Thus, debt

[2] In addition, the city of Baltimore, Maryland has an ordinance prohibiting the business of debt pooling.

[3] In Connecticut a regulatory provision enacted in 1955 as an amendment to the collection agency law was repealed in 1967 and replaced by a separate law, which becomes effective Jan. 1, 1968.

[4] The Nebraska law is not effective until Jan. 1, 1969. By addendum subsequently filed with the committee, Iowa should be added to this list. (See p. 168 hereof.)

pooling as a business is prohibited as the unauthorized practice of law. The West Virginia law also differs from the majority. That law makes it unlawful to solicit the rendering of advice and services to a debtor in connection with a debt-pooling plan, and provides that those who are exempt from the law (e.g., attorneys or voluntary associations) who render such service may not charge more than 2 percent of the total money collected pursuant to the plan.

Exemptions

The most common exemption is that of attorneys, which is found in 19 of the prohibitory laws, i.e., all but the North Carolina, Ohio, and Oklahoma. Five of these States, Delaware, Georgia, Kansas, Virginia, and Wyoming, qualify the exemption by limiting it to the performance of debt-pooling services as an incidence to the regular practice of law. In 10 of these States it is the only exemption; Florida, Georgia, Kansas, Maine, Massachusetts, New York, South Carolina, Rhode Island, Virginia, and Wyoming.

A few examples of some of the other types of exemptions are:

Judicial officers or others acting pursuant to court order are exempted in seven States: Arkansas, Hawaii, Missouri, New Jersey, New Mexico, North Carolina, and Texas.

Five States exempt nonprofit organizations. Arkansas exempts such organizations if no charge is made for the service. Delaware and Hawaii permit a nominal charge as reimbursement for expenses. New Mexico exempts such an organization when it is organized as a community effort to assist debtors. Pennsylvania exempts welfare agencies which act as debt poolers on behalf of debtors without compensation or profit. Hawaii and Pennsylvania exempt Legal Aid Bureaus.

Five States exempt full-time employees of a debtor who act as an adjuster of his employer's debts: Hawaii, Missouri, New Jersey, New Mexico, and North Carolina. Four States exempt a creditor of the debtor rendering adjustment service without charge: Missouri, New Jersey, New Mexico, and North Carolina.

The only exemption in the Ohio law is for a person who was licensed and regulated by the legislative authority of the political subdivision in which such person operated prior to January 1, 1958 (the effective date of the act); and Oklahoma exempts only retail merchants' trade associations and nonprofit groups formed to collect accounts and exchange credit information.

Constitutionality

Five prohibitory laws, Massachusetts, New Jersey, Pennsylvania, Kansas, and Ohio, have been challenged in the courts.

The Supreme Judicial Court of Massachusetts in 1957 held in a declaratory decree[5] that the statute providing that debt-pooling services constitute the practice of law "is not unconstitutional as an interference with the purely judicial function to determine who may practice law but is a valid enactment in aid of the court's powers to make such a determination."

The Pennsylvania Supreme Court in 1960[6] unheld the decision of the Superior Court that the State law (Act 224, L. 1955) prohibiting the business of budget planning is an unconstitutional exercise of the police power, notwithstanding that the planner's activity in collecting and distributing the debtor's money may afford the planner the opportunity to defraud the public. Following the court's decision, the Governor recommended and the legislature enacted a new law in 1961. It differs from the earlier law in that it does not outlaw budget planning, but only debt pooling for a fee. The new law has not been challenged.

The New Jersey Superior Court[7] in 1961 upheld the constitutionality of the State law. The court implied its agreement with the decision of the Massachusetts court and disagreement with the decision reached by Pennsylvania, in what were apparently similar laws.

The U.S. District Court for the District of Kansas found that the State law prohibiting the business of debt adjusting was unconstitutional.[8] In a decision issued April 22, 1963, the U.S. Supreme Court reversed the lower court.[9] The Court said that Kansas statute does not violate the due process clause of the 14th amendment; that States have power to legislate against injurous practices

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[5] *Home Budget Service, Inc.* v. *Boston Bar Association,* 335 Mass. 228, 139 N.E. 2d (387) (1957).
[6] *Commonwealth* v. *Stone,* 191 Pa. Super 117; 155 A. 2d (453) (1960).
[7] *American Budget Corp.* v. *Furman,* 170 A. 2d 63 (1961).
[8] *Skrupa* v. *Sanborn,* 210 F. Supp. 200 (1961).
[9] *Ferguson* v. *Skrupa,* d/b/a Credit Advisors, 372 U.S. 726 (1963).

in their internal affairs, so long as their laws do not conflict with a Federal constitutional provision or law; the statute's exception of lawyers is not a denial of equal protection of the law to nonlawyers. The Court said further that there are arguments showing that the business of debt adjusting has social utility, but such arguments should be addressed to the legislature rather than the courts.

The Ohio Supreme Court upheld its law, in a case decided March 10, 1965.[10]

LAWS REGULATING THE BUSINESS OF DEBT POOLING

The States which enacted laws prohibiting the business of debt pooling did so because it was believed that regulating the activities of such businesses would prove too difficult; that the only way to cope with the unethical practices of such firms was to outlaw their activities completely. Other States believed the business could be regulated. An example of such a State is California.

Until 1957, California had no law relating to debt poolers, as such, but covered them, by interpretation, under its law regulating collection agencies. However, an increasing stream of complaints from businessmen and the general public led the California Senate to create an Interim Committee which was directed "to gather facts regarding collection agencies, debt liquidators, and private detectives, the regulation thereof, and the enforcement of all laws relating thereto." The Interim Committee held hearings in several cities, and reported, in part, that:

"* * * As for the debt liquidators and proraters, the chief malpractices in their field seemed to involve misleading advertising and doubling as collection agencies.

"False advertising, especially on television and radio, has been used to make the debt-ridden think the proraters can prevent wage attachments, loss of jobs, and repossessions. Phrases like 'No Security,' 'No Co-signers,' and 'Our Low Rates' give the impression that the prorater pays creditors from his own funds, asking only that the debtor repay him with reasonable interest. The facts are that the prorater does not 'consolidate' the debts and pay off creditors with his own money; the debtor continues to owe each and every creditor severally, regardless of the plan the operator purports to offer. The unscrupulous prorater attracts the debt-ridden into his office largely for the purpose of collecting fees from them.

"The committee also learned that several firms operate a debt-liquidation agency and a collection agency under the same roof with identical personnel. The prorater end of the business acquires from the client a list of his creditors. Then, acting as collectors, the agency solicits the creditors to assign it the accounts for collection. The creditor who refuses to hand over the account generally finds himself at the end of the line when the debtor's payments are prorated."[11]

As a result California passed a law regulating the debt-pooling business, completely separate from the law regulating collection agencies; the two laws are administered in different departments.

The regulatory laws are separate laws, applicable only to debt-pooling firms, except in Idaho where it is a part of the collection agency law.

Licenses and investigations

All of the regulatory laws require an applicant to obtain a license, renewable annually. (See Table 1, p. 7.) As a prerequisite to the issuance of a license, the applicant must be investigated for financial responsibility and good moral character. Usually the applicant pays the cost of the investigation.

If, following investigation, the applicant is denied a license, the license fee is returned to him, but not the investigation fee. Most of the laws provide that an applicant may appeal the denial of a license; if he does, a hearing must be held. Final appeal is usually to the courts.

Bond

Each law requires the operator to post a bond. The amount of the bond varies from $5,000 to $25,000. Some of the laws permit an operator to make a cash deposit in lieu of posting a bond.

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[10] *State ex rel. Clark* v. *Brown, Secretary of State,* 205 N.E. 2d 377 Supreme Court of Ohio (1965).

[11] Report of the Senate Interim Committee on Collection Agencies, Private Detectives, and Debt Liquidators. (Senate Resolution No. 155, 1957, California.)

TABLE 1.—LICENSE AND INVESTIGATION FEES; AMOUNT OF BOND

State	License fee	Initial investigation fee	Amount of bond
California	$100 for principal office; $20 for each branch office	$50	$10,000
Colorado	$50 for each office	100	25,000
Connecticut [1]	$100 for each office	50	[1] 10,000
Idaho	$25 for each office	(2)	[3] 5,000
Illinois	$100 for each office	30	7,500
Michigan	$50 for each office	50	[3] 5,000
Minnesota	$10 for each office	(4)	5,000
Nebraska [5]	$100 for principal office; $50 for each branch office	100	10,000
Oregon	$150 for principal office; $100 for each branch office	(6)	10,000
Utah	$50 for each office	50	25,000
Washington	$50 for each office	50	10,000
Wisconsin	$100 for each office location with population of 25,000 or more; $50 for each office location with population of less than 25,000.	(2)	5,000

[1] The Connecticut law becomes effective 1/1/68. The administrator is authorized to require a larger bond if he determines it is warranted by the business circumstances of the licensee.
[2] In Idaho and Wisconsin, the applicant must pay the entire cost of the investigation.
[3] For each office.
[4] In Minnesota, investigation is required but the law does not require the applicant to pay the cost.
[5] The Nebraska law becomes effective 1/1/69.
[6] No provision.

Exemptions

The usual exemptions in these laws are for: (1) attorneys; (2) banks, fiduciaries, financing, and lending institutions duly authorized and admitted to transact business in the State; (3) title insurers and abstract companies while doing an escrow business; (4) employees of licensees when acting in the normal course of their employment; (5) judicial officers or others acting pursuant to court order; (6) nonprofit, religious, fraternal, or cooperative organizations offering debt-pooling services for their members; and (7) employers offering debt-pooling services exclusively for their employees.

The exemption of attorneys under the laws of California, Colorado, Connecticut, Illinois, Michigan, Nebraska, Utah, and Washington is applicable only when the debt pooling occurs in the normal course of their practice; in Oregon it is applicable to attorneys who do not specialize in the business of debt pooling. There are no exemptions in the Wisconsin law.

Consent of creditors

Unless the creditors consent to the debt-pooling plan, such a plan is useless. The laws of California, Michigan, and Utah require that consent must be obtained from the holders of at least 51 percent of the total amount of the indebtedness and of the total number of creditors listed in the contract between the licensee and the debtor. The Connecticut law is similar, except that a "majority" is stipulated, rather than 51 percent. Colorado requires the consent of 80 percent of the creditors listed in the contract, and Illinois requires that a majority of the creditors listed must agree to the plan. Unlike any of the other laws, Connecticut grants creditors or their attorneys access to all records relative to such consent for verification.

Before making any charges, Oregon and Washington require the debt-pooling firm to notify all of the debtor's creditors that the debtor has engaged the services of the licensee. The laws of Idaho, Minnesota, Nebraska, and Wisconsin are silent on this point.

Fees

Fees charged by debt-pooling businesses are based on a percentage of the indebtedness as listed by the debtor. Ten of the 12 regulatory laws (all but Michigan and Minnesota) fix the maximum fee which may be charged, ranging from 10 to 15 percent.

All of the regulatory laws except Idaho provide that the fee of the licensee must be agreed upon and stated in the contract, and that a copy of the contract must be furnished to the debtor.

The laws of California, Oregon, and Washington require the contract to set forth in precise terms the amount of the payments, which must be within the ability of the debtor to pay. California and Washington also require disclosure to the debtor of the approximate number and amount of installments required to pay the debts in full. The laws of Colorado, Connecticut, Illinois, Michigan, Nebraska, and Utah require the fee of the licensee to be amortized over the life of the contract, while Oregon prohibits the debt pooler from taking his fee at a faster rate than the rate of distribution to any unescured creditor who is willing to accept payment.

TABLE 2.—*Maximum fees established by law or by administrative authority*

State	Maximum fee
California	12 percent for the first $3,000 of indebtedness; 11 percent for the next $2,000; 10 percent for any of the remaining payments distributed to creditors.
Colorado	12½ percent of the total indebtedness of the debtor.
Connecticut	10 percent of the amount required to pay the indebtedness when the plan of payment is for a period of 10 months or less; 12½ percent when the plan of payment is for more than 10 months but less than 18 months; 15 percent when the plan of payment is for a period of 18 months or more.
Idaho	15 percent of the amount received at any one time from the debtor.
Illinois	10 percent of the amount required to pay the indebtedness when the plan of payment is for a period of 10 months or less; 12½ percent when the plan of payment is for more than 10 months but less than 20 months; 15 percent when the plan of payment is for a period of 20 months or more.
Michigan	No specific maximum.
Minnesota	No provision.
Nebraska	15 percent of the amount of money agreed to be paid through the licensee.
Oregon	15 percent of the amount actually paid to creditors.
Utah	10 percent of the payments actually distributed to creditors.
Washington	15 percent of the total debts listed by the debtor.
Wisconsin	10 percent of the total indebtedness.

Report to debtors; remittances to creditors

Most of the laws require the debt-pooling agency to keep the debtor informed of his account. Remittances to creditors must be made by the agency within a specified period after receipt of funds from debtors for this purpose. As shown in Table No. 3, this period of time varies from "promptly" upon receipt of funds in Illinois to at least once each 40 days in Washington.

TABLE 3.—*Permissible time lapse between remittance from debtor and disbursement by debt pooler*

State	Time lapse
California	Once each month.
Colorado	Within 2 working days.
Connecticut	Within 10 days.
Idaho	Within 30 days after close of each calendar month.
Illinois	Promptly.
Michigan	Within 15 days.
Minnesota	Within 35 days.
Nebraska	Within 15 days, or 7 days if funds are in the form of cash.
Oregon	Within 30 days after close of each calendar month.
Utah	Within 15 days.
Washington	At least once each 40 days.
Wisconsin	Within 5 days.

Prohibited practices

All of these laws prohibit some activities. Practices most commonly prohibited are:

1. Purchasing from a creditor any obligation of a debtor;
2. Operating both as a collection agent and as a debt pooler;
3. Receiving or charging any fee in the form of a promissory note or other promise to pay, or receiving or accepting any mortgage or other security for any fee, both as to real or personal property;
4. Advertising falsely, or making misleading or deceptive statements or representations as to the services to be performed or the charges to be made;
5. Using a contract form which has not been approved by the administrator.

A provision in the Connecticut law not found in any other law prohibits any licensee from using any word or phrase which states or implies that "he is bonded, approved, bonded by the State or approved by the State."

Investigation authority

Most of the laws authorize the administrator to investigate the business of debt pooling at any time and/or upon complaint. Usually, the licensee pays the cost of the investigation. Only Washington has no specific provision of this nature. The Washington law does, however, require that books and records be kept open for inspection.

The laws of Connecticut, Michigan, Nebraska, and Utah permit the administrator to examine, without notice, the conditions and affairs of each licensee. Colorado requires that the licensee be given 5 days' notice that the examination is to be made, and that he pay the cost of the actual examination, not to exceed $50 a day. Illinois specifies that the business must be examined at least once a year, and limits the cost of such examination to $50 a day. Only Minnesota, of the States authorizing investigations, has no provision as to payment of such investigation. The other laws provide that the actual cost of the examination bust be paid by the licensee; failure to pay such cost within a specified period is cause for revocation of the license.

Separate accounts

The majority of the States (California, Colorado, Connecticut, Idaho, Illinois, Michigan, Nebraska, Oregon, Utah, and Washington) require licensees to maintain separate trust accounts of funds received from debtors; commingling of their own funds with those received from debtors for payment to creditors is prohibited.

Maintenance of records

All of the laws require debt poolers to maintain specified records, which must be available for inspection. Ten laws specify the length of time such records must be preserved after the final entry is made: 2 years in Illinois and Minnesota, 4 years in California, 5 years in Idaho and Nebraska, 6 years in Washington, and 7 years in Colorado, Connecticut, Michigan, and Utah.

Miscellaneous provisions

The laws of California, Connecticut, Michigan, Nebraska, and Oregon provide that a contract shall not be effective until a debtor has made a payment to the debt pooler for distribution to his creditors.

Colorado, Connecticut, Michigan, and Nebraska do not permit a licensee to accept an account unless a thorough financial analysis indicates that the debtor can reasonably meet the requirements of the contract.

Idaho, Oregon, and Washington require applicants for a license to take an examination which may be either written or oral or both.

Several of the laws require citizenship and minimum age (usually 21) before a license may be granted.

Annual reports

California and Oregon require a licensee to file an annual report with the administrator concerning their business and operations. The report must include money paid by debtors which has not been transmitted to creditors. California requires a certified audit report prepared by an independent public accountant, while Oregon requires a "verified" report. Connecticut requires the

application and renewal of a license to be accompanied by a certified financial statement.

Administration

Administration of the regulatory laws is vested in the following:

California	Commissioner of Corporations.
Colorado	Bank Commissioner.
Connecticut	Bank Commissioner.
Idaho	Commissioner of Finance.
Illinois	Director of Financial Institutions.
Michigan	Department of Commerce.
Minnesota	Secretary of State.
Nebraska	Secretary of State.
Oregon	Commissioner of Real Estate.
Utah	Department of Registration.
Washington	Director of the Department of Motor Vehicles.
Wisconsin	Bank Commissioner.

Mr. SISK. Mr. Whitener would like to take a look at it.

Mr. KNEIPP. I think, Mr. Chairman, it is obvious that if there is to be regulation of this type of business, it will be a very great administrative burden on the District of Columbia. To a certain extent this burden could be reduced either by amendment of the bill or in regulations adopted by the District Government. I note, incidentally, that H.R. 8929 does not, except by implication, authorize the District Government to make regulations—that no debt adjuster shall enter into a contract with a debtor until there has been a determination, by impartial counsel—not "house" counsel—that the claims against the debtor are valid and enforceable. There still would remain the problem of fair dealing, but at least the validity of the claims against the debtor would be established.

BOND REQUIREMENT

I have already mentioned the bond requirement. There is a question in my mind, what value is this $5,000 bond to a man who may have had his wages garnisheed and lost his job as a result. Recently a man came into the law enforcement division of the Corporation Counsel's Office. It seems he had had dealings with Creditors Advisors, Inc. They had failed to make payments as they had agreed, the creditor sued the debtor, the debtor, upon being sued by the creditor, stopped payment to Credit Advisors, Inc., whereup Credit Advisors, Inc., sued him for their fee. So the debtor is being sued both by the creditor and by the debt adjustment firm. Now, what is the measure of damage to a person who may have suffered grave economic injury by reason of this?

I suggest in my statement that the bond requirement would be of value only if it were coupled with a self-policing provision whereby any debtor injured by an act of commission or omission on the part of a debt adjuster could claim treble damages and proceed against the surity for this amount of damages. Such a requirement would offer considerable incentive for the debtor to bring to the attention of the appropriate authorities any incident indicating that he is being misled, deceived, or defrauded, or the debt adjuster is not performing in accordance with the agreement. If a debt adjuster or a prorater, as they

call them in California, charges excessively and is caught he merely has to give back the fees. I suppose there is a license action taken against him also, but just taking what he was paid I do not feel is a severe enough sanction.

Mr. Broyhill has already mentioned that if the debt adjuster fails to perform in accordance with the contract there is no record, at least to my mind, of his making reimbursement to the debtor for a prorata part of the fee. Most important, Mr. Chairman, the average debt, according to testimony in the other body, of the debtor who patronizes a debt adjuster is on the order of $3,000. Now, if you take as a conservative average a 15 per cent debt adjusting fee on top of that, $450 more is added to that debt. You spread that through the community and you can see this is a tremendous economic burden on the community. What does the debtor get for his $450? Testimony before the committee in the other body indicates he may get an hour or two of consultation at the inception of the transaction and thereafter for the life of the transaction, 15 minutes per month, assuming the life of the transaction is 24 months. There is 6 hours plus an hour or two at the start, seven or eight hours for $450. I think the committee can recognize a considerable amount of legal services could be procured for that $450, possibly even resulting in the reduction of the total debt of the debtor instead of an increase in it.

So, for all of these reasons, Mr. Chairman, the Commissioners of the District of Columbia strongly believe that the business of debt adjusting in the District of Columbia should be prohibited and not be regulated.

I might mention, incidentally, that 22 states, as Mr. Broyhill has indicated, now prohibit debt adjusting whereas only thirteen regulate it. They are as follows:

STATES PROHIBITING DEBT ADJUSTING BUSINESS

Arkansas	**Missouri**	**Rhode Island**
Delaware	**New Jersey**	**South Carolina**
Florida	**New Mexico**	**Texas**
Georgia	**New York**	**Virginia**
Hawaii	**North Carolina**	**West Virginia**
Kansas	**Ohio**	**Wyoming**
Maine	**Oklahoma**	
Massachusetts	**Pennsylvania**	

City of Baltimore

STATES REGULATING DEBT ADJUSTING BUSINESS

California	Iowa	**Utah**
Colorado	**Michigan**	**Washington**
Connecticut	**Minnesota**	**Wisconsin**
Idaho	**Nebraska**	
Illinois	**Oregon**	

Interestingly enough, there is something that the debt adjusting people have very carefully refrained from mentioning in the Senate. They may mention it here today, but I question whether it will be in their prepared statements. That is that Rhode Island tried to regulate the business of debt adjusting. They enacted a law in April of 1962 regulating the business. Then by a law enacted May 1st, 1964, they have prohibited the business of debt adjusting in Rhode Island. I can surmise two reasons for that. Either they found that regulation

of the business was not effective or they found that it was administratively burdensome, or both.

A state that once tried to regulate the business of debt adjusting found it necessary, in something like 25.5 months, to enact legislation prohibiting it.

Perhaps representatives of the business here today can explain why Rhode Island did that, but I find it very interesting.

I have nothing more, Mr. Chairman, unless there are some questions.

Mr. SISK. Thank you, Mr. Kneipp. I understand from your statement that the Commissioners support the Broyhill bill? Is that correct?

Mr. KNEIPP. Yes, Mr. Chairman.

Mr. SISK. I believe you mentioned Chapter 13 in relation to the question raised by our colleague from North Carolina. The bill might require some revision or possibly a new section. As I understand your comments, you indicate that that is possibly a unique feature in that bill.

Mr. KNEIPP. I will discuss the question with Mr. Zelenko of the Judiciary Committee, and I will make known to the staff what might have to be done in this regard.

Mr. SISK. Based on some of my own experiences, I have one question, Mr. Kneipp, that concerns me. Also, I think it would concern most people who have had contact with a variety of people over a period of years.

Was your statement of the reasons why the District Commissioners have not found it advisable to go ahead and use existing authority to regulate the business of debt adjusting, based on the fact that it was their feeling no need existed for it.

Mr. KNEIPP. No, Mr. Chairman. That there is no economic justification for this. I think by that they mean with regard to the matter of charging for this service—I think everyone recognizes a person in debt may need some guidance and for this reason the bill does provide that it shall not be applicable to the non-profit type of budget counselling service, but it is the lack of economic justification. This business of increasing the total debt by 15, perhaps to as high as 25 per cent—although on the average it may not be that much, but the result of increasing the debt of an already insolvent group of people seems to have little economic justification. Certainly they may need help in managing their debts, but they don't need help that just shoves them further into debt, and this is the basis——

Mr. SISK. If I can clarify the intent of my question based on what I understood you to say. Let's say that in the morning a gentleman comes into my office. He has debt problems and has reached the end of the line, so to speak. I am referring to a situation where a man becomes so burdened down through mismanagement, or being "gullible," that he finds himself with a variety of bills which he simply cannot pay. In this case, to whom should I send him in the District of Columbia?

I think it is fine if this service was on a non-profit basis and free of charge to the public. Is such an organization, or are such services available in the District of Columbia? Are you advocating that it should be a taxpayer-supported institution?

Mr. KNEIPP. No, sir. There is in the making a non-profit counseling service of this sort. If Mr. William Press of the Metropolitan Board of Trade is to be heard today, I think he will discuss this with the committee.

There is already in existence in the City of Baltimore a very—I suppose a good word would be "potent"—non-profit counseling service supported by the business people and a number of others.

I have no data setting that forth, but I am aware there is in Baltimore such a service and I am aware there is in the making here in the District of Columbia such a non-profit services. As has been pointed out, the creditors themselves would be willing to help someone manage his debts but at the moment I don't think there has been established a formal service of the kind you mention.

Mr. SISK. I have approached this matter with a completely open mind. I recognize there have been serious abuses in this area here in the city of Washington. I think that the committee does have a responsibility to try to get the facts as best we can and then move to try to do something about it.

I don't want to indicate by my questioning to be in opposition to your position. I think, however, we all recognize there are people who find themselves in pretty dire straits at times and who do need some advice and assistance.

Before I firmly commit myself, I wish to carefully scrutinize anything that would outlaw completely the right to furnish such a service under legitimate procedures and proper policing.

You will agree with me there is a need for this service. It is a matter of how the service is going to be rendered.

Mr. KNEIPP. I think that is the question.

Mr. SISK. The gentleman from North Carolina?

Mr. WHITENER. My questions should not indicate any hostility to the thinking of proponents of the regulation or the proponents of the other side.

I notice in the Commissioner bill that included is "budget planning."

Now, in the very fine publication of the Department of Labor they point out the Pennsylvania Supreme Court in 1960 upheld a decision of the Superior Court that the state law prohibiting the business of "budget planning" is an unconstitutional exercise of police powers. *Commonwealth vs. Stone*, 191 Pa. Super. 117, 155 Atlantic 2d 453.

Have you taken into account the reasoning of the Pennsylvania Supreme Court in that case when you use the term "budget planning" as one of the prohibited acts under H.R. 9806?

Mr. KNEIPP. No, I have not read that Pensylvania case, Mr. Whitener, but I think it has probably been superseded by the *Ferguson* Case in 1963 in the Supreme Court of the United States.

Mr. WHITENER. You are talking now about the Kansas case?

Mr. KNEIPP. Yes, sir.

Mr. WHITENER. Skrupa against Sanborn.

Mr. KNEIPP. No, it is Ferguson against Skrupa in the Supreme Court. I think the Ferguson against Sanborn case was in the Kansas Court.

Mr. WHITENER. That is a 1963 case.

Again I only have this Department of Labor publication.

The U.S. District Court for the District of Kansas found the state law prohibited the business of debt adjusting.

Mr. KNEIPP. That was a three-judge district court.

Mr. WHITENER. It refers to "budget planning."

Now, budget planning and debt adjustment are two entirely different things it seems to me. I may need a little assistance at times in planning how to use my meager income. Now, I may go to a banker or a minister, or any other friend and ask them to assist me in budget planning. It seems to me that is an entirely different thing from debt adjusting. He is trying to keep me out of debt through budget planning, isn't he?

Mr. KNEIPP. The *Ferguson* Case in 1963, Mr. Whitener, went straight to that point. I quote from page 3 of the split decision of the Supreme Court in the *Ferguson* case:

"Finding debt adjusting, called 'budget planning' in the Pennsylvania statute not to be against the public interest" and they go on discussing that Pennsylvania case. But in the Supreme Court in the *Ferguson* case they referred to budget planning as being tantamount to debt adjusting.

Mr. WHITENER. In other words, keeping you out of debt is the same as getting you out of debt.

Mr. KNEIPP. No, I don't think so, sir. I think budget planning within the meaning of the Pennsylvania statute is what we were referring to as debt adjusting here. This matter of the debt adjuster taking your paycheck to pay your debts and charging you a fee for it.

Mr. WHITENER. I wonder if the clerk could get the Pennsylvania case for us and make it a part of the record?

Mr. SISK. I think that is an excellent suggestion on the part of the gentleman from North Carolina.

Without objection, we will make that a part of the record.

(The case referred to appears on pp. 56–59.)

Mr. WHITENER. Mr. Kneipp, I note further from the Department of Labor publication that many of the states do exempt attorneys as this bill, H.R. 9806, would. Five of those states qualify the exemption by limiting it to the performance of debt pooling services, incident to the regular practice of law.

Now, do you think this qualification should be attached to your exemption of attorneys? Under your bill, as now written, it seems to me that I, as a member of the District of Columbia Bar, could open up a "debt adjusting service" and do the same things which you now say are bad, simply because I have a law license.

Mr. KNEIPP. Section 3 of the Broyhill bill provides that the bill shall not apply to those situations involving debt adjusting incurred incidentally in the lawful practice of law in the District of Columbia.

Mr. WHITENER. Subsection 3 of Section 1 says:

> Partnership does not include a partnership, all the members of which are admitted to the bar of the United States District Court of the District of Columbia.

Mr. KNEIPP. If by that, sir, you mean that a partnership of lawyers were to engage in the debt adjusting business, not as incidental to the practice of law, I think the bill would prohibit it.

COMMONWEALTH v. STONE

191 Pa.Super. 117, A.2d 453

COMMONWEALTH of Pennsylvania, Appellant,

v.

Stanley S. STONE.

COMMONWEALTH of Pennsylvania, Appellant,

v.

Philip J. DE BLASIO.

COMMONWEALTH of Pennsylvania, Appellant,

v.

Stanley S. STONE, Philip J. DeBlasio and R. E. Butler.

Superior Court of Pennsylvania.

Nov. 11, 1959.

Prosecutions for violations of statute making it a misdemeanor to engage in the budget planning business. From orders of the Court of Quarter Sessions of Dauphin County at Nos. 57 to 61 incl., June Sessions, 1958, Homer L. Kreider, J., quashing the indictments, the Commonwealth appealed. The Superior Court, Nos. 32 to 36, March Term, 1960, Ervin, J., held that statute making it a misdemeanor for budget planner, at request of debtor, to receive money from debtor periodically and distribute such money among certain specified creditors in accordance with a plan agreed upon, unreasonably interferes with and nullifies a vital factor of budget planning business and is unconstitutional exercise of the police power, notwithstanding that planner's activity in collecting and distributing the debtor's money may afford the planner the opportunity to defraud the public.

Orders affirmed.

1. Constitutional Law ⟹295

Pawnbrokers and Money Lenders ⟹2

Statute making it a misdemeanor for budget planner, at request of debtor, to receive money from debtor periodically and distribute such money among certain specified creditors in accordance with a plan agreed upon, unreasonably interferes with and nullifies a vital factor of budget planning business and is unconstitutional exercise of the police power, notwithstanding that planner's activity in collecting and distributing the debtor's money may afford the planner the opportunity to defraud the public. P.S.Const. art. 1, §§ 1, 9; art. 3, § 7; U.S.C.A.Const. Amend. 14; 18 P.S. § 4897.

2. Constitutional Law ⟹81

The mere possibility that one engaged in a lawful business may also engage in unlawful practices is no justification for prohibiting the business, if it be a legitimate one in the first instance.

3. Evidence ⟹5(2)

It is well known that millions of sales are made in the United States on the installment plan and that billions of dollars are involved in such transactions.

Huette Dowling, Dist. Atty., Frederic G. Antoun, Deputy Atty. Gen., Anne X. Alpern, Atty. Gen., for appellant.

James W. Evans, Harrisburg, for appellee.

Before RHODES, P. J., and WRIGHT, WOODSIDE, ERVIN and WATKINS, JJ.

ERVIN, Judge.

[1] The sole question involved in these appeals is whether the Act of 1955 making it a misdemeanor to engage in the budget planning business, as therein defined, is an unconstitutional exercise of the police powers of the state in violation of art. I, §§ 1 and 9, art. III, § 7, of the Pennsylvania Constitution, P.S. or the 14th Amendment to the Constitution of the United States

of America. The court below held that the act was unconstitutional and quashed the indictments. The Commonwealth appealed.

The Act of 1955, P.L. 755, 18 P.S. § 4897, provides as follows: "(a) 'Budget Planning', as used in this section, means the making of a contract, express or implied, with a particular debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaged in the budget planning business, who shall, for a consideration, distribute the same among certain specified creditors in accordance with a plan agreed upon.

"(b) Whoever engages in the business of budget planning is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars ($500), or undergo imprisonment of not more than one (1) year, or both; Provided That the provisions of this act shall not apply to those situations involving budget planning as herein defined incurred incidentally in the practice of law in the Commonwealth."

The defendants argue that the act is an absolute prohibition, not a mere regulation, of the budget planning business and violates their right to engage in a legitimate business under the due process clauses of the State and Federal Constitutions.

The Commonwealth argues that the act does not arbitrarily, unreasonably and unnecessarily interfere with private business or property and that despite its title: "An act * * * prohibiting budget planning business, and prescribing penalties for violation thereof.", the act in fact does not prohibit the business of budget planning. The Commonwealth says the act is regulatory only, that it allows budget planning but does not allow the budget planner to collect and distribute the debtor's money to the debtor's creditors.

While the act does not prohibit all phases of budget planning, to deny the budget planner the right, at the request of the debtor, to receive money from the debtor and "distribute the same among certain specified creditors in accordance with a plan agreed upon" constitutes a nullification of a vital factor of the budget planning business and we can see no justification for such interference.

In Com. ex rel. Woodside v. Sun Ray Drug Co., 383 Pa. 1, 10, 11, 116 A.2d 833, 837, our Supreme Court said: "The scope of the police power of the Commonwealth is necessarily very broad. As was stated in Commonwealth v. Stofchek, 322 Pa. 513, at page 519, 185 A. 840, at page 844: '* * * the state possesses inherently a broad police power, which transcends all other powers of government. There is therefore no unqualified right to acquire, possess, and enjoy property if the exercise of the right is inimical to the fundamental precepts underlying the police power. * * *'. However, the basis of every exercise of the police power must be to promote or maintain the health, safety or general welfare of the public. White's Appeal, 287 Pa. 259, 134 A. 409, 53 A.L.R. 1215. * * *

"The standard to be applied in this type of case was well stated by Mr. Chief Justice Stern in the recent case of Cott Beverage Corporation v. Horst, 1955, 380 Pa. 113, 110 A.2d 405. In that case the Chief Justice, quoting from Gambone v. Commonwealth, 375 Pa. 547, 101 A.2d 634, stated, 380 Pa. at page 118, 110 A.2d at page 407: '"* * By a host of authorities, Federal and State alike, it has been held that a law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be attained. Under the guise of protecting the public interests the legislature may not arbitrarily interfere with private business or impose unusual or unnecessary restrictions upon lawful occupations. The question whether any particular statutory provision is so related to the public good and so reasonable

COMMONWEALTH v. STONE
Cite as 155 A.2d 453

in the means it prescribes as to justify the exercise of the police power, is one for the judgment, in the first instance, of the law-making branch of the government, but its final determination is for the courts" '."

[2] Is budget planning, as defined in the act, against the public interest? It should be noted that the act does not specifically say that it is. The act does permit lawyers to do it if it is incidental to their general practice of law. The Commonwealth argues that the planner's activity in collecting and distributing the debtor's money "affords the budget planner the opportunity to defraud the public." The mere *possibility*, however, that one engaged in a lawful business may also engage in unlawful practices is no justification for prohibiting the business, if it be a legitimate one in the first instance. Practically every business and profession affords an opportunity for those engaging in it to perform reprehensible acts but this is no reason why persons should be denied the opportunity to engage in a lawful business. A similar contention was made by the Commonwealth but rejected by the Supreme Court in Com. ex rel. Woodside v. Sun Ray Drug Co., supra, 383 Pa. at page 11, 116 A.2d at page 838, wherein the Court stated: "The contention of the Commonwealth when reduced to its essentials is that the common good or general welfare is protected by the prohibition of the sale of Malt-A-Plenty base as such to retailers because such sales create *a possibility* of confusing, defrauding or deceiving the public in that the retailer *may* sell the base as ice cream. As has been previously pointed out, Commonwealth v. Crowl [52 Pa.Super. 539] did not go that far. It merely sustained the legislation as constitutional on the assumption that it prohibited the sale of such products *as ice cream* where such products have less than the minimum butterfat content. In such a case the deception or possibility of deception is obvious. If, in the instant case, there had been any evidence of sales of the Malt-A-Plenty base as ice cream, such sales could unquestionably be restrained."

In the instant case, it goes without saying that should any one engage in reprehensible practices as a business budget planner, the Commonwealth has a speedy and adequate remedy by criminal prosecution as well as other methods of legal restraint.

[3] In this connection we approve what Judge Homer L. Kreider so well said: "It cannot be denied that credit buying today is the keystone of economics in the consumer goods field. It is well known that millions of sales are made in the United States on the installment plan and that billions of dollars are involved in such transactions.[1] The public is constantly being urged to buy now and pay later and this seems to include almost everything from the cradle to the grave. This frequently results in persons or families over-extending themselves and their ability to pay for the many items they have purchased on credit. An unexpected cessation of employment or other untoward event may cause a drastic curtailment of installment payments and the consequent threat of repossession of the goods purchased on the time payment plan. When this melancholy moment arrives, the creditor may turn his claim over to a collection agency and thereby relieve himself to some extent of the stress and strain attendant upon the collection of the debt.[2]

"1. The enormous growth of installment buying is graphically set forth in the news letter of July 13, 1959 issued by Business News Associates, Inc., New York, wherein it is stated: 'Consumers hiked their outstanding instalment debt load by a seasonally adjusted $443 million in May, the largest single monthly increase since September 1955 (at the peak of the last credit surge). Moreover, the increase carried outstanding instalment debt to a record $35 billion, toppling the $34.5 billion record set only a month earlier. New credit extended during the month spurted to more than $4 billion on an adjusted basis, also setting a new record.' "

[2] In Com. v. United States Commercial Services, Inc., 179 Pa.Super. 395, 116 A.2d 745, the gist of the offense was that

The debtor, on the other hand, is prohibited by the Act of Assembly in question from paying a certain amount of money periodically to a person engaged in the budget planning business, who shall, for a consideration, 'distribute the same among certain specified creditors in accordance with a plan agreed upon.' We see no sound reason for thus discriminating against the debtor. Counsel for the defendant in his brief says that research fails to disclose a similar statute in any other state in the Union, that it appears this statute is unique and original in its prohibition. * * *"

In Adams v. Tanner, 244 U.S. 590, 37 S. Ct. 662, 61 L.Ed. 1336, a state statute making it a misdemeanor to engage in the employment agency business for a fee was held unconstitutional because it was in violation of the 14th Amendment to the Constitution of the United States of America. The Supreme Court of the United States held that the business was not inherently immoral or dangerous to the public welfare and therefore should not be prohibited, although it could be regulated. That Court, 244 U.S. at page 593, 37 S.Ct. at page 663, said: "The statute is one of prohibition, not regulation. * * *

"We have held employment agencies are subject to police regulation and control. 'The general nature of the business is such that, unless regulated, many persons may be exposed to misfortunes against which the legislature can properly protect them.' Brazee v. People of State of Michigan, 241 U.S. 340, 343, 36 S.Ct. 561, 60 L.Ed. 1034, 1036. But we think it plain that there is nothing inherently immoral or dangerous to public welfare in acting as paid representative of another to find a position in which he can earn an honest living. On the contrary, such service is useful, commendable, and in great demand. In Spokane v. Macho, 51 Wash. 322, 324, 98 P. 755, 21 L.R.A.,N.S., 263, the supreme court of Washington said: 'It cannot be denied that the business of the employment agent is a legitimate business; as much so as is that of the banker, broker, or merchant; and under the methods prevailing in the modern business world it may be said to be a necessary adjunct in the prosecution of business enterprises.'"

Orders affirmed.

HIRT and GUNTHER, JJ., absent.

though the collection agency could represent a creditor and charge a reasonable fee for such services, it could not repre-

Mr. WHITENER. Now, I note that this publication further says that another type of exemption is—and maybe this would cover our Chapter 13 proposition—"judicial officers or others acting pursuant to court order."

Do you think that exemption might properly be written into H.R. 9806?

Mr. KNEIPP. Yes, sir, I think so. Or, as an alternative, the language I suggested earlier. "Nothing herein contained shall be construed as superseding or amending—"

Mr. WHITENER. It occurs to me if these seven states have identical language already, it may be better to follow the accepted language.

I note they say that five states exempt non-profit organizations. "The exemption is only if no charge is made for the service." Delaware and Hawaii permit a nominal charge, the reimbursement of expenses. New Mexico exempts such an organization when it is organized as a community effort to assist debtors. Pennsylvania exempts welfare agencies which act as debt poolers on behalf of debtors without compensation and profit.

Under your bill the non-profit organization would have no limitation on charges.

Mr. KNEIPP. A nominal sum. They are authorized to charge and collect nominal sums for reimbursement for expenses in connection with such services. The last part of Section 3 of the Broyhill bill.

Mr. WHITENER. You would interpret that to mean a non-profit organization could do no more than recoup its out-of-pocket expenses?

Mr. KNEIPP. Yes, sir.

Mr. WHITENER. Now, they say here that five states exempt full-time employees of a debtor to act as the adjuster of his employer's debt. Four states exempt a creditor when he adjusts a service without charge. What do you think of those exemptions?

Mr. KNEIPP. They seem reasonable, but there may be room for abuse unless they are very carefully circumscribed. I can see what might be involved.

For instance, a person who owes money to Woodward & Lothrop and Hecht's and Garfinkel's might have somebody in Woodward & Lothrop help him adjust his debt and prorate the payments among the three stores. I think that that might be a reasonable approach and it may be part of the Board of Trade's approach. I am not aware of it.

Mr. WHITENER. It appears also that Oklahoma excepts retail merchants trade associations and non-profit groups formed to collect accounts and exchange credit information. I suppose you agree that such an organization might have a credit bureau attached to it?

Mr. KNEIPP. I don't believe the Metropolitan Washington Board of Trade has such a facility and I don't believe the D.C. Chamber of Commerce does.

Mr. WHITENER. On page 8 of the Department of Labor publication—perhaps some of these are repetitious, but is says the usual exemptions are, (1) attorneys; (2) banks, fiduciaries, banks and lending institutions duly authorized and permitted to do business in the states.

This bill does not exempt those institutions.

(3) Title insurors and abstract companies while doing an escrow business. Do you think that would be a worthwhile addition?

Mr. KNEIPP. Mr. Whitener, I haven't really analyzed the type of operation that might be engaged in by a bank or title company under these circumstances. The business, in my view, is one where an individual turns over his paycheck and then has it parceled out among his debtors for a fee.

Now, whether a bank or a title company would be in this same position, I don't quite see how they would.

Mr. WHITENER. Perhaps we should hear from them or their association before we act finally. Have they been advised of our hearings?

Mr. SISK. I think the suggestion is a good one that at least they be given an opportunity to make a statement or to testify. I am not sure how long these hearings will be kept open.

Mr. WHITENER. Exemption (4) is employees of licensees when acting in the normal course of their employment. I suppose that is a licensee under the state law.

(5) Judicial officers or others acting pursuant to court order. We have already dealt with that.

(6) Non-profit religious, fraternal or cooperative organizations offering debt pooling services for their members. We haven't discussed that one. What do you think about an exemption where these organizations are limited to rendering this service for their members?

Mr. KNEIPP. I think that would be included within Section 3 of the Broyhill Bill.

Mr. WHITENER. Exemption (7) Employers offering debt pooling services exclusively for their employees.

Mr. KNEIPP. I think that would be a good addition; yes.

Mr. WHITENER. Now, I note further that the exemption of attorneys under the laws of several states is applicable only when the debt pooling occurs in the normal course of their practice, as we have discussed.

In Oregon, it is is applicable to attorneys, who do not specialize in the business of debt pooling.

In Wisconsin it says there are no exemptions.

I think those are things we should consider. I think we might also point out to you and the other interested parties that Mr. Adams advises that his state legislature, in the State of Washington, has also recently enacted a regulatory statute which he has furnished us.

What type of situation did you have in mind when you were discussing the inability of the lender to counsel the type of debtor we are talking about the legality of the contract or the debt?

Mr. KNEIPP. For example, under the District of Columbia Motor Vehicle Installment Sales Act there is a requirement that contracts shall be fully filled out before they are signed by the buyer and the seller and that the notes that might be given be filled out.

Now if, for example, the buyer signs the contract in blank without all of the blanks having been filled in, this would be in violation of District law. It might come about, and I think it has in the past, that the amounts are changed after the papers have been executed by the buyer.

Now, this, to me, would be fraud. Then this would be fraud in the inception of the contract. It would be a real defense that the buyer would have against the seller. Yet he may not know this and the debt adjuster merely wants to know how much he owes. The man says, "Well, I owe the ABC Motor Company $500," not knowing that the

contract was not a valid one to start with. This is what I have in mind, sir.

Mr. WHITENER. There may be a wife whose husband has accepted obligations that are not legally her obligation, or a minor may be involved.

Mr. KNEIPP. As I indicated in my statement, the debt adjuster has a vested interest in not finding any infirmities in the underlying contracts.

Mr. WHITENER. His fee is geared to his pay-out?

Mr. KNEIPP. Yes.

Mr. WHITENER. Somewhat like the executor of an estate.

Mr. SISK. The gentleman from Maryland?

Mr. GUDE. I have no questions at this time, Mr. Sisk. But, I think it would be appropriate to insert in the record the U.S. Supreme Court's opinion in the case of *Ferguson* vs. *Skrupa*, and I ask permission to have it inserted in the record. The Court in this case upheld the constitutionality of the Kanas law outlawing debt-adjusting in that State.

Mr. SISK. Without objection, the copy of the opinion will be placed in the record.

(The document referred to appears on pp. 63–69:)

Mr. SISK. Mr. Kneipp, we thank you very much for your testimony this morning.

The committee might wish to discuss some points further for possible amendments. I would assume you would be available should we call you?

Mr. KNEIPP. I will be glad to be, sir.

Thank you, Mr. Chairman.

Mr. SISK. At this time the committee will be glad to hear from Mr. Morris Rabinowitch, President, California Association of Credit Counselors, and of Financial Counselors, San Francisco, California.

I might say to the committee that I know Mr. Rabinowitch and something about his operation in California. I know him to be a gentleman of integrity and he is certainly a highly respected citizen of our state of California. Without additional stating of my position one way or another on the testimony he will be giving, I do welcome a fellow citizen from our great state of California.

At this time the committee will be glad to hear you, Morris.

Were there other attachments you also wanted to make a part of the record?

STATEMENT OF MORRIS RABINOWITCH, LEGISLATIVE DIRECTOR, AMERICAN ASSOCIATION OF CREDIT COUNSELORS, AND PRESIDENT, CALIFORNIA ASSOCIATION OF CREDIT COUNSELORS, AND OF FINANCIAL COUNSELORS, SAN FRANCISCO, CALIFORNIA

Mr. RABINOWITCH. Yes, there was, Congressman. I think I have submitted copies of the surveys of the State of Illinois Financial Advisory Board on Financial Institutions. I will leave you with a copy of letters from the National Better Business Bureaus and letters from various officials and credit grantors and people throughout the country as an exhibit for this committee if I may, after the testimony.

Mr. SISK. At this point your statement will be made a part of the record, without objection.

*[372 US 726]

*WILLIAM M. FERGUSON, Attorney General for the State of Kansas, et al., Appellants,

v

FRANK C. SKRUPA, doing business as Credit Advisors

372 US 726, 10 L ed 2d 93, 83 S Ct 1028, 95 ALR2d 1347

[No. 111]

Argued March 20, 1963. Decided April 22, 1963.

SUMMARY

A Kansas statute makes it a misdemeanor for any person to engage "in the business of debt adjusting" except as an incident to the lawful practice of law, the statute defining "debt adjusting" as the making of a contract with a particular debtor whereby the debtor agrees to pay a certain amount of money periodically to the adjuster, who shall for a consideration distribute the money among specified creditors in accordance with a plan agreed upon.

The plaintiff, engaged in the business of "debt adjusting," instituted the present suit in the United States District Court for the District of Kansas to enjoin the enforcement of the statute on the ground that it violated plaintiff's rights under the due process clause of the Fourteenth Amendment. The District Court, sitting as a three-judge court, granted the relief asked for. (210 F Supp 200.)

On appeal, the Supreme Court of the United States reversed. In an opinion by BLACK, J., expressing the views of eight members of the Court, it was held that the statute did not violate the due process clause nor, by excepting lawyers, deny the equal protection of the laws to nonlawyers.

HARLAN, J., concurred in the judgment on the ground that the state statute bore a rational relation to a constitutionally permissible objective.

HEADNOTES

Classified to U. S. Supreme Court Digest, Annotated

Appeal and Error § 327 — to Supreme Court — from three-judge District Court — injunction.

1. Under 28 USC § 1253, a judgment of a three-judge District Court enjoining, as being in violation of the due process clause of the Fourteenth Amendment, a state statute making it a misdemeanor to engage in the business of "debt adjusting" except as an incident to the lawful practice of law, is properly brought before the United States Supreme Court by appeal.

Courts § 103 — inquiry into wisdom and utility of legislation.

2. Under the system of government created by the Federal Constitution it is up to legislatures, not courts, to decide on the wisdom and utility of legislation.

Constitutional Law § 513 — due process — functions of courts.

3. Due process does not authorize courts to hold laws unconstitutional when they believe the legislature has acted unwisely.

Courts § 103 — inquiry into appropriateness of legislation.

4. Courts do not substitute their social and economic beliefs for the judgment of legislative bodies, and are not concerned with the wisdom, need, or appropriateness of legislation.

Courts § 92.7 — judicial and legislative functions distinguished.

5. Legislative bodies have broad scope to experiment with economic problems, and the United States Supreme Court does not sit to subject a state to an intolerable supervision hostile to the basic principles of American government and wholly beyond the protection which the general clause of the Fourteenth Amendment is intended to secure.

Constitutional Law § 634 — due process — state power to legislate.

6. The due process clause of the Fourteenth Amendment does not deny a state the power to legislate against what are found to be injurious practices in their internal commercial and business affairs, so long as its laws do not run afoul of some specific federal constitutional prohibition or of some valid federal law.

Constitutional Law § 710 — prohibition of business of "debt adjusting."

7. The due process clause of the Fourteenth Amendment is not violated by a state statute making it a misdemeanor to engage in the business of "debt adjusting" except as an incident to the lawful practice of law; a state legislature is free to decide for itself that legislation is needed to deal with that business.

Constitutional Law § 634 — due process — "prohibitory" or "regulatory" statutes.

8. In determining whether a state statute dealing with a business violates the due process clause of the Fourteenth Amendment, the United States Supreme Court will not draw lines by calling the statute "prohibitory" or "regulatory."

Courts § 153 — wisdom of statute dealing with business of "debt adjusting."

9. Relief against a state statute dealing with the business of "debt adjusting," if any be needed because the statute is unwise, lies not with the courts but with the body constituted to pass laws for the state.

Constitutional Law § 440.5 — equal protection of laws — statute prohibiting business of "debt adjusting" — exception of lawyers.

10. A state statute making it a misdemeanor for any person to engage in the business of "debt adjusting" except as an incident to the lawful practice of law does not deny to nonlawyers the equal protection of the laws.

Constitutional Law §§ 316, 317 — equal protection of laws — discrimination — classification.

11. Statutes create many classifications which do not deny equal protection; it is only invidious discrimination which offends the Federal Constitution.

Debtor and Creditor § 1 — business of "debt adjusting."

12. The business of "debt adjusting" gives rise to a relationship of trust in which the debt adjuster will, in a situation of insolvency, be marshaling assets in the manner of a proceeding in bankruptcy.

Constitutional Law §§ 440.5, 710 — equal protection of laws — due process — title of statute dealing with "debt adjusting."

13. The Fourteenth Amendment is not violated by the failure of the title of a state statute dealing with "debt adjusting" to be as specific as required under the state constitution.

FERGUSON v SKRUPA 95

372 US 726, 10 L ed 2d 93, 83 S Ct 1028, 95 ALR2d 1347

APPEARANCES OF COUNSEL

William M. Ferguson argued the cause for appellants.
Lawrence Weigand argued the cause for appellee.
Briefs of Counsel, p. 1113, infra.

OPINION OF THE COURT

Mr. Justice **Black** delivered the opinion of the Court.

In this case, properly here on appeal under 28 USC § 1253, we are asked to review the judgment of a three-judge District Court enjoining, as being in violation of the Due Process Clause of the Fourteenth Amendment, a Kansas statute making it a misdemeanor for any person to engage "in the business of debt ad- *[372 US 727] justing" except as *an incident to "the lawful practice of law in this state."[1] The statute defines "debt adjusting" as "the making of a contract, express, or implied with a particular debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaged in the debt adjusting business who shall for a consideration distribute the same among certain specified creditors in accordance with a plan agreed upon."

Headnote 1

The complaint, filed by appellee Skrupa doing business as "Credit Advisors," alleged that Skrupa was engaged in the business of "debt adjusting" as defined by the statute, that his business was a "useful and desirable" one, that his business activities were not "inherently immoral or dangerous" or in any way contrary to the public welfare, and that therefore the business could not be "absolutely prohibited" by Kansas. The three-judge court heard evidence by Skrupa tending to show the usefulness and desirability of his business and evidence by the state officials tending to show that "debt adjusting" lends itself to grave abuses against distressed debtors, particularly in the lower income brackets, and that these abuses are of such gravity that a number of States have strictly regulated "debt adjusting" or prohibited it alto- *[372 US 728] gether.[2] The *court found that Skrupa's business did fall within the Act's proscription and concluded, one judge dissenting, that the Act was prohibitory, not regulatory, but that even if construed in part as regulatory it was an unreasonable regulation of a "lawful business," which the court held amounted to a violation of the Due Process Clause of the Fourteenth Amendment. The court

1. Kan Gen Stat (Supp 1961) § 21-2464.

2. Twelve other States have outlawed the business of debt adjusting. Fla Stat Ann (1962) §§ 559.10-559.13; Ga Code Ann (Supp 1961) §§ 84-3601 to 84-3603; Me Rev Stat Ann (Supp 1961) c. 137, §§ 51-53; Mass Gen Laws Ann (1958) c. 221, § 46C; NJ Stat Ann (Supp 1962) 2A:99A-1 to 2A:99A-4; NY Penal Law (Supp 1962) §§ 410-412; Ohio Rev Code Ann (1962 Supp) §§ 4710.01-4710.99; Okla Stat Ann (Supp 1962) Tit 24, §§ 15-18; Pa Stat Ann (Supp 1961) Tit 18, § 4899; Va Code Ann (1958) § 54-44.1; W Va Code Ann (1961) § 6112(4); Wyo Stat Ann (1957) §§ 33-190 to 33-192. Seven other States regulate debt adjusting. Cal Fin Code Ann (1955 and Supp 1962) §§ 12200-12331; Ill Stat Ann (Supp 1962) c. 16½, §§ 251-272; Mich Stat Ann (Supp 1961) §§ 23.630(1)-23.630(18); Minn Stat Ann (1947 and 1962 Supp) §§ 332.04-332.11; Ore Rev Stat (1961) §§ 697.610-697.992; RI Gen Laws (Supp 1962) §§ 5-42-1 to 5-42-9; Wis Stat Ann (1957) § 218.02. The courts of New Jersey have upheld a New Jersey statute like the Kansas statute here in question. American Budget Corp. v Furman, 67 NJ Super 134, 170 A2d 63, affd per curiam, 36 NJ 129, 175 A2d 622 (1961).

accordingly enjoined enforcement of the statute.[3]

The only case discussed by the court below as support for its invalidation of the statute was Commonwealth v Stone, 191 Pa Super 117, 155 A2d 453 (1959), in which the Superior Court of Pennsylvania struck down a statute almost identical to the Kansas act involved here. In Stone the Pennsylvania court held that the State could regulate, but could not prohibit, a "legitimate" business. Finding debt adjusting, called "budget planning" in the Pennsylvania statute, not to be "against the public interest" and concluding that it could "see no justification for such interference" with this business, the Pennsylvania court ruled that State's statute to be unconstitutional. In doing so, the Pennsylvania court relied heavily on Adams v Tanner, 244 US 590, 61 L ed 1336, 37 S Ct 662, LRA1917F 1163 (1917), which held that the Due Process Clause forbids a State to prohibit a business which is "useful" and not "inherently immoral or dangerous to public welfare."

Both the District Court in the present case and the Pennsylvania court in Stone adopted the philosophy of Adams v Tanner, and cases like it, that it is the province of courts to draw on their own views as

*[372 US 729]

to the morality, *legitimacy, and usefulness of a particular business in order to decide whether a statute bears too heavily upon that business and by so doing violates

Headnote 2

due process. Under the system of government created by our Constitution, it is up to legislatures, not courts, to decide on the wisdom and utility of legislation. There was a time when the Due Process Clause was used by this Court to strike down laws which were thought unreasonable, that is, unwise or incompatible with some particular economic or social philosophy. In this manner the Due Process Clause was used, for example, to nullify laws prescribing maximum hours for work in bakeries, Lochner v New York, 198 US 45, 49 L ed 937, 25 S Ct 539 (1905), outlawing "yellow dog" contracts, Coppage v Kansas, 236 US 1, 59 L ed 441, 35 S Ct 240, LRA1915C 960 (1915), setting minimum wages for women, Adkins v Children's Hospital, 261 US 525, 67 L ed 785, 43 S Ct 394, 24 ALR 1238 (1923), and fixing the weight of loaves of bread, Jay Burns Baking Co. v Bryan, 264 US 504, 68 L ed 813, 44 S Ct 412, 32 ALR 661 (1924). This intrusion by the judiciary into the realm of legislative value judgments was strongly objected to at the time, particularly by Mr. Justice Holmes and Mr. Justice Brandeis. Dissenting from the Court's invalidating a state statute which regulated the resale price of theatre and other tickets, Mr. Justice Holmes said, "I think the proper course is to recognize that a state legislature can do whatever it sees fit to do unless it is restrained by some express prohibition in the Constitution of the United States or of the State, and that Courts should be careful not to extend such prohibitions beyond their obvious meaning by reading into them conceptions of public policy that the particular Court may happen to entertain."[4]

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3. Skrupa v Sanborn, 210 F Supp 200 (DC D Kan 1961).

4. Tyson & Bro. — United Theatre Ticket Officers v Banton, 273 US 418, 445, 446, 71 L ed 718, 729, 47 S Ct 426, 58 ALR 1236 (1927) (dissenting opinion). Mr. Justice Brandeis joined in this dissent, and Mr. Justice Stone dissented in an opinion joined by Mr. Justice Holmes and Mr. Justice Brandeis. Mr. Justice Sanford dissented separately.

*[372 US 730]

*And in an earlier case he had emphasized that, "The criterion of constitutionality is not whether we believe the law to be for the public good."[5]

The doctrine that prevailed in Lochner, Coppage, Adkins, Burns, and like cases—that due

Headnote 3

process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded. We have returned to the original constitutional proposition that courts do not substitute their social and

Headnote 4

economic beliefs for the judgment of legislative bodies, who are elected to pass laws. As this Court stated in a unanimous opinion in 1941, "We are not concerned . . . with the wisdom, need, or appropriateness of the legislation."[6] Legislative bodies have broad scope to experi-

Headnote 5

ment with economic problems, and this Court does not sit to "subject the State to an intolerable supervision hostile to the basic principles of our Government and wholly beyond the protection which the general clause of the Fourteenth Amendment was intended to secure."[7] It is now settled that States "have power to legislate against what are found

Headnote 6

to be injurious practices in their internal commercial and business affairs, so long as

*[372 US 731]

their laws do *not run afoul of some specific federal constitutional prohibition, or of some valid federal law."[8]

In the face of our abandonment of the use of the "vague contours"[9] of the Due Process Clause to nullify laws which a majority of the Court believed to be economically unwise, reliance on Adams v Tanner is as mistaken as would be adherence to Adkins v Children's Hospital, overruled by West Coast Hotel Co. v Parrish, 300 US 379, 81 L ed 703, 57 S Ct 578, 108 ALR 1330 (1937). Not only has the philosophy of Adams been abandoned, but also this Court almost 15 years ago expressly pointed to another opinion of this Court as having "clearly undermined" Adams.[10] We conclude that

5. Adkins v Children's Hospital, 261 US 525, 567, 570, 67 L ed 785, 800, 801, 43 S Ct 394, 24 ALR 1238 (1923) (dissenting opinion). Chief Justice Taft, joined by Mr. Justice Sanford, also dissented. Mr. Justice Brandeis took no part.

6. Olsen v Nebraska, 313 US 236, 246, 85 L ed 1305, 1309, 61 S Ct 862, 133 ALR 1500 (1941) (upholding a Nebraska statute limiting the amount of the fee which could be charged by private employment agencies).

7. Sproles v Binford, 286 US 374, 388, 76 L ed 1167, 1178, 52 S Ct 581 (1932). And Chief Justice Hughes, for a unanimous Court, added, "When the subject lies within the police power of the State, debatable questions as to reasonableness are not for the courts but for the legislature, which is entitled to form its own judgment, and its action within its range of discretion cannot be set aside because compliance is burdensome." 286 US at 388, 389.

8. Lincoln Federal Labor Union, A. F. L. v Northwestern Iron & Metal Co. 335 US 525, 536, 93 L ed 212, 220, 69 S Ct 251, 260, 267, 6 ALR2d 473 (1949).

Mr. Justice Holmes even went so far as to say that "subject to compensation when compensation is due, the legislature may forbid or restrict any business when it has a sufficient force of public opinion behind it." Tyson & Bro.-United Theatre Ticket Officers v Banton, 273 US 418, 445, 446, 71 L ed 718, 729, 47 S Ct 426, 58 ALR 1236 (1927) (dissenting opinion).

9. See Adkins v Children's Hospital, 261 US 525, 567, 568, 67 L ed 785, 800, 43 S Ct 394, 24 ALR 1238 (1923) (Holmes, J., dissenting).

10. Lincoln Federal Labor Union, A. F. L. v Northwestern Iron & Metal Co. 335 US 525, 535, 93 L ed 212, 220, 69 S Ct 251, 260, 267, 6 ALR2d 473 (1949), referring to Olsen v Nebraska, 313 US 236,

the Kansas Legislature was free to decide for itself that legislation was needed to deal with the business of debt adjusting. Unquestionably, there are arguments showing that the business of debt adjusting has social utility, but such arguments are properly addressed to the legislature, not to us. We refuse to sit as a "superlegislature to weigh the wisdom of legislation,"[11] and we emphatically refuse to go back to the time when courts used the Due Process Clause "to strike down state laws, regulatory of business and industrial conditions, because they

*[372 US 732]

may be unwise, improvident, *or out of harmony with a particular school of thought."[12] Nor are we able or willing to draw lines by calling a law "prohibitory" or "regulatory." Whether the legislature takes for its textbook Adam Smith, Herbert Spencer, Lord Keynes, or some other is no concern of ours.[13] The Kansas debt adjusting statute may be wise or unwise. But relief, if any be needed, lies not with us but with the body constituted to pass laws for the State of Kansas.[14]

Headnote 7

Headnote 8

Headnote 9

Nor is the statute's exception of lawyers a denial of equal protection of the laws to nonlawyers. Statutes create many classifications which do not deny equal protection; it is only "invidious discrimination" which offends the Constitution.[15] The business of debt adjusting gives rise to a relationship of trust in which the debt adjuster will, in a situation of insolvency, be marshalling assets in the manner of a proceeding in bankruptcy. The debt adjuster's client may need advice as to the legality of the various claims against him, remedies existing under state laws governing debtor-creditor relationships, or provisions of the Bankruptcy Act—advice which a nonlawyer cannot lawfully give him. If the State of Kansas wants to limit debt adjusting to lawyers,[16] the Equal Protection

*[372 US 733]

*Clause does not forbid it. We also find no merit in the contention that the Fourteenth Amendment is violated by the failure of the Kansas statute's title to be as specific as appellee thinks it ought to be under the Kansas Constitution.

Headnote 10

Headnote 11

Headnote 12

Headnote 13

Reversed.

85 L ed 1305, 61 S Ct 862, 133 ALR 1500 (1941). Ten years later, in Breard v Alexandria, 341 US 622, 631, 632, 95 L ed 1233, 1242, 71 S Ct 920, 35 ALR2d 335 (1951), this Court again commented on the infirmity of Adams.

11. Day-Brite Lighting, Inc. v Missouri, 342 US 421, 423, 96 L ed 469, 472, 72 S Ct 405 (1952).

12. Williamson v Lee Optical of Okla., Inc. 348 US 483, 488, 99 L ed 563, 572, 75 S Ct 461 (1955).

13. "The Fourteenth Amendment does not enact Mr. Herbert Spencer's Social Statics." Lochner v New York, 198 US 45, 74, 75, 49 L ed 937, 948, 949, 25 S Ct 539 (1905) (Holmes, J., dissenting).

14. See Daniel v Family Secur. Life Ins. Co. 336 US 220, 224, 93 L ed 632, 636, 69 S Ct 550, 10 ALR2d 945 (1949); Secretary of Agriculture v Central Roig Refining Co. 338 US 604, 618, 94 L ed 381, 392, 70 S Ct 403 (1950).

15. See Williamson v Lee Optical of Okla., Inc. 348 US 483, 488, 489, 99 L ed 563, 572, 573, 75 S Ct 461 (1955); Lindsley v Natural Carbonic Gas Co. 220 US 61, 78, 79, 55 L ed 369, 377, 31 S Ct 337 (1911).

16. Massachusetts and Virginia prohibit debt pooling by laymen by declaring it to constitute the practice of law. Mass Gen Laws Ann (1958) c. 221, § 46C; Va Code Ann (1958) § 54-44.1. The Massachusetts statute was upheld in Home Budget Service, Inc. v Boston Bar Asso. 335 Mass 228, 139 NE2d 387 (1957).

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372 US 726, 10 L ed 2d 93, 83 S Ct 1028, 95 ALR2d 1347

Mr. Justice Harlan concurs in the judgment on the ground that this state measure bears a rational relation to a constitutionally permissible objective. See Williamson v Lee Optical of Okla., Inc. 348 US 483, 491, 99 L ed 563, 574, 75 S Ct 461.

(The prepared statement of Mr. Rabinowitch follows:)

Congressman Sisk, Members of the Committee

My name is Morris Rabinowitch, of California, representing the American Association of Credit Counselors and speaking to the two bills, HR8929 and HR9806, which are now before this Committee.

It is my intention, on behalf of the members of the Association and affiliated members throughout the United States to clarify our position in the current discussions regarding credit counselling and financial management. Neither I nor the Association has nor do we at any time intend to defend, excuse or alibi for any abuses that may have occurred, whether it be in the District of Columbia or any other community. Our purpose in being here today is to request strict regulatory legislation and enforcement thereof in the field of credit counselling for the protection and benefit of the consumer.

While we in the field of credit counselling are no more anxious than any other business or service to have government regulation, we have long recognized the necessity for such regulation. We know that, acting as fiduciaries as we do, we must have regulation and enforcement beyond that which the industry itself can provide. It is for this reason that the American Association of Credit Counsellors has, openly, actively and continuously, worked for such legislation and the enforcement thereof.

As far back as the early 1950's, a number of us who had pioneered in the field became alarmed at certain abuses, of the kind that have been alleged in the District of Columbia. We recognized the need for fixed standards of professional conduct in the interest of the consumer and the creditor.

Although at the time we were well aware that adverse publicity would reflect on the innocent as well as the guilty, nevertheless, in strategic areas across the country, we set about to bring offences to light, to expose them to the glare of publicity, and to use the resultant publicity in our efforts to obtain regulatory legislation.

In Chicago, where abuses to consumers were extreme, Mr. Price Patton headed a campaign to unearth instances of malpractice, bring them to the attention of civic leaders and public officials and, eventually, to sponsor and finally obtain regulatory legislation in Illinois. We are proud that the administrative body of the State of Illinois adopted a code for acceptance or rejection of advertising which was developed by our Association, in conjunction with the Better Business Bureau of Chicago. In June of 1967, a survey made by the Illinois Advisory Board on Financial Planning showed not only that the results of financial counselling services were beneficial, but that in communities where no such service was in existence, it is actively needed and desired. Copies of this survey are here provided.

In the State of Oregon, prior to the enactment of regulatory legislation, there was a serious case of defalcation by one individual. Again, it was a member of the Association, Mr. Lewis Finney, who came forward to lead the fight for constructive legislation. Since the enactment of this legislation in the state of Oregon, we have been unable to find any instances of abuses in that state.

In Michigan, Mr. Morris Purdy, one of our senior members, together with others in the American Association of Credit Counsellors, was finally successful in his efforts to obtain regulatory legislation which has since worked effectively in the interest of the consumer.

I am very proud of the results we have had in California, where in 1957 legislation was enacted that has served as a model for other states. Since the enactment of this legislation, not one instance of malpractice has been proved in California. To substantiate this, I am providing copies of my wire to the California Better Business Bureaus in the major population centers and the replies thereto. I would like to point out the unanimity of the replies in stating that there have been no reports of abuses. I would also like to quote two paragraphs from one letter of reply which points up the difference regulation makes by

comparing the situation in California to that in another state which is unregulated:

"Our files here on two such firms operating in this area are complaint free, however the files do not go as far back in information as 1957, when you advised legislation was enacted in this field. Therefore I cannot compare today's situation with what may have existed prior to that legislation.

"I do know, however, that because there was a lack of such state legislation in Nevada, our office in Reno had many complaints about debt prorating services. However, those complaints were mainly against one or two proraters and were not evenly spread amongst all those in that field of business."

Financial counselling services have developed in response to demand. At the present time in this country, consumer credit is being extended at the rate of one-half billion dollars a month. In 1946, credit extended to consumers amounted to only 6 billion. By 1967 it amounts to a figure in excess of 97 billion. $11.6 billion is absorbed annually in interest charges on this consumer indebtedness alone. This does *not* include interest on home mortgages.

There has also been a serious lag in education in consumer credit living to keep pace with the rapid expansion of consumer credit extension. It has been estimated that 30% of families in California are unable to meet the monthly obligations they have incurred. Throughout the past decade there has been a tremendous increase in wageearners' bankruptcies and home foreclosures, even in these times of prosperity. Federal Reserve Board figures indicate that 32% of families are spending more than they earn. Thus, the need is to help such families work out plans to pay off their obligations, and educate them in learning to live within their incomes. For the professional in financial counselling does not just help "pay the bills," he advises, counsels, and—as one national magazine puts it—"Is part father, part psychiatrist, part accountant and even the 'economic confessor' to his clients."

In 1965, a survey indicated that in that year professional credit counsellors interviewed 189,150 families. Of this number, 58,800 were counseled without fee. This number included two categories of consumer-debtors: those whose problems could be solved with some advice and a few telephone calls to creditors on their behalf. The remainder were those so hopelessly mired down in debt that they could not be helped by credit counselling services. One hundred and thirty thousand family financial programs were instituted by counsellors, which means that 130,000 families are being returned to good credit standing as a result of being taught principles of sound financial management.

It cannot be overemphasized that the primary and continuing responsibility of the credit counsellor is to relieve the consumer of the burden of indebtedness and teach him to live within his means.

It should be noted that the small business man has long had available to him similar services to those we offer the individual. Boards of Trade, Wholesale Credit Managers Associations, and so on, do for the business man just what we do—give him the opportunity to rehabilitate himself and liquidate his obligations in an orderly way.

Now, recognizing that a need has been created and a service developed to fill that need, why should there be opposition to regulatory legislation for the protection of the consumer using such services? Where there is such opposition, three questions should be asked: Who opposes it? Why? Whose interest is served by such opposition?

There is a segment of the financial community which specializes in high rate loans. There is a tendency on their part to prefer that the consumer-debtor resort to Chapter Thirteen as a solution for his difficulties, rather than use the services of credit counsellors.

In 1956, for instance, I visited an individual who is a representative of one of the national loan companies. At that time, he was disturbed and upset because I had taken issue publicly with certain credit grantors, feeling as I did that they were concerned more with the quantity of credit they could extend than they were with the quality of it. I felt this was a danger to the debtor and the creditor, as well as to the economy itself.

This individual told me that I was fanning the flames of Communism and giving them material to use in their criticism of capitalistic Practices. He also contended that there was no danger of delinquencies as a result of overextended credit. Ten years later, this same person is lamenting the tremendous increase in personal bankrupticies, but he attributes this to every other cause but his own industry's practices, still denying that overextension of credit *is* the root cause of the problem.

Oddly enough, in the publication of which this man is an editor, an article appeared which estimated that 78.6% of the personal indebtedness in this country is made up of personal loans owed to financial institutions.

As credit counsellors, we deplore the practices of those who have abandoned all morality in regard to the consumer and who employ every possible technique available to prevent the consumer-debtor from becoming debt-free. The same individual who spoke so sharply to me is an avowed advocate of Chapter XIII proceedings for the consumer-debtor as a lowcost means of getting relief. I have figures with me, of which I have made copies available to you, to show that Chapter XIII costs—as an average—are over twice as much as would be the cost of professional counselling.

This study made of Chapter XIII proceedings in Northern California uses the actual case numbers for ready verification of the facts shown here. Exhibit "A" shows the cost of Chapter XIII to the consumer ranging from 17.6% to 35.5% of the total indebtedness, as against an absolute maximum in California of 12% for credit counselling. Exhibit "B" is a dollars and cents breakdown showing savings in actual dollars—said savings to the debtor would have ranged from $212 to $292, as per the exhibit. It was as a result of this survey that I wrote to President Johnson as long ago as February of 1964, protesting the exorbitant cost to the debtor of Chapter XIII.

In the matter of nonprofit counselling services, it has been wrongly asserted that our industry opposes such services, fearing competition. Actually, the reverse is true. We are well aware that credit counselling services should be available to the public from a variety of sources. As far back as 1959, through the efforts of our then president, Mr. Henry Kasson, we began a program of offering services, assistance, and printed materials to be distributed to consumer-oriented organizations.

On August 27, 1962, when I was president of the Association, replying to a letter from Paul Mendenhall, of the AFL–CIO, I extended an offer to assist them and any organization attempting to establish such services with any means at our command. This letter is submitted herewith in a collection of correspondence, articles and other documents which clearly show that our organization has been functioning in an active way to promote the entire field of credit counselling—along regulated lines.

It is not only in the matter of regulatory legislation that we have been active, incidentally. There have consistently been two opposite points of view with regard to "truth in lending," and "truth in advertising" laws. I believe you will find that the American Association of Credit Counsellors has provided the only support such legislation has received from the business and financial communities (of course, with the exception of the credit unions). We have without exception held that the consumer has the right and should have the opportunity to determine his purchases of goods and services on the basis of complete, accurate information.

We do feel that, profit or non-profit, any individual handling public funds should be bonded, licensed, have a sound background of training and experience in the extension of consumer credit, and be financially sound. Most importantly, we would insist that their purpose be sincerely and primarily to help the consumer relieve himself of debt.

In California, our personal experience with the establishing of nonprofit credit counselling has been quite beneficial to us in that, first, we are relieved of the responsibility and expense of counselling the indigent consumer, and, second, consumers are alerted to the existence and availability of our services.

You now have before you two proposed bills. One would abolish credit counselling service to the consumer unless it is dominated and controlled by creditors. The other is a regulatory bill. Returning to my contention that sound regulation eliminates malpractice, let me state unequivocally that to destroy or outlaw a sound, needed and growing service because of the dishonesty or incompetence of a few is an emotional, rather than a realistic approach. In any field, whether it be law, banking, the clergy, medicine, or philanthropy, there will be instances where isolated individuals exploit the confidence placed in them.

Over the past fifteen years a program of study has included: the testimony at various state legislative sessions; correspondence with Legal Aid Societies; correspondence of Better Business Bureaus; consultations with attorneys, credit unions and judicial offices. This has enabled us to put together a set of standards which we are convinced will eliminate any current abuses and prevent future ones. These standards have been incorporated in the proposed regulatory

act which has been submitted to you. Let me abstract from it the following points:

Suggestions for regulation of credit counselling:

1. Investigation of licensee, officers, etc., prior to issuing license.
2. Bonding of licensee.
3. Audit by the department administering said license, at the cost of the licensee.
4. Control and approval of advertising by the administrative authority.
5. Establishing of a maximum rate of charge.
6. Allowing *no charge* unless the licensee has been able to secure the approval and consent from the majority of creditors, both in number and amount of indebtedness.
7. Allowing the fee to be taken *only on proportionate amount* as said funds are distributed to creditors.
8. Preventing the licensee from taking any contracts, note, etc., which has any blank space when signed by consumer-debtor.
9. Preventing any licensee from taking any negotiable instruments for his unearned fee.
10. Preventing licensee from taking any notes, wage assignments or security to secure the licensee's unearned charges.
11. Preventing the licensee from taking a confession of judgment or power of attorney to cover judgment.
12. Providing that all contracts and forms must be approved by the administrative body.
13. The contract must list every obligation to be adjusted and disclose total of obligations.
14. The application must show that the payments required for the liquidation of the obligations must be within the ability of the individual to pay.
15. The rate and amount of licensee's fee must be disclosed.
16. The approximate number of installments necessary to pay obligations in full must be disclosed.
17. A copy of the contract must be given to the consumer-debtor.
18. The contract, even though signed at the time of application, should not become effective until the applicant has made payment to licensee for distribution to creditors.
19. Receipts must be written for each payment.
20. At least every six months, the licensee shall render an accounting to the consumer-debtor, which shall show the total amount received, total paid to his creditors, the amount of charges deducted, and any amount held in reserve.
21. Licensee must also render an accounting within seven days after written request.

Some of the points selected here for regulation may seem trival. However, our experience has shown us the importance of having every aspect clearly covered in the regulatory provisions. And wherever there has been a choice serving between serving the interest of the consumer and imposing additional restrictions on the licensee, we have always acted in the interest of the consumer.

Let me repeat, in ten years of working under regulatory legislation, there has been to my knowledge not one instance of a substantiated complaint in the State of California.

May I urge that you give this proposed regulatory legislation your careful consideration, with a view to making additions which might be incorporated to further strengthen its provisions.

Thank you for the opportunity to appear before you. I am ready and willing to answer any questions you may have now and in the future.

Mr. SISK. Without objection the other material which you have enumerated will be furnished to the committee and will be made a part of the files and that portion made a part of the record which we feel the record can contain.

Mrs. Sinatra, a question has been raised. Has there been any additional information or updating of the July Labor Department Report?

Mrs. SINATRA. This is the latest one and it has all the state legislative enactments in 1967, so it is current.

Mr. SISK. You have at the present time no additional supplements to this?

Mrs. SINATRA. No, sir. The State of Washington is included in there.

Mr. SISK. We have made this a part of the record.

Mr. Rabinowitch, the committee will be glad to hear from you now.

Mr. RABINOWITCH. To save the committee time, I am only going to review part of the prepared statement.

I would like to set forth at this particular time that while I am here as a representative of the American Association of Credit Counselors, our position has been and will continue to be that we will never at any time take any position to defend any of the abuses ever perpetrated on a consumer.

You heard today testimony and statements regarding the situation in Maryland and in Washington, D.C., where indictments have been brought and people convicted.

I would like to take full credit on the question of our association being instrumental in initiating these proceedings. Our association has attempted through the Post Office Department, through the Federal Trade Commission, to establish various rules and guidelines to prevent these abuses. You have heard that the state of Rhode Island has eliminated this type of activity. This is true. But if you are also aware, it has opened up an avenue of complete fraud and deceit simply by doing it by mail.

Our position as an association has been very simple: Regulation and very tight, stringent regulation.

I might also say we have heard comments of the American Bar Association and their position.

The act we established in California in 1957 was written in conjunction, with assistance of the California State Bar Association. Amendments and reading the bill will indicate their amendments and what they requested.

It is extremely delightful on my part to have incorporated as part of the testimony and part of the statement—and I would like to take this opportunity to read it—a copy of a wire I sent dated September 2, 1957 to the Better Business Bureaus throughout California. In that I questioned, "From your records, can you advise the number of unsatisfied complaints against licensed proraters in your area since 1957 legislation?"

Next question "Any indications of consumer dissatisfaction, any comment comparing problems prior to legislation and today the reason for query is legislative hearing re proposed regulatory act."

The answers, including the Better Business Bureaus of San Francisco, San Jose, Oakland, Stockton, Fresno, Los Angeles, San Mateo and Bakersfield, were all unanimous that there was not a problem since 1957 in the State of California.

I would like to read a quote from the Better Business Bureau of Sacramento. Fortunately there was an individual who had just taken charge and in his letter, which is attached to my statement, it says this:

"Our files here on two such proraters operating in this area are client free. However, the files do not go as far back as the information in '57 when you advised legislation was enacted in this field. Therefore, I

cannot compare today's legislation with what may have existed prior to that legislation."

I do know, however, that because there was a lack of such state regulation in Nevada our office in Reno has many complaints about debt prorating services. However, those complaints were mainly against one or two proraters and were not evenly spread amongst all of those in the field.

The major problem, as I recall, was in regard to a firm who advertised nationally in various types of publications listing a Reno address which was simply a mail drop with all mail and phone calls routed to a Rhode Island office.

What I am attempting to point out is that in the states where there has been strict regulation controlling the activity, and enforcement thereof, there have been no complaints.

I have heard the comment that in Maryland and in Washington because there have been convictions of individuals in this field that this field should be eliminated. I merely ask this committee—and I may set this forth now—that I feel every regulated legitimate business has its place, whether it be the banking, the credit unions, the loan companies or what-not. But because certain loan companies in Boston, Massachusetts, were convicted of conspiracy and bribery, should they be eliminated?

I say no. I say regulate them and regulate them tightly. We are opposed to excessive fees. We are not looking for any more legislation or regulation than any other service or business, but as we are fiduciary agent and we are handling the needs of the individual and the consumer who is the backbone of this country, we must—whether we enjoy it or not—protect that consumer, and it is therefore that we ask legislation that will control every phase of our operation from a state audit that we pay for, an independent audit, and a complete control.

As to excessive charges, if they were made, as pointed out in California, that we return a portion of our fee, this is not true. First of all, our own outside auditor must audit and submit a report to the state. The state auditor comes in at a cost factor to us of $50 per day, which we pay, and in the event there is an overcharge, the entire fee charged on that account is refundable to the client.

As far as financial responsibility is concerned, this is one of the things that we require, and we ask that the licensee be financially sound and financially reliable and subject to any law suit or any other action that may be necessary to protect the consumer.

Over the 15 years, in the past 15 years, a study has been made by members of this industry throughout the country. We have done this with correspondence, including the National Better Business Bureau, of which I will submit letters, the local Better Business Bureaus, the Legal Aid Societies, the business firms, and through their endorsement and support have we been able to grow and deliver a service.

It has been brought out that there is a question of securing the rights or preventing the individual from losing his opportunity to file a Chapter 13 proceeding. I have certain reservations regarding Chapter 13 proceedings. Not on its purpose, not on its effectiveness, but in some areas unfortunately it has been abused by certain individuals and we are concerned with the cost factor to the individual.

We recognize and we acknowledge that the need for Chapter 13 for wage-earner proceedings must be on the books of this country when creditors will not cooperate in working extensively with the individual in establishing him free of debt. But we are concerned when it is used as a collection tool by certain credit-granting segments of this economy because, supposedly, as a secured creditor, they get a priority. They also secure a certain amount of interest while all other creditors are held back and in most instances throughout the country as statistics will show from the administrative body, do not work out effectively.

In the legislation—I just want to touch on an outline of the legislation that I have recommended:

1. Investigation of licensee, officers, etc., prior to issuing license.
2. Bonding of licensee.
3. Audit by the department administering said license, at the cost of the licensee.
4. Control and approval of advertising by the administrative authority.
5. Establishing of a maximum rate of charge.
6. Allowing no charge unless the licensee has been able to secure the approval and consent from the majority of creditors, both in number and amount of indebtedness.
7. Allowing the fee to be taken only on proportionate amount as said funds are distributed to creditors.
8. Preventing the licensee from taking any contract, note, etc., which has any blank space when signed by consumer-debtor.
9. Preventing any licensee from taking any negotiable instruments for his unearned fee.
10. Preventing licensee from taking any notes, wage assignments or security to secure the licensee's unearned charges.
11. Preventing the licensee from taking a confession of judgment or power of attorney to cover judgment.
12. Providing that all contracts and forms must be approved by the administrative body.
13. The contract must list every obligation to be adjusted and disclose total of obligations.
14. The application must show that the payments required for the liquidation of the obligations must be within the ability of the individual to pay.
15. The rate and amount of licensee's fee must be disclosed.
16. The approximate number of installments necessary to pay obligations in full must be disclosed.
17. A copy of the contract must be given to the consumer-debtor.
18. The contract, even though signed at the time of application, should not become effective until the applicant has made payment to licensee for distribution to creditors.
19. Receipts must be written for each payment.
20. At least every six months the licensee shall render an accounting to the consumer-debtor, which shall show the total amount received, total paid to his creditors, the amount of charges deducted, and any amount held in reserve.
21. Licensee must also render an accounting within seven days after written request.

I can only say this after personal knowledge, after almost 25 years in this field, that the field of consumer credit has expanded and is continuing to expand. The bankruptcy rates have increased. The economic morality of the individual is being discouraged by a certain segment of the credit industry by the encouragement of bankruptcy and the encouragement of avoiding obligations.

I also ask you to consider who in the business world has supported the Truth in Lending Bills, the Truth in Advertising bills? Who has taken the position for the consumer? If it was not individuals and members of the Association of Credit Counselors.

Have those who have opposed the "outlaw legislation" as I term it—is it done in the benefit of the public interest or are they attempting to create an avenue where the individual has no escape from this happening, mounting of indebtedness.

We have been accused as an association of being opposed to the non-profit organizations being established. This is completely untrue and false. As far back as 1959 our association, through its president, Harry Katzen, offered services and continued help to any organization.

In 1962 when I was president of the Association, I wrote to the AFL–CIO and a copy of the letter will be presented to you, offering our services.

Our only objection is, we refuse to allow the consumer to be held in the clutches of a certain segment of the credit industry who dominate, finance and control this.

The cost factor of the non-profit organizations throughout the country are almost identical with the charges that the ordinary professional credit counselor is charging. It is certainly not excessive, and these are figures that are taken out of the publications—quarterly reports by some of the finance companies.

In the State of New York certain bar associations attacked vociferously the outlawing of this bill in this field.

It so happened to land on Governor Harriman's desk the day an indictment was filed against a firm called Silver Shield. Strange as it may seem, the Silver Shield, as the National Better Business Bureau records will document, was owned and controlled by attorneys.

I don't believe any profession is beyond the point where certain individuals will not abuse it, but I certainly believe that ten years of complete, clear, ethical operation without one justifiable complaint in the state of California will prove that regulation will work.

In comparison with Chapter 13, our organization alone last year distributed almost one-third as much funds back to creditors as Chapter 13 did throughout the entire country. It is effective. It is a service and it works for the benefit of the consumer, and notwithstanding certain segments of the credit-oriented industry, it works to their benefit.

I would like to also present at this time the written testimony of an individual who could not appear, Mr. Charles Genosky of Minnesota, which has been submitted to the Clerk of the Committee.

I would like at this time to basically submit this material to suggest some language for a bill.

Mr. SISK. His statement will be made a part of the record at the conclusion of your testimony.

There are a number of personal letters attached here to Mr. Genosky's statement.

The question arises as to the propriety of making them a part of the record without the permission of the individuals whose signatures appear on these. I am not sure whether or not approval was sought or obtained for the use of these. Have you any comment to make on that.

Mr. RABINOWITCH. No. I would merely like to say if there is any question about their being deleted, I have no knowledge as to the permission granted, but I would like to say that letters are available from Mr. Genosky and other members of our organization both from creditors and clients at any time the committee requests them. I would say under those circumstances possibly we had better delete them from the presentation.

Mr. SISK. I think at this point we will withhold them from the record in view of the protection of the privacy of the individuals who have not necessarily given their consent.

Mr. RABINOWITCH. In conclusion all I ask is the opportunity to regulate a service but regulate it strictly and give it the teeth that it needs. In outlawing it, all you are going to attempt to do is drive it underground and withdraw from the consumer a way of coming back to a place where he can walk the streets as a human being rather than being oppressed and harassed. I would like to answer any questions any members of the committee may have.

Mr. SISK. Thank you very much, Mr. Rabinowitch. The committee appreciates your statement.

There are, I am sure, many questions the members would like to ask you. At this time I would like to recognize the gentleman from North Carolina for such questions as he may have.

Mr. WHITENER. Does your organization or members of your association engage in extending credit to your clients under any circumstances?

Mr. RABINOWITCH. No. It is forbidden by statute.

Mr. WHITENER. It depends on where you are whether it is forbidden by statute, but do any members of your organization anywhere in the United States so far as you know engage in the financing of the debt or debts of the client?

Mr. RABINOWITCH. No, none whatsoever to my knowledge.

Mr. WHITENER. All you do is seek the consent of the creditors for a pay-out arrangement and manage this, is that correct?

Mr. RABINOWITCH. Well, it is much more extensive than that, Mr. Whitener. The ultimate objective is to liquidate the man's indebtedness within his ability—

Mr. WHITENER. With his money?

Mr. RABINOWITCH. With his money, right.

Mr. WHITENER. And he sends you a certain amount periodically and then you apportion that out among his creditors who have agreed to this proposition, is that right?

Mr. RABINOWITCH. That is about as simple as you can define it. I wish it was that simple.

Mr. WHITENER. What do you do about the accounts of creditors who do not want to go along? Suppose ninety per cent of them want

to go along with a long-term pay-out and ten per cent decline? How do you handle that?

Mr. RABINOWITCH. Well, frankly, let me say this: I have only had that experience up until the last ten years. In the last ten years the creditor is not our problem. The creditor goes along.

Mr. WHITENER. Even small loan companies?

Mr. RABINOWITCH. Without any question. Without any question. Including some of those who are openly and overtly encouraging the outlaw bill.

I can substantiate this in writing. I can substantiate this through records of not alone our office, but many offices where these organizations refer people to organizations such as ours.

Mr. WHITENER. And most creditors will go along?

Mr. RABINOWITCH. Yes. Creditors are anxious to work with the individual basically, regardless of what anyone may say.

In the period of time that I have been in operation, I cannot think of one hundred accounts that we have not been able to secure creditors a cent. I can also demonstrate that in the city of Fresno, in the city of Bakersfield, Eureka, Stockton, we are there only at the invitation of the credit—grantors, after meetings with them where they ask us to come in to offer a solution to the individual.

Mr. WHITENER. You have made some reference to the comparing of costs and you have an exhibit relating to it, the Chapter 13 fees as compared to your experience with an approximate 15 per cent cost to the debtor?

Mr. RABINOWITCH. Our charge is only 12.

Mr. WHITENER. I believe Mr. Genosky said something about 15 per cent would be a fair figure but he gives specific cases where it has ranged up to 40 per cent for Chapter 13.

Mr. RABINOWITCH. That is true.

Mr. WHITENER. He also mentioned the difference between Chapter 13 and your operation from a creditor's standpoint, where the unsecured creditor does not have to face the issue of a secured creditor having priority under Chapter 13.

Mr. RABINOWITCH. It goes deeper than that. As a typical example, I had written to DeWitt Paul, Chairman of Beneficial Finance, on this. This is my first experience in having dealt with this. We had made arrangements with the branch office of this company to liquidate the obligation of a military man instead of at the rate of $28 a month, which he could not afford, at the rate of $14 a month. We made arrangements for five months, I believe. The sixth month we got the check back from the manager of that office saying that he will only accept $28 and will not accept any reduced payments.

Of course, I called because we had an agreement. Well, this was a new manager. In the course of the conversation he said, "I would prefer him going into Chapter 13 because I will get my full payment as a secured creditor."

I asked, "What are you secured with?"

He said, "Well, I don't know. This was an account transferred from out of state."

I said, "Well, as far as I am concerned, I am sending you the $17 you credited. I am advising our client that you are attempting to re-

negotiate your situation, that it is impossible for you to meet this commitment, and I am going to take the liberty of directing a copy of this letter to DeWitt Paul, Chairman of the Board of Beneficial Finance."

I have. I have not had a reply as yet, but I can almost assure you that this is simply the area of one man who feels a new broom is going to sweep clean and is not concerned with the individual consumed.

This is one instance. The one instance. This is also a sort of a sense of policy this individual picked up from another area he comes from where Chapter 13 is being used as a collection agency.

Mr. WHITENER. We have had some real problems with Chapter 13 procedures but we do have the problem that the debtor has to have his money to pay counsel and so forth.

Mr. RABINOWITCH. I don't know about the initial charges, but let me say I am not opposed to Chapter 13. I think there is a strong need for it.

Mr. WHITENER. The trouble is, we can't seem to get anybody to use it except in a few areas of the nation.

I inserted in the Congressional Record an explanation of Chapter 13 and how it works and how the lawyers could help so many people. I personally paid to have it printed and have it sent to every lawyer in my district. I don't believe there has been a Chapter 13 proceeding filed in my district since. So I don't know what we can do to get folks to try to rehabilitate themselves without a bankruptcy proceeding.

Mr. RABINOWITCH. It will become worse with this computer age because future employment is going to be dependent upon identification through credit reports.

Mr. WHITENER. Perhaps regulation would be better than prohibition. But there again you run into this matter which I know enters the minds of the District Commissions and any other governmental group and that is you have to create new costs of government in order to regulate.

Mr. RABINOWITCH. But these are self-supporting.

Mr. WHITENER. Hardly anything is self-supporting in the government.

Mr. RABINOWITCH. Unfortunately, in California we, as an industry, have had to make it a self-supporting one and I think it should be maintained that way throughout the area. I think industry who is attempting to earn a profit, which we constantly hope for, and hope some day we will attain, should afford the privilege of paying for this supervision, the audits and the control.

In California it is a very minor phase of its operation, but the audit bills and licensing fees are completely cost-free to the state.

Mr. WHITENER. Of course, you folks don't get in debt.

Mr. RABINOWITCH. You should see Los Angeles.

Mr. WHITENER. This is why I wonder about this budget planning. I think if we had a better system of helping people plan their budgets, we may avoid some of these unfortunate consequences. We congressmen get calls where people can't get their old mother admitted to a hospital because of a credit rating.

Mr. RABINOWITCH. May I point out something else that has not been touched on? That at the present time we eliminate the assistance to people. The approach was 15 years ago that we are dealing with the indigent.

The indigent today are being serviced by the professional credit counsellors, such as myself and others.

In the areas where there is a community counseling service, we take advantage of it by referring them there, or we refer them to a Legal Aid Society or we refer them to the OEO now, that has established this type of service.

Our average client today is no longer the indigent. He is anywhere from a $5,000 to a $10,000 income. Are we also going to deprive—whether it be a congressman or Frank Sinatra, of being able to secure a financial advisor to maintain his activities, his financial activities? We handled Sterling Hayden for a short period of time and found the fees he was paying in certain areas for services may have been too high as far as we were concerned, but they were performing a service. Are we going to deprive them of it? Are we going to deprive, for example, Willie Mays, of the opportunity of getting professional service in the handling of his funds? Isn't this what this bill will do, an outlaw bill?

We talk about the banks. I think if you will read last night's paper, the Washington Post, Riggs National is considering a computer arrangement with another firm and going into the "cashless check society" where you send your bills and your check to the bank and they take care of all of it.

I am not an attorney, but I would assume that this would also prohibit that. Where are we going with it? What is the purpose? Is it to keep the indigent down? Keep him involved to the point where he can't breathe any more? Or is it a question of attempting to close off everybody from every avenue of escape except to walk in and borrow money and live in this world of oppression in the financial world? Let's look at the consumer and consider who is behind the move to eliminate this assistance. That is all I request.

Mr. WHITENER. Thank you very much.

Mr. SISK. Thank you very much. Does my colleague from New Mexico have any questions?

Mr. WALKER. I have no questions.

Mr. SISK. Mr. Rabinowitch, in regard to the material which you furnished, I certainly want to be sure that at least a part of it gets in the record. Without objection, I want the Code of Ethics of the American Association of Credit Counselors adopted at Indianapolis, Indiana, on March 5, 1955, to be a part of the record.

(The document referred to follows:)

CODE OF ETHICS AMERICAN ASSOCIATION OF CREDIT COUNSELORS ADOPTED AT INDIANAPOLIS, INDIANA, MARCH 5TH, 1955

Resolved by the American Association of Credit Counselors in regular Annual Convention assembled, that the following Code of Ethics be and the same is hereby made a part of the By-Laws of this Association for the purpose of determining the rights of the members of this Association.

By this Code of Ethics all members of this Association are firmly bound in that all members shall—

1. Furnish a clear statement of the charges, terms, and list of all accounts to be paid.
2. Amortize charges over the number of months necessary to liquidate the obligations and take no more than the amortized amount due at any time.
3. Take no fee until the debt payment program is arranged.
4. Take no account unless a written and thorough Budget Analysis indicated the term of payment can be met.

5. Make a concientious effort to follow every program to a successful conclusion.

6. Present the services on its own merits, permit no misleading advertising and avoid any encouragement of Bankruptcy.

7. Make no payments or reward of any nature for referral of potential customers.

8. Strive to preserve friendly relations between Debtor and Creditor and to re-establish credit.

9. Distribute money received for creditors promptly and to the best interest of the customer.

10. Protect in common the best interests and the dignity of Credit Counseling and be vigilant in the correction of abuses wherever found.

AMERICAN ASSOCIATION OF CREDIT COUNSELORS.

Mr. SISK. Any questions?

Mr. WHITENER. Mr. Rabinowitch, Mr. Kneipp made reference to the lack of qualifications of a person like you, a non-lawyer, to advise a client on the legality of a claim.

Mr. RABINOWITCH. This has been a double-edged sword that everybody used against all of us in the field over the years. If I was an attorney and knew the answer and reviewed every document coming in, without any question I would be practicing law. If I don't I am being accused of depriving the man of that opportunity.

All I can say is we have reviewed this in California and it is an acknowledged fact the individual coming to us recognizes his obligations and, quite frankly, if we are concerned about some illegitimate charges there are legal aid organizations and others that will help and some attorneys that will determine it. We cannot determine every obligation. If he says he owes Sears and Roebuck twelve bucks and it turns out to be $12.32 because of service charges, I don't believe the responsibility is on us to determine the legality. If there is a question, yes, we have a moral obligation to see that he gets the service and care and attention he needs, the same as if he is going to a quack or an unlicensed psychiatrist. This is why the Bar Association joined us in drafting our bill in 1957. In fact, they opposed us. They appointed Archibold Mull to appear in opposition to it and it finally resulted in certain amendments. You have a Member of Congress who in 1957 opposed me and authored an outlaw bill in California, and just the other night I had the opportunity of meeting him—it is Gus Hawkins—and he said he wanted to thank me for showing him he was wrong and there was a way of regulating the business. This was one of the greatest sources of satisfaction I ever had.

Mr. SISK. I would like to direct your attention to the draft of a bill headed "Suggested Language For a Bill Licensing and Regulating the Business of Credit Counselling and Financing Management" which was forwarded to me. Do I understand that this is in accordance with existing California law?

Mr. RABINOWITCH. There are some slight modifications strengthening certain areas and affecting the fee structure. Our fee structure in California is lower than suggested there. It is 12 percent on the first $3,000, 11 percent on the next $2,000, and 10 percent on the next $5,000. This is a straight 15 percent of the money disbursed to creditors, not on the total obligation. It is earned as we distribute the funds to the creditors. But it is almost identical to that in California in every other respect.

Mr. SISK. Without objection I will ask that this document be made a part of the record at this point.

(The document follows:)

SUGGESTED LANGUAGE FOR A BILL LICENSING AND REGULATING THE BUSINESS OF CREDIT COUNSELLING AND FINANCIAL MANAGEMENT

Section I. *Definitions.* For the purpose of this act:

A. A credit counsellor is a person who, for the benefit of a debtor, engages in whole or part in the business of receiving money or evidences thereof for the purpose of distributing the money or evidences thereof among creditors in payment or partial payment of obligations of the debtor.

B. This definition does not include the following activities when performed in the regular course of businesses and professions hereinafter listed when the performance of credit counselling and financial management service is performed only incidental to such businesses or professions. The provisions of this division do not apply to any of the following:

1. Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the Stafe to ---------- ----------, or under any law of this State or of the United States relating to banks, trust companies, building or savings and loan associations, title insurance companies or underwritten title companies and escrow agents.

2. Persons or their authorized agents engaged in the business of paying to others bills, invoices, or accounts of an obligor or of selling or cashing checks, drafts, or money orders issued by a person who has been licensed under and complied with the Statutes of the State of ------------------.

3. The services of a person licensed to practice law in this State, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided such fees and disbursements shall not be shared, directly or indirectly with the licensee, check seller or casher.

4. Any transactions in which money or other property is paid to a "joint control agent" for dispersal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

5. A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

6. The services of a person licensed as a certified public accountant or a public accountant in this State, when such person renders services incidental to his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the licensee, check seller, or casher.

7. Regular employees of licensees under this act when acting in the normal course of their employment;

8. Judicial officers or any person acting under authority or order of a court of this State or the United States;

9. Employers offering credit counseling services exclusively for their employees; and at no charge or expense to debtor.

10. A creditor of a debtor whose credit counselling services are rendered without any cost to the debtor.

C. "Debtor" means a person from whom monies are being accepted for disbursement to creditors and whose principal income is derived from wages, salaries, commissions, pensions or annuities.

D. "Licensee" means any person licensed by the Administrator to engage in the business of credit counselling or financial management pursuant to the provisions of this act.

E. "Administrator" means the officer designated to administer this act, or his designee.

Section II. *Prohibition of Credit Counselling and Financial Management without a License.* It shall be unlawful for any person to engage in the business of credit counselling or financial management without a license, except those exempted in Section I–B.

Section III. *Application for license; Contents.* An application for a license to engage in credit counselling and financial management shall be in writing, under oath, and in a form described by the Administrator.

The application shall contain:

A. The name of the applicant;

B. The date of incorporation, if incorporated;

C. The address of the applicant's principal place of business within the State and that of any branch office or offices within the State of the applicant;

D. The name and resident address of the owner or partners, or if a corporation or association, of the directors, trustees, and principal officers (and such other information as the Administrator may require).

E. Each applicant shall submit, as part of his application for a license, for approval by the Administrator, a copy of the contract form that is proposed for use in the business. Any change to any such contract form shall be submitted for approval to the Administrator by the applicant or licensee.

F. A copy of the certificate of any assumed name or articles of partnership, if the applicant is a partnership, or of the articles of incorporation, if the applicant is a corporation, shall be filed with, and comprise a part of, the application.

G. Each application for a license shall be accompanied by a licensee fee of $100.00 and an investigation fee of $100.00.

H. A separate license fee of $50.00 shall be paid for each branch office maintained by the applicant.

Section IV. *Nonassignability and nontransferability of license; posting of license.* All licenses issued under this act shall be nonassignable and nontransferable, and shall be posted in a conspicuous place in the credit counselling or financial management office.

Section V. *Expiration Date of License.* A license shall expire on December 31, unless sooner surrendered, revoked, or suspended, but may be renewed as provided in Section VI of this act. If an initial application for a license is filed after June 30 in any year, the payment shall be one-half of the stated license fee in addition to the fee for investigation.

Section VI. *License Renewals.* Each licensee on or before December 15 may make application to the Administrator for renewal of his license. The application shall be on a form prescribed by the Administrator and shall be accompanied by a fee of $100.00 (together with) and a bond as in the case of an original application. Except that the original application shall be accompanied by an additional $100.00 fee.

Section VII. *Bond.* Each application for a license, including any renewal thereof, shall be accomplished by a bond, to be approved by the Administrator, in the sum of $10,000.00, in which an insurance company, which is duly authorized by the State of__________________to transact the business of fidelity and surety insurance, shall be surety. The Administrator may accept in lieu of the surety bond, a deposit in cash or a certified check payable to the Administrator, or United States Government Bonds. The obligee shall be the State of__________________for the use of the State and of any person or persons who may have a cause of action against the obligor on the bond by virtue of the provisions of this act. Such bond shall provide that said obligor will faithfully conform to and abide by the provisions of this act and of all rules and regulations issued thereunder, and will pay to the obligee any and all money that may become due or owing to any person by virtue of the provisions of this act. No person shall engage in the business of credit counselling and financial management until a good and sufficient bond is filed in accordance with the provisions of this act.

Section VIII. *Investigation; Issuance of License.*

A. Upon the filing of the application, the payment of the fees, and the approval of the bond, the Administrator shall investigate the facts, and he finds that:

1. The financial responsibility, experience, character and general fitness of the applicant and of the members thereof if the applicant is a partnership or an association, and of the officers and directors thereof, if the applicant is a corporation, are such as to command the confidence

of the community to warrant belief that the business will be operated fairly and honestly and beneficially to the debtor; and

2. A licensee in the conduct of its business at all times shall maintain assets of at least ten thousand dollars ($10,000.00) in excess of its liabilities, of which assets at least five thousands dollars ($5,000) shall be liquid assets. The Administrator may determine by general rule what assets are liquid assets within the meaning of this section and may determine by specific ruling that a particular asset is or is not a liquid asset within the meaning of this section.

3. The applicant (or the applicant and the members thereof if a partnership or association, or the applicant and the officers and directors thereof if the applicant is a corporation) has not been convicted of any crime involving moral turpitude; or

4. That the applicant does not have a history of having defaulted in the payment of money or other things of value collected for others, including the discharge of debts through bankruptcy proceedings, the Administrator shall issue to the applicant a license to engage in credit counselling and financial management in accordance with the provisions of this act. No collection agency loan company, finance company, firm or agency representing creditors directly or indirectly shall be entitled to a license under this act.

B. If the Administrator does not so find, he shall deny such application, and forthwith notify the applicant of such denial and the reasons therefor. (Within 15 days after the entry of such order, he shall prepare written findings and shall forthwith deliver a copy thereof to the applicant.) The applicant shall be given an opportunity to be heard on reconsideration of his application within 15 days of the notice of denial. In the event of denial, the license fee shall be returned after the opportunity for reconsideration prescribed in this section, but the investigation fee shall be retained to cover the cost of investigation.

Section IX. *Requirements of Contract between Debtor and* Licensee.

A. List every debt to be paid with the creditor's name and disclose the total of all listed debts;

B. Provide payments reasonably within the ability of the debtor to pay in precise terms;

C. Disclose in precise terms the rate and amount of the licensee's charge;

D. Disclose the approximate number and amount of installments required to pay the debts in full;

E. Disclose the name and address of the Licensee and of the debtor;

F. Contain such other provision or disclosures as the Administrator shall determine is necessary for the protection of the debtor and the proper conduct of business by a licensee.

1. No licensee shall accept an account unless a written and thorough budget analysis permits a reasonable conclusion that the debtor is able to meet the required payments as set forth in the contract, and a copy of said budget analysis shall be signed by the debtor and retained by the licensee in the debtor's file.

G. Provide that the contract may not be cancelled by the licensee without the debtor's written authorization, unless the debtor fails to make payments as agreed.

H. Licensee shall deliver a copy of any contract or agreement between the licensee and the debtor to the debtor immediately after the debtor executes it, and the debtor's copy shall be executed by the licensee. A contract shall not be effective until a debtor has made a payment to the licensee for distribution to his creditors.

I. All contracts must be completed and signed by both the debtor and licensee or its agent, at the address of licensee.

J. No contract shall be written for a period longer than 24 months. A debtor may cancel said contract upon 30 days written notice to the licensee, in which event the licensee shall be entitled to such charges as are provided for in this act in Section XII.

K. A licensee shall not take:

1. Any contract, promise to pay, or other instrument which has any blank spaces when signed by a debtor;

2. Any negotiable instrument for the licensee's unearned charges;

3. Any note, wage assignment, real estate or chattle mortgage, or other security to secure the licensee's charges;

4. Any confession of judgment or power of attorney to confess judgment against the debtor or to appear for the debtor in a judicial proceeding.

5. Concurrent with the signing of the contract or as part of the contract or as part of the application for the contract a release of any obligation to be performed on the part of the licensee.

Section X. *Consent of Creditors.* A licensee shall not receive any fee unless he has the consent of at least 51 per cent of the total amount of indebtedness and of the number of creditors listed in the licensee's contract with the debtor, or such like number of creditors have accepted a distribution of payment.

Section XI. *Statements to Debtors.* Every licensee shall make a semi-annual report to each debtor showing the total amount the creditors have been paid by the licensee on the debt of the debtor and the amount of fees withdrawn by the licensee. Licensee must render accounting as set forth within ten days or written request.

Section XII. *Charges and fees.* The total charges received by a licensee for his services may not exceed 15% of the monies distributed by the licensee, to the creditors of the debtor, unless the debtor cancels or defaults on the performance of his contract with the licensee, in which event the licensee may collect in addition thereto, 7% of the remaining indebtedness listed by said debtor for payment to the creditors. In relation to obligations included in the contract which are secured by a mortgage or trust deed on real property, fees may be collected only as to payments made by the licensee to the creditor. In the event of cancellation or default on performance of the contract by the debtor, the licensee must distribute or have distributed to the creditors of the debtor at least 85% of the funds of the debtor paid to the licensee.

Section XIII. *Separate Accounts.* A licensee shall not commingle payments received by him from debtors with the licensee's own property or funds, but shall maintain a separate account in which all payments received from debtors for the benefit of creditors shall be deposited and in which all payments shall remain until disbursements are made on behalf of the debtor or returned to the debtor. The Administrator may verify the amount of money on deposit in any such account in any bank or depository.

Section XIV. *Maintenance of Records.* Every licensee shall keep, and use in his business, books, accounts and records which will enable the Administrator to determine whether such licensee is complying with the provisions of this act and with the rules and regulations issued thereunder. Every licensee shall preserve such books, accounts, and records for at least 5 years after making the final entry on any transaction recorded therein.

Section XV. *Investigation of Business; Examination of Records.* The Administrator shall at least annually and such other times as he considers necessary investigate the business and examine the books, accounts, records, and files used therein of any licensee and any person who the Administrator has reason to believe is engaging in the business of credit counselling in violation of the provisions of this act. The actual cost of every examination of a licensee shall be paid by the licensee examined. Failure to pay the examination fee within 45 days of receipt of demand from the Administrator shall automatically suspend the license until the fee is paid.

In the investigation of alleged violations of this act, the Administrator may compel the attendance of any person or the production of any books, accounts, records, and files used, and may examine under oath all persons in attendance.

Section XVI. *Annual Report.* Each licensee shall annually, on or before the __________ day of __________, and at such other times as the Administrator may request file with the Administrator a certified audit report prepared by an independent public accountant containing such relevant information as the Administrator may reasonably require concerning the business and operations during the preceding calendar year of each licensee.

Section XVII. *Prohibited Practices.* No licensee shall:

A. Purchase from a creditor any obligation of a debtor;

B. Operate as a collection agency, loan company or finance company;

C. Pay any bonus, commission, or other consideration to any person for the referral of a debtor to his business, nor shall he accept or receive any bonus, commission or other consideration for referring any debtor to any person for any reason;

D. Advertise his services, display, distribute, broadcast, or televise or permit to be displayed, advertised, distributed, broadcast or televised his

services in any manner whatsoever wherein any false, misleading or deceptive statement or representation is made with regard to the services to be performed by the licensee or the charges to be made therefor. All advertising shall be submitted to the Administrator for approval;

E. Require as a part of the contract between the licensee and the debtor, the purchase by the debtor of any stock, insurance, commodity, or other property or any interest therein.

Section XVIII. *Suspension or Revocation of License.* The Administrator shall have power and authority to refuse the granting of a license for good cause shown. He may, upon notice and reasonable opportunity to be heard, suspend or revoke any license issued pursuant to this act if he finds that:

A. The licensee has failed to pay any fee required by this act.

B. The licensee has violated any provision of this act or any rule or regulation issued thereunder;

C. Any condition or fact exists which, if it had existed at the time of the original application for such license reasonably would have warranted the Administrator in refusing originally to issue such license.

D. Indulging in a continuous course of unfair conduct.

E. For insolvency, bankruptcy, receivership or assignment for the benefit of creditors by a licensee.

F. For a licensee to disclose the list of creditors of a debtor to any individual or firm for the purpose of any individual or firm's soliciting the accounts for collection or loans.

Section XIX. *Rules and Regulations.* The Administrator may promulgate rules and regulations and make general and specific rulings, demands and findings for the enforcement of this act. He shall also prescribe the contract and such other forms as he may deem necessary or appropriate to be used by licensees and applicants for licenses under this act.

Section XX. *Injunction.* To engage in the business of credit counseling and financial management as defined in this act, and to accept individuals' funds for this purpose without a valid existing license to do so, is hereby declared to be inimical to the public welfare and to constitute a public nuisance. The administrator shall direct the Attorney General of the State of ________________ or the State's Attorney of any county in the State of ________________ to apply for an injunction in any court of competent jurisdiction, to enjoin such person from engaging in said business and any such court may, as in cases relating to injunction in the State of ________________, issue a temporary or permanent injunction as the circumstances shall require. Such injunction proceeding shall be in addition to, and not in lieu of, penalties and remedies otherwise provided in this act.

Section XXI. *Violation; Penalties.*

A. Any person other than a licensee who engages in the business of credit counselling and financial management without a license shall be guilty of a misdemeanor and shall be fined not more than $1,000 for each violation or imprisoned for not more than 6 months or both.

B. Any licensee under this act who violates any provision of this act is guilty of a misdemeanor and upon conviction, in addition to other penalties, shall forfeit his license and shall be fined not more than $1,000 for each offense, or imprisonment not to exceed one year, or both.

Section XXII. *Unlawful Practice of Law by Licensees; Acts of Officers or Employees of Licensee.* Nothing in this chapter shall be deemed to authorize the performance, directly or indirectly, of an act or acts constituting the practice of law by a licensee, check seller or casher, or by any person, firm, corporation, or organization.

Without limiting the generality of the foregoing and other applicable laws, the following act or acts, when done by the owner, manager or employee of a licensee, in connection with a credit counselling transaction, shall be deemed to constitute the unlawful practice of law:

A. Preparation, advising or signing of a release of attachment or garnishment, stipulation, affadavit for exemption, compromise agreement or other legal or court document;

B. The furnishing of legal advice or performance of legal services of any kind.

No licensee (including an owner, manager or employee of a licensee) shall (1) represent that he is authorized or competent to furnish legal advice or perform legal services; (2) assume authority on behalf of creditors or a debtor or accept a power of attorney authorizing it to employ or terminate the services of an attorney or to arrange the terms of or compensate for such services; (3)

communicate with the debtor or creditor or any other person in the name of an attorney or upon the stationery of an attorney or prepare any form or instrument which only attorneys are authorized to prepare.

Section XXIII. *Qualifications of Principal Managing Officer.* No license shall be granted to a prorater or continued in effect as such unless the principal managing officer thereof is at least 21 years of age, a citizen of the United States, a bona fide resident of this State for at least two years immediately preceding his application for a license, and shall have had at least two years' experience in consumer credit extension or credit collection activity. The commissioner shall have power and authority to refuse the granting of a license for good cause shown.

Section XXIV. *Effective Date.* This act shall become effective ______________.

Mr. SISK. I have not had an opportunity, I might say, to study that particular document to the extent I should. However, what are the one, two, three, or four areas which you think are in the greatest need of regulation? What are the most vital points to eliminate the type of abuses which have occurred in the District of Columbia and in other areas? And what portions of the California law do you think are the most important in maintaining an equitable operation of this sort?

Mr. RABINOWITCH. Our experience indicates, first, not allowing the debt adjuster to take a fee unless he can perform. And the way we can determine if he can perform is by an analysis of a man's income and the amount available toward liquidation of his debts and then obtaining the cooperation of the creditors and allowing only a portion of that fee to be taken. Say my fee is $300. I wouldn't get it the first year. I might take it over a period of three years, $10 or $15 a month. This is a way of making sure there is performance because I can't profit unless I perform.

The second is advertising. We feel any advertising that is deceptive and that creates a motivating factor in appealing to the desperate person should be eliminated.

Another is that no fee be charged until the plan is worked out. I may spend two hours interviewing a man and find he either does not need my service or I cannot perform. But just because I walk in Hechts and look at suits, I don't have to buy a suit. And merely discussing it with him should not require his paying a fee. 75 percent of the people walking in our office do not need our service or we cannot perform, and, frankly, there is a selfish motive because the best advertising we have is when a man stands up and says, "How much do I owe you" and if I cannot serve him I say, "Nothing."

Eliminating those factors and the bond can eliminate the abuses.

Mr. WHITENER. You don't mean eliminating the bond, you mean insisting on a bond?

Mr. RABINOWITCH. Insist on a bond and have sufficient protection for the individual. We are handling lots of money. If I get taken for $50 or one of you gentlemen get taken for $50 we will eat, but many of the people we deal with, $50 is the food budget for a week and they have to be protected.

Mr. SISK. Strict auditing you say is an absolute necessity in any regulation?

Mr. RABINOWITCH. Absolutely. In a State audit at the end of a year they said he had overcharged one client and that our license was in jeopardy. A review of the file showed we had overcharged six-tenths of one cent. We were forced to issue a check, change our records, and finally after three years find the individual and get him to cash it. I don't like it, but I am handling lots of money and I don't think you can enforce it too strictly.

Mr. SISK. We have a quorum call. The House is in session. Let me express my appreciation for your testimony here this morning. I know it will be of help to the Committee. The statement of Mr. Genosky, which he left here as requested will be made a part of the record. We thank you very much.

Mr. RABINOWITCH. Thank you.

(The statement referred to follows:)

STATEMENT OF C. T. GENOSKY, PRESIDENT, FINANCIAL ADJUSTMENT CO.

PROFESSIONAL CREDIT COUNSELING—PRO RATING

Pro-rating or Professional Credit Counseling is a consumer serice and has been in use since the inception of consumer credit.

Available records indicate that it was started as a full time industry in Minneapolis, Minnesota, by Mr. Sidney Chase, now deceased, in the year 1922. Mr. Chase was a former loan man. He saw the economic need at that time and went into it as a full time profession.

It did not get official national recognition until the early 30's when Justice William O. Douglas then a professor at Yale, and Justice Abe Fortas was Editor-in-Chief of Yale Law Review.

A study was made of the bankruptcy system by Justice Douglas on behalf of the Hoover Administration and by Justice Fortas on a study financed by Yale Institute of Human Relations.

The study was made in Chicago, Illinois, where Justice Fortas encountered "accredited adjustment firms." In a statement made at the 34th Annual Legal Aid Conference in Denver, October 1955, Justice Fortas said:

"My observation was, in short, that such institutions had a useful function in our society, and not an exclusive function, certainly not a monopolistic function, but a function, so to speak, that is comparable to a psychiatrist. It was a function which is useful when people or families are sick."

He continued:

"I believe that when an American family gets in debt so that it needs some help it should have available to it a variety of avenues; their problems should be resolved, if possible, free of charge by a social welfare agency, by the advice of legal aid societies, by friends, by anybody who can help them out of the morass, the terrible morass of a hopeless debt situation. I also believe that they should have available to them, trained, honest commercial enterprises like the credit counselors, debt adjusters, as they are called, to whom they could pay a reasonable fee."

In 1935 the Minnesota State Legislature after due investigation decided that professional credit counseling was a just enterprise, necessary to our economy and adopted a regulating bill regulating the industry in Minnesota. Here in the State of Minnesota we have been operating under regulation since. There have been few it any abuses.

After World War II consumer credit rose from six (6) billion dollars outstanding in 1946 to an amount which today is in excess in ninety-five (95) million dollars. It has become such an important part of our economy that over eleven (11) billion dollars are being paid annually by the consumer in interest charges alone.

As the consumer credit rose so also rose the casualties, so also rose the number of professional credit counselors. The industry developed from the one to two man operation or the sideline operation to a full fledged profession. It has changed from the original pro-rating of 20 years ago that of merely "handling bills," to one wherein the counselor analyses, educates, budgets, counsels and advises the family or individual in proper buying and spending in addition to arranging to pay the bills.

There are a number of alternatives for the debtor consumer. It is possible for him:

1. Convert assets to cash to pay all bills in full; or reduce them to a point where the balance of monthly payments can be maintained.
2. Borrow sufficient money to pay the bills provided the re-payment schedule is not in excess of the individual's ability to pay. There are abuses in this aspect both by the over borrower and the over zealous lender.

3. The debtor himself can attempt to reduce his monthly payments to creditors sufficiently to enable him to meet the new terms.

4. Secure the services of a reputable, licensed, bonded and regulated service that has a trained staff that can:

a. Analyze the individual's income.

b. Analyze and review the individual's living expenses and make constructive suggestions.

c. Secure a complete list of all creditors.

d. Determine with the debtor what he can really afford to pay and maintain his current living costs.

e. Upon completion of information contact all creditors and establish a plan of re-payment based on the above information, and secure the consent and cooperation of creditors to said plan.

f. Work with the debtor throughout the entire program to take care of revising budgets and revising payment schedules because of changing conditions or emergencies.

g. Keep creditors advised of any new problem that may arise that may interrupt the payment program and maintain their cooperation.

h. Make sure the debtor maintains his commitments within his ability to pay.

i. Disburse funds received on a pre-arranged schedule in order to meet commitment and avoid interest and late charges where possible.

j. Educate and re-habilitate the individual or family so they may be successful in handling their own financial affairs.

There are also other alternatives and they are Chapter XIII of the bankruptcy act or straight bankruptcy which involves losses to most credit grantors.

Pro rating, unlike Chapter XIII does not show preferential treatment to certain creditors by giving them priorities and forcing other creditors to sit by empty handed.

Chapter XIII attempts to accomplish the same goal for which the pro-rater strives. However, the methods achieving the common end differ. The pro-rater concerns himself with educating the debtor as to how he got into his financial plight, how he can solve the problem by cooperating with his creditors, how he can avoid the same problems in the future. All the while maintaining his dignity and avoiding the stigma that bankruptcy sometimes carries.

Pro rating, unlike Chapter XIII does not force creditors to accept the plan without alternatives. Instead it enables the debtor and creditor to work cooperatively. It is a fallacy to state that such cooperation is unlikely. In Minneapolis creditors much sooner prefer our plan to Chapter XIII. In fact Financial Adjustment was started at the request of numerous creditors and has and still operates strictly on a referral basis.

Newspaper articels and periodicals have hailed Chapter XIII as inexpensive to the debtor. The following report indicates differently:

A report by a trustee in Iowa from December 1958 to December 1964 indicates the average cost to the debtor for Chapter XIII proceeding was 26.3 of the monies paid to creditors.

In comparison our firm over the same period charges the debtor 15 per cent of the monies paid to creditors. There is no question as to which program is most beneficial to the debtor and the creditors.

We do not condone any abuses and neither do we claim there aren't any. Not any more so than any other profession. That is why we strive for regulation. If only these sources that come up with the abuses in our profession would turn their "cruel white light" on the good we have done, the national picture would surely change.

A survey taken in 1965 disclosed:—

"Professional credit counselors nationally helped 189,150 families.

58,800 families counseled without charge.

130,350 family financial programs initiated.

$391,050,000.00 of consumer credit involved.

$111,100,000.00 repaid through their assistance.

Can anyone honestly come close to that figure in citing abuses? Apparently the "searchlight" of certain vested interests got stuck when it came to actual help being given the debtor consumer by the industry.

These same powers who are not satisfied in their own field but have penetrated the mail order field, the retail hardware market etc. are now trying to wrest the industry from professional men who have dedicated themselves

to the solution of the debtor consumers' problems since 1922. If they are so concerned about the plight of the families who become casualties of our system of credit, why don't they use their skills and monies to regulate the industry rather than destroy it. Should the debtor be forced to accept the help from creditor oriented services? They are the very people, in most cases who placed him into the plight he is in.

We in the industry are in favor of community oriented credit counseling and our American Association of Credit Counselors is willing to help; however, creditor oriented services are no more help to the debtor insofar as getting him out of debt than a "dope pusher" attempting to cure a "dope addict" of the habit.

It is my contention that the problems of the ever growing number of families who are becoming casualties of our great system of credit must be solved. However, this solution must come from "free enterprise" without resort to the courts or charities, otherwise in the eyes of the rest of the world our economy will have failed.

We take great pride in the factual evidence of our credit counseling and money management program, just as any other profession, business or industry does.

What we are doing we are doing for people and upholding the "dignity of man." It is people we work with and it is their particular problems we do all in our power to solve.

This then means that the worth of our services must be judged, not by biased opinion, not by book value, not by market value but by human value.

The effectiveness of our program and the impact it has on the family during and after the conclusion of our program is the base upon which the values should be set. Our services are geared to meet the immediate problems of the debtor consumer. We have no other interests. Our full time is devoted to that end.

My final remarks are that if it is the constitutional right of Mr. American Citizen to choose who should represent him in the highest offices of the nation, who should represent him in his legal matters, who should take care of his ills and his health etc., he therefore should have the right to choose who should represent him insofar as his financial problems are concerned. Only proper regulatory legislation will assure him of this right.

THE STORY BEHIND—FINANCIAL ADJUSTMENT CO., MINNEAPOLIS, MINN.

This folder is for the purpose of explaining our operation to the people who are having Financial problems and others in various professional fields, who are interested in people who do have this problem.

In addition to people in Financial difficulties we find that creditors, employers, doctors, personnel managers, attorneys, etc. are interested, due to the close tie in with the wage earner and his problem.

Financial Adjustment Co. is founded on the principal of helping people manage their money correctly. It is not based on the idea of aiding or abetting a person to dodge any of his or her obligations. Our main aim is to centralize their accounts under one head on a payment schedule they can afford to meet, thereby being able to present their problem to their various creditors in an honest business-like manner. At the same time enabling the individual to have only one place to pay instead of several.

Financial Adjustment Co. should be thought of as a *financial doctor* rather the *undertaker*.

Our method of handling a person's financial affairs consists of an interview with both husband and wife (if married). A full statement of outstanding obligations is taken and a budget of current living costs is set up. After this is determined, all other remaining funds are turned over to our office for the purpose of liquidating the accounts outstanding. It must be realized that if the family does not have sufficient funds to maintain their current living costs we are defeating the purpose of our plan.

Having determined the amount of income available for distribution, each creditor is then contacted, advised of the amount of money that can be applied against the balance due him, and is asked for his cooperation.

We realize that each creditor is eager to eliminate his account as rapidly as possible. However, we must bear in mind, in allocating our client's funds, that some creditors have secured claims, which prevents an actual equitable distribution. Similar accounts are handled as equitably as possible.

We accept no fee from creditors, neither do we ask for settlements other than time envolved. An open invitation is made to all creditors to check our records any time they choose.

A progress report is available to any creditor or employer at any time on any of our clients. We carry a perpetual reporting system to creditors, keeping them informed as to any change in our client's status or paying habits.

Our full charge is based at $15.00 per each $100.00 of indebtedness listed, plus a $5.00 set-up fee at the time the contract is set up. This charge is not a yearly charge but a lump fee for the duration of the contract. Our average case is running approximately 26 months. These charges include all investigations, services, interviews, check costs, etc. These items are stipulated in our contract and each client receives a full complete copy. Contracts are available to anyone interested.

The above charge is amortized over the duration of the contract, and this item is set out in *bold type* in our contract. We are sincere when we say that we do not want creditors to receive their money in any other manner than we ourselves receive our charge for services.

Financial Adjustment Co. is operated on strictly referral basis, and we wish to thank the many Credit Managers, Personnel Men, Members of the Clergy, Social Workers and others who have referred families with financial problems to us.

The sudden rise in Bankruptcies and Chapter XIII of the Bankruptcy Act is indicative of the need to solve the famly debt problem.

It is also worth noting, that the cost of our services is about one-half the *total cost including legal and filing fees of the Chapter XIII Plans.* Our payout on cases completed is 40% higher, but above all, *monies collected are immediately disbursed to creditors.* Our client is not just a number. He is a human being seeking help to solve his Debt Problem.

We contend that the rapidly growing problem of Families who become casualties of our system of credit must be solved, and this must be done within the framework of free enterprise, without resort to the *courts or charities,* otherwise in the eyes of the world, *our economy will have failed.*

Financial Adjustment Co. is owned and operated by C. T. Genosky, who has been in Credit Counseling in Minneapolis, Minn. since 1936. We are members of the *Credit Bureau of Minneapolis.*

We are in no way connected with any other Debt Liquidation Co., Loan Co., Wage Earner Plan, Credit or Finance Co. Neither do we wish to have our operation or manner of disbursement identified with any other type of operation, other than our own. We are member of the *American Association of Credit Counselors* and adhere strictly to their Code of Ethics, Constitution and By-Laws. A copy of this Code of Ethics is on the reverse side of this folder. We feel that our services are most helpful to an individual who has a Financial problem, because—

1. We set up his accounts and his current living costs on a business-like manner.
2. Start disbursing to his creditors *immediately out of the first monies we receive from him.*
3. Due to the amortization of our charges, we are able to release more money to his creditors. The elimination of other check charges and carrying charges enables us to do a better job at less cost to the individual.
4. Through our constant reporting system, creditors are kept advised at all times of the status of our client.

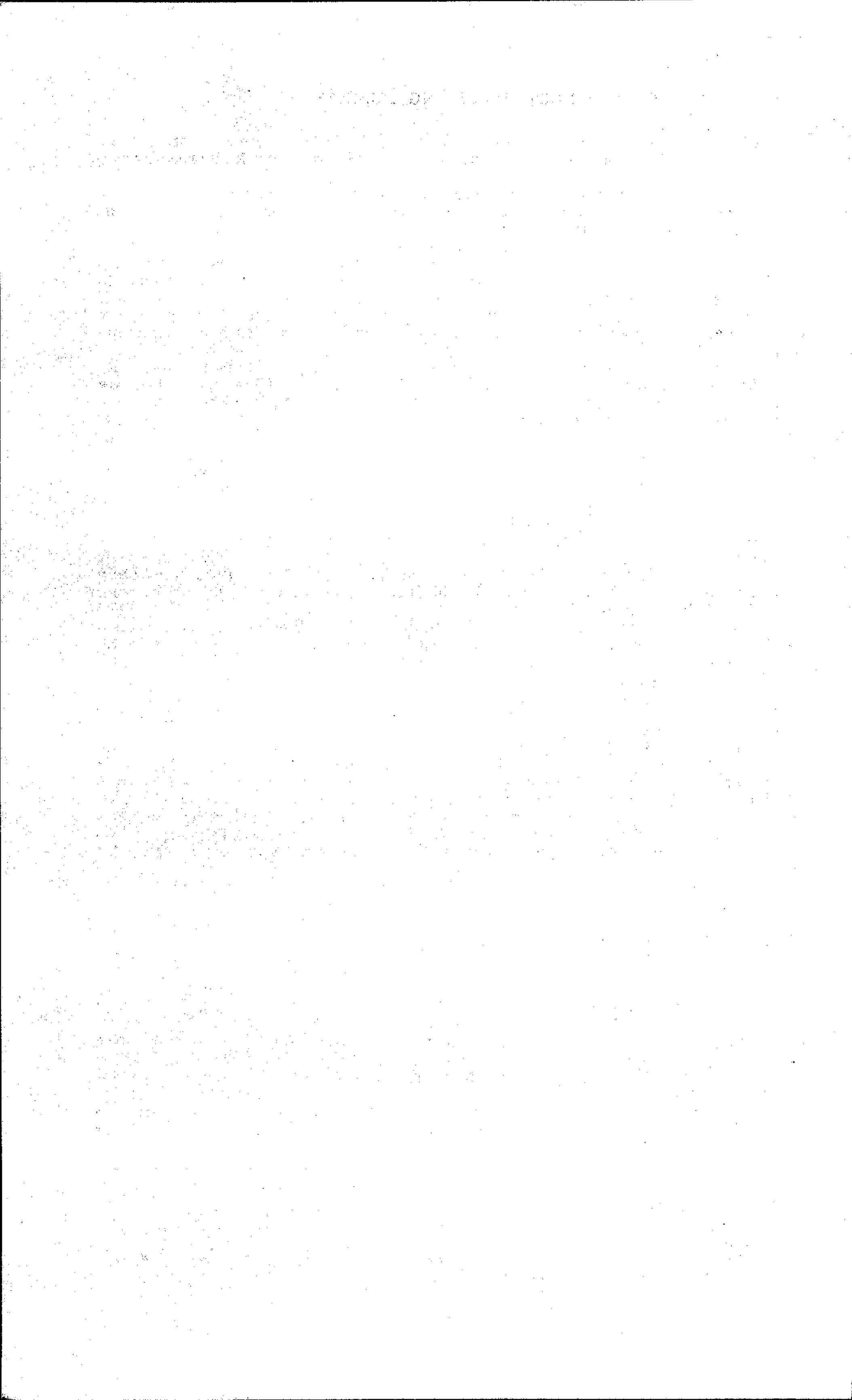
Our years of experience in this field eliminates the thought of inferring that every creditor sees eye to eye with us on every proposition, but we know that all things can be worked out by compromise, and the value of our plan is not questioned.

We are most anxious to explain our services and welcome and encourage any inquiries regarding the help we are able to give an individual who is having a Financial Problem.

FINANCIAL ADJUSTMENT CO.

Mr. SISK. The Committee will stand in adjournment until 10 o'clock in the morning, when we will proceed with this hearing.

(Thereupon, at 12:15 p.m. on Thursday, September 14, 1967, the Subcommittee adjourned until Friday, September 15, 1967, at 10 o'clock a.m.)



DEBT ADJUSTING BUSINESS

FRIDAY, SEPTEMBER 15, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
SUBCOMMITTEE NO. 5,
Washington, D.C.

The Subcommittee met, pursuant to adjournment, at 10:10 a.m., in Room 1310, Longworth House Office Building, Hon. B. F. Sisk, Chairman of the Subcommittee, presiding.

Present: Representatives Sisk (Chairman of the Subcommittee), Jacobs and Walker.

Also present: James T. Clark, Clerk; Hayden S. Garber, Counsel; Donald Tubridy, Minority Clerk and Leonard O. Hilder, Investigator.

Mr. SISK. Subcommittee No. 5 will come to order.

We will continue our hearings this morning on the matter of the debt adjustment business.

I want the record to show that our colleague from Michigan, Mr. Diggs, has permission to insert a statement on the matter under discussion. It may be impossible for him to appear in person, but without objection his statement will be incorporated in the record.

Mr. SISK. The first witness this morning will be the Barden Investment Management Corporation.

Mr. Holland.

STATEMENT OF ELLIOTT HOLLAND, GENERAL MANAGER, BARDEN INVESTMENT MANAGEMENT CORPORATION

Mr. HOLLAND. Mr. Scalise had to return to Iowa on a criminal matter.

Mr. SISK. Without objection, the statement by Mr. Scalise will be made a part of the record.

(The statement referred to follows:)

STATEMENT OF LAWRENCE F. SCALISE, ATTORNEY, BARDEN INVESTMENT MANAGEMENT CORPORATION

My name is Lawrence F. Scalise. I am an attorney practicing in Des Moines, Iowa. I am here at the request of Barden Investment Management Corporation of Detroit.

I was Attorney General of Iowa in 1965 and 1966. I was very much interested in consumer protection and sought—successfully—the enactment of a bill in 1965 to provide it. Included in the bill as originally introduced were provisions for the regulation of debt management companies. Creditor interests opposed these provisions, and they were struck from the bill.

The consumer protection law, however, vested in the Attorney General broad powers of investigation and inquiry into practices suspected of violating that

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law. The law proscribes misrepresentations by omission as well as commission in the sale of merchandise, and merchandise is defined as including services. The misrepresentations are made unlawful even though not relied on by the consumer who purchases the good or services.

We received a number of complaints and inquiries about debt management companies and their practices. The advertising done by some of them was shrill, misleading, and irresponsible. Fees were questioned. The social utility of the service itself was in doubt.

In conformance with what the new consumer protection law permitted, my office conducted public hearings into the practices of debt management companies. We subpoenaed company representatives and their records. Abuses were exposed. These included unjustifiable fees, misrepresentations in advertising, and charges for the service itself that ultimately added up to more than twice the percentage quoted to prospective clients. The hearings focused on the practices of several companies.

Since the hearings focused on abuses, not much attention was paid to companies in Iowa which charged reasonable fees and rendered services praised by people in the consumer credit field. One such company, in Iowa, had been in operation for a number of years and had won the confidence and cooperation of small loan companies, retail stores, banks and employee credit unions, and had an unblemished record for integrity. The credit manager of a large public utility wrote legislators to this effect:

"This company has salvaged a great many potential candidates for bankruptcy from the courts, and guided them on a path of sound financial management. The need for debt management companies is as great as for any of the state, county, or local relief or welfare organzations; the one great distinction is that the money doesn't come out of the taxpayers' pocket."

Earlier this year the Iowa legislature enacted a bill to license and regulate debt management companies. Implicit in the decision to regulate was recognition of the social utility of the service provided. Had the legislature not been convinced that debt management fulfilled, or could fulfill if properly policed, a legitimate need, its action of course would have been to forbid it entirely. I supported and worked for passage of this bill.

The root question, of course, is whether the service offered by debt management companies is in itself evil. This Subcommittee is aware of the distinction in law between acts deemed *malum in se* and those that are *malum prohibitum*. Debt management, I submit, is not intrinsically evil. I don't suppose there is any pretense that it is: there are only strong reactions to abuses.

Properly regulated, debt management companies must represent and serve the interests of the debtor. Almost without exception every other segment of private enterprise is creditor-oriented. That includes not only retailers and other commercial enterprises which extend credit, but banks and loan companies. All of them prosper as more people contract to buy what they can't pay cash for. They want what all creditors want: they want to get paid—now, if possible; soon, if not now; later, if not sooner; and, in the last resort, sometime or anytime rather than never.

Yet, as you gentlemen are fully aware, our Bankruptcy Act permits a debtor never to pay his debts. It is an unusually ignorant debtor today who doesn't know that when up against it he can go into court and beg out of his obligations. In our court news publication I noted the other day one filing in bankruptcy by an individual whose debts exceeded his assets by only $400. The contempt that attaches to this kind of behavior has lessened considerably since our grandfather's day. Ulysses S. Grant wrote his memoirs on his death bed to pay his debts. I submit, however, that in this never-never land there are still thousands of debtors who consider themselves morally committed to pay their debts even if they are bankrupt in a bankruptcy act sense.

Where is the evil in permitting private enterprise to assist them in doing so? It is other types of private enterprise which have televised them into believing they have an inalienable right to spend money they don't have.

Unquestionably private-enterprise debt management companies can offer an alternative to bankruptcy or Chapter 13 proceedings under the Bankruptcy Act. Under reasonable regulation, it is very probably that the cost of the debtor will be considerably less, for example, than submitting to Chapter 13 proceedings. And I believe statistics will prove that debtors who seek extraction from difficulties in bankruptcy court seek discharge from their debts rather than an extension

of them: the social odium which attaches to a filing, if such there is, attaches to both proceedings.

Outlawing commercial debt management is not the answer. It is, in the cliche, throwing out the baby with the bath. It is this simple: creditors want their money, and properly regulated debt management companies can help them get it. At the same time, and first and foremost, they can help debtors get out of debt without recourse to the courts and without repudiating their creditors. I see nothing *malum in se* in this: on the contrary, I see private enterprise offering drowning debtors a viable alternative to bankruptcy.

H.R. 9806 would exempt lawyers who incidental to the practice of law act to adjust the debts of clients. I suppose this is an admission that debt-adjustment is not *malum in se* and an admission, even, that it is an inevitable and ethical practice.

As far as exempting non-profit or charitable corporations from the prohibitions is concerned, I submit to you that there is no less need for regulation of such corporations than there is for regulation of profit-making concerns. The money comes from somewhere, and it is spent by people. What ever happened to the Sister Kennedy Foundation?

In closing, let me say this: I have had cause to familiarize myself thoroughly with the debt management concept and its implementation by private enterprise. I am convinced of its social utility. The consumer is cajoled, enticed, solicited and pressured into debt from every point on the social compass. No law prohibits him from buying what he can't pay for. No odium attaches to the retailer who sells it to him. If private enterprise can offer him an alternative to bankruptcy, why shouldn't it be legitimized instead of forbidden?

Congress has it within its power to protect the consumer-debtor by regulation, such as H.R. 9829, introduced by Congressman Diggs, and to provide him with a service that permits him to meet his obligations instead of denying them. I submit that prohibition of commercial debt-management companies is nothing more than an additional recommendation for bankruptcy.

Mr. SISK. Mr. Holland, without objection, your statement will be made a part of the record. You may proceed to read your statement or make an oral statement, whichever you prefer.

Mr. HOLLAND. I appreciate this opportunity to appear before this Subcommittee on H.R. 8929 and H.R. 9806. My name is Elliott Holland, and I am the General Manager of the Barden group of companies. We operate 56 debt counselling offices in the District of Columbia and elsewhere throughout the country under the Credit Advisors and other trade names. I hope my testimony can show this Subcommittee how professional debt counsellors help so many people bogged down in debt. I testify from daily experience in this industry. We know from working with thousands of debtors that they need our services and that they obtain a practical course in financial planning as we help them out of debt. Our actual experience disproves the many unfounded charges made against the debt management industry.

I had planned on going through my prepared statement, Mr. Chairman, but I would like first to cover a few of its main points and to cover a few of the unfounded statements that were made yesterday during the hearings, especially those that deal with a description. There were certain errors and inaccuracies in describing our clients and ourselves.

I look at our debt management client as my boss. I work for him. I am taking his attitude toward his debt and if I can successfully help him out of debt, then I have done my job. If I cannot, then I feel that I have failed him and we try not to fail any of our clients.

Our client yesterday was described as being poor and uneducated. I would just like to disabuse the committee of this feeling. Our average client is a wage earner and he has had an average of almost

four years on his present job. This is not four years of total employment, but four years at his present job. He is just usually under 30 years old. He averages 29 and a fraction years. The average income is a bit above $5,000 and this is only the income of the main wage earner in the family. It doesn't include where the wife is working.

A good example, to make it clearer to the committee, is that we have offices right now in Seattle, Washington, and very close to the plant of one of our major aircraft manufacturers. We find that there our client has a greater income on the average, and also greater indebtedness than a client, for instance, here in Washington, D.C.

To describe the men who are the engineers and other technical personnel who have cooperated in putting some of our jet aircraft into the air and other technological advancements as uneducated and poor, I think was an abuse to them and certainly an abuse to the industry.

If the people who testified yesterday to that effect really believe it, then I caution them not to fly home today or even to drive too close to the airport. These people were not undereducated. The problem is that they have been encouraged to purchase and to purchase beyond their means to repay.

Secondly, it was mentioned yesterday that our consultants have an average of two years of college and that that wouldn't qualify our consultants to give financial advice. I wanted to say that in that connection our consultants have gained experience in our industry by working for us. We have our own training program and we train these people on the job in debt management. We don't have the ability to go out into the general population and find people experienced in debt management. It just isn't that well known. It is now available in all communities. The mere fact that a man might not have a degree I don't believe is any indication of his ability or inability to give advice in debt management.

There are no courses offered, by the way, in any of the major educational institutions in personal finance management. There is quite a bit of conversation about starting these courses. Our organization is starting a series of clinics that will travel around the country to educate consumers in the various matters that can help them to prevent going into a situation where they cannot extinguish their own debt.

Many of our men, in the earlier years of our history, were recruited from finance companies. We call them converts because they were the men who at one time were collectors for finance companies.

In dealing with us in some localities, finally one of our managers might just say, "Well, why don't you come and work for us?"

In our early history we had perhaps as much as 60 to 70 per cent of our men who came directly from the field of finance.

Also in some occasions our men have helped referees in bankruptcy under Chapter 13 in setting up this type of activity for these hard cases where there is an extreme problem and where we feel we cannot fairly serve our clients.

In Chicago our manager there, Mr. Ed Kennedy, was at one time working for the trustee in bankruptcy in Chapter 13. One of the problems with Chapter 13 is that it is not available in many communities.

Another statement made yesterday, Mr. Chairman, was that our fees run up to 25 per cent. I can state here that in all of my experience in

debt management I know of no debt management concerned whose fees are 25 per cent. I know of no concern whose fees exceed 15 per cent. Our own fees are 12.5 per cent on the gross debt.

Another charge was made that our fees average as much as $400 an hour. I might say as far as the cost per hour is concerned, we have an average of 55 to 60 accounts per employee. In servicing these accounts, we find we spend an average—and this is an average—of 45 to 50 minutes per week on each of our accounts. You not only have to talk to the creditor—and you do this on a continuing basis to advise them of the status of the client; if he has short hours, if he is sick or anything you would like to advise the creditor so he realizes there may be a delay in the payment but he will receive it.

You receive money that is sent to you by your clients. You write checks on their behalf.

We have a traveling internal audit staff that travels among our offices on an unannounced basis to audit, to make certain that financial affairs are properly maintained. Also, writing correspondence on his behalf.

In addition, we counsel our men in our offices that each counsellor, when his client comes into the office to make a payment, should certainly get up out of his office and walk into the reception area and speak to this client to find out what is going on, whether there is any way we can help him even more. Our men are told to spend as much time as possible with the client, because he still our client; he is our boss. We have chosen sides. We chose to represent the debtor.

To go further, there was a statement made yesterday that we take the entire paycheck. Our own organization and all of the debt management concerns that I have been acquainted with do not do this. This is one thing we do not do. Our client is encouraged to make a payment to us each payday. If he is paid every other week, he makes a payment to us every other week and in no case do we attempt to have his paycheck sent to us because we want the personal contact with the client and we also don't want to be in the position of having too much control over him.

Yesterday also there was a statement made that we do not pay creditors. I can say that in five years of our operation here in the District of Columbia—and, by the way, in that time we have signed over 17,000 accounts. We have actually assisted over 17,000 debtors. We have letters from our customers; we have letters from creditors, and also, Mr. Chairman, we have quite a few cancelled checks that prove that certainly without a doubt we are paying the creditors.

To make it more emphatic, I would like to submit as an exhibit (Exhibit 1) a compilation of one thousand checks which were written in February of this year in our Washington, D.C. office. These are one thousand consecutively numbered checks. To set the record straight, not one of these checks was returned by a creditor. First, it shows that we are paying because every important creditor in the District of Columbia, with very minor exceptions, will be listed in this compilation.

More importantly, there have been charges made that the creditors will not go along with us. I have heard this in Iowa; I have heard it in Illinois; I have heard it in Michigan. I would just like you, sir, to go through here and find the name of a creditor who has told you perhaps

or one of the staff members that he will not cooperate, because we have the cancelled checks to prove it is not the case.

Mr. SISK. Do you have additional copies of that material which could be made a part of our file?

Mr. HOLLAND. Yes.

Mr. SISK. Without objection, a copy of this material will be made available for the file and subject to inspection by the committee. If possible, it will become a part of the record.

(The material referred to follows:)

EXHIBIT 1, SUBMITTED AS PART OF THE STATEMENT OF ELLIOTT HOLLAND, GENERAL MANAGER, BARDEN INVESTMENT MANAGEMENT CORPORATION, ON H.R. 8929 AND H.R. 9806

EXHIBIT 1

ANALYSIS OF 1,000 CONSECUTIVELY-ISSUED CHECKS

Checks used for analysis were issued by the Credit Advisors' office in Washington, D.C. to creditors of their clients during the period February 13–23, 1967. They are numbered E 155001 thru E 156000. All checks were cashed by the payee with the exception of those noted in the remarks column of the tabulation.

Check number	Payee	Remarks
E 155001	Arrow Loan Company	
E 155002	Central Charge	
E 155003	Huchingers	
E 155004	S. Kann Sons Company	
E 155005	Spiegels	
E 155006	Residents Financial Corporation	
E 155007	Cohan Zick Credit	
E 155008	Dorr Furnture	
E 155009	G.A.C. Finance	
E 155010	American Finance Corporation	
E 155011	Sears Roebuck Company	
E 155012	Household Finance Corporation	
E 155013	Sterns	
E 155014	Grants	
E 155015	Investors Loan	
E 155016	Michael Rokus	
E 155017	Sears Roebuck Company	
E 155018	Central Charge	
E 155019	Kings Jewelry	
E 155020	Old Colony Acceptance Corp	
E 155021	Kanns	
E 155022	Loans, Incorporated	
E 155023	Seabord Finance	
E 155024	Van's Gulf Service	
E 155025	Houston Furniture Store	
E 155026	A. C. Penny's	
E 155027	G.A.C. Finance	
E 155028	Sears Roebuck Company	
E 155029	American Finance Corp	
E 155030	Kay Jewelers	
E 155031	Singer Company	
E 155032	Richards Company	
E 155033	H. C. Bourne	
E 155034	De Vocht	
E 155035	Liberty Loan	Voided—Paid in full.
E 155036	Montgomery Ward	
E 155037	Aldens	
E 155038	Northeastern Institute	
E 155039	Education Book Club	Voided—Error.
E 155040	Speigel, Inc	
E 155041	First National Bank	
E 155042	Speigels	
E 155043	Sears Roebuck Company	
E 155044	Budget Finance Company	
E 155045	Lenders, Inc	
E 155046	C. C. Welds	
E 155047	American Finance Corporation	
E 155048	Maryland Cash Loans, Inc	
E 155049	Curtis Brothers	
E 155050	A. C. Penny Company, Inc	
E 155051	City Finance	Voided—Paid in full.
E 155052	Washington Hospital Center	

Check number	Payee	Remarks
E 155053	Associated Discount	
E 155054	Hecht Company	
E 155055	Government Employee Market	
E 155056	United Consumers Company Bureau	
E 155057	City National Bank	
E 155058	Standard Oil Company	
E 155059	Pacific Finance	
E 155060	Doctor Clark	
E 155061	Woodward & Lothrop	
E 155062	Hecht Company	
E 155063	Woodward & Lothrop	
E 155064	Wards	
E 155065	Woodward & Lothrop	
E 155066	Sears Roebuck Company	
E 155067	Curtis Brothers	
E 155068	Central Charge	
E 155069	Automobile Brokers Company	
E 155070	Sears Roebuck & Company	
E 155071	Speigel's, Inc	
E 155072	A. B. C	
E 155073	Hub Furniture Company	
E 155074	Singer Company	
E 155075	Washington Hospital Center	
E 155076	Hollywood Credit	
E 155077	Personal Thrift Plan	
E 155078	Style Cover Company	
E 155079	General Finance	
E 155080	Richards Company	
E 155081	C & P Telephone Company	
E 155082	Hecht Company	
E 155083	General Motors Acceptance Corp	
E 155084	Sears Roebuck & Company	
E 155085	Consumers Credit	
E 155086	First National Bank of Perupiler	
E 155087	Atlantic Charge Service	
E 155088	City Finance	
E 155089	Major Finance Corporation	
E 155090	Mobil Oil Company	
E 155091	Columbia Hospital	
E 155092	Central Charge	
E 155093	Capitol Furniture	
E 155094	Public Finance Company	
E 155095	Seaboard Finance	
E 155096	Family Publications	
E 155097	Shell Oil Company	
E 155098	Installment Department	
E 155099	Chesapeake National Bank	
E 155100	Woodward & Lothrop	
E 155101	Citizens Bank & Trust Company	
E 155102	Sacred Heart Credit Union	
E 155103	Household Finance Corporation	
E 155104	Republic Finance	
E 155105	American Credit Security Corp	
E 155106	Hecht Company	
E 155107	Investors Loan Company	
E 155108	Germantown Store	
E 155109	Sears, Roebuck & Company	
E 155110	Household Finance Corporation	
E 155111	G.A.C. Finance Corporation	
E 155112	Dr. Louis Q. Puggsley	
E 155113	Econo Car Rental	
E 155114	Atlantic Charge	
E 155115	American Finance Corporation	
E 155116	Household Finance Corporation	
E 155117	Georgetown Hospital	
E 155118	Hub Furniture Company	
E 155119	Del Ray Furniture	
E 155120	James Cummings	
E 155121	Seaboard Finance	
E 155122	Summit Loan	
E 155123	Calvert Credit	
E 155124	G.A.C. Finance Corporation	
E 155125	Amm Company	Voided—wrong payee.
E 155126	Peoples National Bank	
E 155127	Signal Finance	
E 155128	Culpepper	
E 155129	The Bank of Prince William	
E 155130	Dial Finance	
E 155131	The Fairfax Orthopedic	
E 155132	Central Charge	
E 155133	Capital Credit Corporation	
E 155134	American Security & Trust Co	
E 155135	Sears Roebuck & Company	

Check number	Payee	Remarks
E 155136	Walker Thomas	
E 155137	Aldens	
E 155138	Donald Young	
E 155139	Commercial Investment Company	
E 155140	Bankers Guaru	
E 155141	Security Bank	
E 155142	Montgomery Wards	
E 155143	Major Acceptance	
E 155144	Beneficial Finance Company	
E 155145	G.E.C.C	
E 155146	Montgomery Wards	
E 155147	Associated Discount	
E 155148	Arlandria Finance	
E 155149	Capital Credit Corporation	
E 155150	Liberty Loan	
E 155151	Kleins	
E 155152	Woodward & Lothrop	
E 155153	Franklin Readers	
E 155154	Hahn	
E 155155	Speigel's, Inc	
E 155156	Central Charge	
E 155157	Key	
E 155158	Gimbels	
E 155159	Bamberger	
E 155160	First Merchants National Bank	
E 155161	Liberty Loan	
E 155162	Humble Oil Company	
E 155163	Woodward & Lothrop	
E 155164	Sears Roebuck & Company	
E 155165	Kanns & Sons	
E 155166	J. C. Penny's	
E 155167	Curtis Brothers	
E 155168	Calvert Credit	
E 155169	Eastern Credit	
E 155170	American Security & Trust Co	
E 155171	American Finance Company	
E 155172	Leeds	
E 155173	Americad Security & Trust Co	Voided—Replaced by money order.
E 155174	Hub Furniture Company	
E 155175	Automobile Brokers	
E 155176	Major Acceptance Corporation	
E 155177	Hub Furniture Company	
E 155178	H. Abramson Company	
E 155179	Cameo Furniture	
E 155180	Cameo Furniture	
E 155181	Anacostia Federal Credit Union	
E 155182	Singer Company	
E 155183	Automobile Brokers	
E 155184	Bill Bar Vacuum	
E 155185	Seaboard Finance	
E 155186	Hub Furniture Company	
E 155187	Colonial Small Loan	
E 155188	G.A.C. Finance Corporation	
E 155189	Cameo Furniture Company	
E 155190	Speigel's, Inc	
E 155191	Kuff Mercantile Agency	
E 155192	Atlantic Charge	
E 155193	Kelly Adjustment Agency	
E 155194	U.S. General Accounting Office	
E 155195	Interstate Bank Corporation	
E 155196	American Finance Corporation	
E 155197	Financial House	
E 155198	Century Finance Company	
E 155199	Sears, Roebuck & Company	
E 155200	Hecht Company	
E 155201	Maryland Cash	
E 155202	City Finance Corporation	
E 155203	Speigel's, Inc	
E 155204	7 and 9 Shoppe	
E 155205	Hecht Company	
E 155206	Curtis Brothers	
E 155207	Franklin Readers	
E 155208	Woodward & Lothrop	
E 155209	Eugene Finegan	
E 155210	John Ready, M.D	
E 155211	Bernard Placock, M.D	
E 155212	Seaboard Acceptance	
E 155213	Investors Loan	
E 155214	Colliers, Inc	
E 155215	Speigel's, Inc	
E 155216	Central Charge	
E 155217	Capitol Credit Corporation	
E 155218	Budget Finance Corporation	

Check number	Payee	Remarks
E 155219	R. Her Finance Company	
E 155220	Rizuk Brass	
E 155221	State Loan	
E 155222	Famous Home Furniture	
E 155223	Household Finance Corporation	
E 155224	Aldens	
E 155225	Beneficial Finance Company	
E 155226	Signal Finance Company	
E 155227	G.E.C.C	
E 155228	American Finance Corporation	
E 155229	Charge Plan	
E 155230	William McCarthy	
E 155231	Sears, Roebuck & Company	
E 155232	Ft. Washington Marina	
E 155233	Jack Blunts	
E 155234	Household Finance Corporation	
E 155235	Ford Brothers Finance	
E 155236	American Finance Company	
E 155237	Joseph Bahen	
E 155238	Fredmans Hospital	
E 155239	American Finance Corporation	
E 155240	Aldens	
E 155241	Capital Furniture & Appliance	
E 155242	Woodward & Lothrop	
E 155243	Provident National Bank	
E 155244	Investors Loan Company	
E 155245	Maryland Cash	
E 155246	Sears Roebuck & Company	
E 155247	Chrysler Credit	
E 155248	Home Arts Products, Inc	
E 155249	Atlantic Charge	
E 155250	Major Acceptance	
E 155251	Hub Furniture Company	
E 155252	Walker Thomas	
E 155253	Sears, Roebuck & Company	
E 155254	Arlington Finance Corporation	
E 155255	New York Jewelry	
E 155256	Union Clothing	
E 155257	Hub Furniture Company	
E 155258	Woodward & Lothrop	
E 155259	Seaboard Finance	
E 155260	Household Finance Corporation	
E 155261	Master Credit	
E 155262	Ray Jewelers	
E 155263	Speigel's, Inc	
E 155264	Midland Finance	
E 155265	Raymond E. Hooper, D.D.S	
E 155266	City Finance Corporation	
E 155267	District Clothing & Furniture	
E 155268	Hollywood Credit	
E 155269	Eastern Credit	
E 155270	Peoples Furniture	
E 155271	Household Furniture Corporation	
E 155272	American Finance Corporation	
E 155273	Lenders, Inc	
E 155274	Capital Furniture	
E 155275	Wards	
E 155276	Budget Finance Corporation	
E 155277	Investor Discount Corporation	
E 155278	G.E.C.C	
E 155279	Berkshire Bank & Trust	
E 155280	Commercial Credit Corporation	
E 155281	Household Finance Corporation	
E 155282	Hamilton Mutual Fund	
E 155283	Central Charge	
E 155284	Seaboard Finance	
E 155285	Dr. Douglas	
E 155286	G. W. Hospital	
E 155287	Calvert Credit	
E 155288	Atlantic Finance Company	
E 155289	American Oil Company	
E 155290	Dr. William Burdick	
E 155291	S. Kann Sons Company	
E 155292	Central Charge	
E 155293	Liberty Loan	
E 155294	Liberty Loan	
E 155295	Central Charge	
E 155296	Federal Credit	
E 155297	Calvert Credit	
E 155298	Atlantic Charge	
E 155299	Hub Furniture Company	
E 155300	Hecht Company	
E 155301	Central Charge	

Check number	Payee	Remarks
E 155302	Hecht Company	
E 155303	Family Finance	
E 155304	Oxford Loan	
E 155305	Worldwive T.V	
E 155306	Residence Finance	
E 155307	Aldens	
E 155308	Major Acceptance Corporation	
E 155309	Beneficial Finance	
E 155310	Sears, Roebuck & Company	
E 155311	Micr Investment	
E 155312	Bankers Guaranty	
E 155313	American Finance Corporation	
E 155314	James Lones	Voided—Insufficient address.
E 155315	Hub Furniture Company	
E 155316	Franklin Investment Corporation	
E 155317	Insurance Company	
E 155318	Union Trust	Voided—Acct. paid in full.
E 155319	Hub Furniture Company	
E 155320	Suburban Finance	
E 155321	John Mathew	
E 155322	Major Finance Corporation	
E 155323	United Community National Bank	
E 155324	Liberty Loan	
E 155325	Hecht Company	
E 155326	Aetna Acceptance	
E 155327	Kays	
E 155328	Castelbergs Jewelers	
E 155329	U.S. Credit Union	
E 155330	Community Finance	Voided—Acct. paid in full.
E 155331	State Loan Corporation	
E 155332	Lenders, Inc	
E 155333	Household Finance Corporation	
E 155334	Colony Credit Corporation	
E 155335	Public Health Service	
E 155336	Citizens Bank	
E 155337	Franklin Investment	
E 155338	Old Dominion	
E 155339	State Loan Corporation	
E 155340	American Finance Corporation	
E 155341	Capital Credit Corporation	
E 155342	Dr. Lazall	
E 155343	Family Finance	
E 155344	C & P Telephone of Virginia	
E 155345	Key Stone Readers Service	
E 155346	Speigel's, Inc	
E 155347	Hecht Company	
E 155348	Hub Furniture Company	
E 155349	Montgomery Wards	
E 155350	Suburban Finance	
E 155351	Sears, Roebuck & Company	
E 155352	American Finance Corporation	
E 155353	Public Finance	
E 155354	Ritter Finance	
E 155355	Bank of Prince William	
E 155356	Old Colony Finance	
E 155357	National Loan Corporation	
E 155358	Major Finance	
E 155359	J. C. Penney's	
E 155360	Best & Company	
E 155361	Riggs National Bank	
E 155362	Central Charge	
E 155363	State Loan Company	
E 155364	American Finance Corporation	
E 155365	Lenders, Inc	
E 155366	Colony Credit Corporation	
E 155367	Hub Furniture Company	
E 155368	G.A.C. Finance Corporation	
E 155369	C.I.T. Finance Corporation	
E 155370	Citizens Bank of Maryland	
E 155371	H. Abramson Company	
E 155372	Calvert Credit	
E 155373	The Crown Company	Voided—Acct. paid in full.
E 155374	Riggs National Bank	
E 155375	Budget Finance Corporation	
E 155376	Household Finance Corporation	
E 155377	Central Charge	
E 155378	Government Employee Market	
E 155379	Hub Furniture Company	
E 155380	Hub Furniture Company	Voided—Error.
E 155381	Speigel's, Inc	
E 155382	State Loan	
E 155383	Liberty Loan	
F 155384	Major Acceptance Corporation	

Check number	Payee	Remarks
E 155385	S. Klein	
E 155386	Suburban Finance	
E 155387	Public Finance	
E 155388	Redisco, Inc	
E 155389	Speigel's, Inc	
E 155390		Voided—Error.
E 155391	Interstate Bank Company	
E 155392	Hub Furniture Company	
E 155393	Beneficial Finance Company	
E 155394	Public Finance	
E 155395	G. E. Credit Corporation	
E 155396	City Finance Company	
E 155397	Aetna Finance	
E 155398	Capital Finance	
E 155399	S. Kann & Sons Company	
E 155400	Lansburgh	
#E155401	Fairmont Finance	
#E155402	Hecht Company	
#E155403	Bonds	
#E155404	Chrysler Corporation	
#E155405	Sears & Roebuck Co	
#E155406	Potomac Valley Bank	
#E155407	Commercial Investment Co	
#E155408	Central Charge	
#E155409	Eastern Credit	
#E155410	Lafayette Radio	
#E155411	Mt. Vernon National Bank	
#E155412		Voided—error.
#E155413	Central Charge	
#E155414	S. Kann Sons Co	
#E155415	Hecht Company	
#E155416	Lansburgh	
#E155417	Woodward & Lathrop	
#E155418	City Post Office Credit Union	
#E155419	C. Lacey Compton	
#E155420	Investors Loan	
#E155421	John W. Miller	
#E155422	Lazarus	
#E155423	Lazarus	
#E155424	Kahns Jewelers	
#E155425	Woodward & Lothrop	
#E155426	Kahns Jewelers	
#E155427	Cols Administrative Bureau	
#E155428	Atlantic Finance	
#E155429	Signal Finance Loans	
#E155430	State Loan	
#E155431	City Finance	
#E155432	Trade Commission Tre. Credit Union	
#E155433	Hecht Company	
#E155434	Danker Guaranty	
#E155435	American Security Bank	
#E155436	American Finance Corporation	
#E155437	Alex Hospital Business Office	
#E155438	Interstate Bankers Corporation	
#E155439	Loans, Inc	
#E155440	Citizens Bank of Maryland	
#E155441	Sears, Roebuck & Company	
#E155442	Manufacturers National Bank	(A/C pd. in full, check returned to client—Lost in mail.)
#E155443	Dr. Peters Hamna	
#E155444	Ben Franklin Reading Club	
#E155445	A. A. Herr Jr., M.D	
#E155446	Dr. Herbert A. Maskowite	
#E155447	Dr. E. R. Grether	
#E155448	Sears, Roebuck & Company	
#E155449	Sears, Roebuck & Company	
#E155450	Seaboard Finance	
#E155451	Seaboard Acceptance	
#E155452	G.A.C. Finance Corporation	
#E155453	Trans American Credit Corp	
#E155454	Kay Jewelers	
#E155455	Household Finance Corporation	
#E155456	Korvettes	
#E155457	Goodrich Milk	
#E155458	Dr. Kolkin, M.D	
#E155459	Dr. Mueller, M.D	
#E155460	J. Doyle, M.D	
#E155461	T. J. Byre	
#E155462	New York Telephone	
#E155463	Abbotts Florists	
#E155464	McNiels Jewelers	
#E155465	Automobile Brokers	
#E155466	Budget Finance	

Check number	Payee	Remarks
#E155467	Hecht Company	
#E155468	Liberty Loan	
#E155469	Associates, Discount	
#E155470	Household Finance Corporation	
#E155471	Credit Exchange & Adjustment Bureau	Payee went out of business 11/1966—Check lost.
#E155472	Capitol Credit Corporation	
#E155473	Nation Wide Collection	
#E155474	Shinbaums	
#E155475	Dial Finance	
#E155476	Sears, Roebuck & Company	
#E155477	Manufacturers National Bank	
#E155478	Adironeaer Trust Company	
#E155479	National Belles Hess	
#E155480	Lenders of Shirl	
#E155481	Spiegels	
#E155482	Hecht Company	
#E155483	Kaleigh	
#E155484	Woodward & Lothrop	
#E155485	Lord & Taylor	
#E155486	L. Frank Company	
#E155487	Kliens	
#E155488	Julius Garfinchel	
#E155489	Seabord Finance	
#E155490	Central Charge	
#E155491	Hub Furniture Company	
#E155492	Central Charge	
#E155493	American Finance	
#E155494	Aldens	
#E155495	Publishers Acceptance Corp	
#E155496	Capital Credit	
#E155497	Central Charge	
#E155498	Peerless Furniture	
#E155499	Sears, Roebuck & Company	
#E155500	Central Charge	
#E155501	Aetna Finance	
#E155502	Seaborad Finance	
#E155503	Suburban Finance	
#E155504	Atlantic Charge	
#E155505	American Finance	
#E155506	City Finance	
#E155507	G.A.C	
#E155508	Government Employees Market	Check lost in mail.
#E155509	Household Finance Corporation	
#E155510	American Oil	
#E155511	Postal Credit Union	
#E155512	Beneficial Finance	
#E155513	Charleston National Bank	
#E155514	The Greater Metro Collection Agency	
#E155515	Atlantic Finance	
#E155516	Coluerl Credit	
#E155517	Harry Walan	
#E155518	Retain Adjustment	
#E155519	Family Finance Company	
#E155520	G.E.C.C	
#E155521	Liberty Loan	
#E155522	Marvel Cash	
#E155523	Vista of Baltimore	Insufficient address—Voided.
#E155524	U.S. Coast Guard	
#E155525	Household Finance Corporation	
#E155526	Tops Furniture	
#E155527	Franklin Investment	
#E155528	City Finance	
#E155529	Milart	
#E155530	Robert Delahanty	
#E155531	Camble Masis	
#E155532	Wash Music Center	
#E155533	Government Employees Market	Check lost in mail.
#E155534	Government Employees Market	Check lost in mail.
#E155535	Sears, Roebuck & Company	
#E155536	G. E. Credit Corporation	
#E155537	Major Acceptance Corporation	
#E155538	Allied Radio	
#E155539	Central Charge	
#E155540	Hecht Company	
#E155541	F. L. Van Hooser Agency	
#E155542	Humble Oil	
#E155543	District Credit	
#E155544	Century Metal Craft Corporation	
#E155545	Ideal Clothing	
#E155546	Liberty Loan	
#E155547	American Security & Trust	
#E155548	Kelly Adjustment	

Check number	Payee	Remarks
#E155549	Creditor Claims of America	
#E155550	Diners Club	
#E155551	Wagners Citgo	
#E155552	Leesburg Company	
#E155553	First National Bank	
#E155554	Atlantic Charge	
#E155555	Major Acceptance	
#E155556	Faris Finance	
#E155557	Beneficial Finance	
#E155558	Fairfax Family Fund	
#E155559	Belhenge Aircraft Credit Union	
#E155560	Spiegels	
#E155561	General Motors Acceptance Corp	
#E155562	G.A.C. Finance	
#E155563	Fairway Loan	
#E155564	Associates Discount	
#E155565	Crown Company	
#E155566	Kay Jewelers	
#E155567	Credit Advisors, Inc	
#E155568	Seaboard Finance	
#E155569	G.A.C. Finance	
#E155570	G.A.C. Finance	
#E155571	Household Finance Corporation	
#E155572	First Merchant Bank of Leesburg	
#E155573	General Motors Acceptance Corp	
#E155574	Hub Furniture Company	
#E155575	Aldens	
#E155576	Richard Barner	
#E155577	Ken Albreht	
#E155578	Union Looms Credit	Insufficient address—Voided.
#E155579	General Electric Credit Corp	
#E155580	Liberty Loan	
#E155581	First Industrial Bank	
#E155582	Hecht Company	
#E155583	Columbia Hospital	
#E155584	Government Employees Market	
#E155585	Sears, Roebuck & Company	
#E155586	G.A.C. Finance	
#E155587	American Security	
#E155588	Geiza B.K. Toth	
#E155589	Major Acceptance Corporation	
#E155590	Del-Ray Furniture Company	
#E155591	Household Finance Corporation	
#E155592	Bank of Virginia	
#E155593	Sears, Roebuck & Company	
#E155594	Hub Furniture Company	
#E155595	American Finance Corporation	
#E155596	B. & W. Acceptance Corporation	
#E155597	Atena Finance	
#E155598	G.A.C. Finance	
#E155599	Calvert Credit Corporation	
#E155600	Peoples National Bank	
#E155601	Central Charge	
#E155602	Old Colony Finance Company	
#E155603	Warrington Furniture	
#E155604	Washington Hospital Center	
#E155605	Dr. G. M. Augustin	
#E155606	Hub Furniture Company	
#E155607	Central Charge	
#E155608	Spiegels	
#E155609	Kanns	
#E155610	Hub Furniture Company	
#E155611	Capitol Furniture	
#E155612	Household Finance Company	
#E155613	Sears, Roebuck & Company	
#E155614	1st Belle Fonte Bank & Trust	
#E155615	Center Thrift	
#E155616	Oxford Finance Company	
#E155617	Budget Finance	
#E155618	Liberty Finance	
#E155619	Star Credit Cloth	
#E155620	American Security & Trust	
#E155621	Walker Thomas Furniture	
#E155622	Gea. Refrigeration Supply	
#E155623	Suburban Trust Company	
#E155624	Aldens	
#E155625	Encyclopaedia Americana	
#E155626	Central Charge	
#E155627	Getz & Getz	
#E155628	University Cit	
#E155629	Parry, Batryn, Collins	
#E155630	Paul A. Leuy	
#E155631	Jelleffs	

Check number	Payee	Remarks
#E155632	Kay Jewelers	
#E155633	Schawtaz	
#E155634	General Credit Electric	
#E155635	Spiegels	
#E155636	Beneficial Finance	
#E155637	Sears, Roebuck & Company	
#E155638	Spiegels	
#E155639	Aetna Finance	
#E155640	Shell Oil	
#E155641	Hall & Williams	
#E155642	Seaboard Finance	
#E155643	Andersons Furniture	
#E155644	Calvert Credit	
#E155645	Hecht Company	
#E155646	Woodward & Lathrop	
#E155647	Central Charge	
#E155648	Liberty Loan	
#E155649	Mrs. Chargles Steffens	
#E155650	Pentagon Federal Credit Union	
E 155651	Dr. Enna Hughes, M.D	
E 155652	Dr. Morrie C. Dunman, M.D	
E 155653	Dr. Bull, M.D	
E 155654	Washington Sanitarium Hospital	
E 155655	J. C. Penney Company	
E 155656	John's Hardware	
E 155657	Dr. Don Willington Bears	
E 155658	Dr. Maldonadoo	
E 155659	L. Frank	
E 155660	George's	
E 155661	Citizen's National Bank	
E 155662	Calvert Credit Corporation	
E 155663	Central Charge	
E 155664	Allico Radio Corporation	
E 155665	Central Charge	
E 155666	Humbel Oil & Refinner	
E 155667	Detersburg Auto Parts	
E 155668	Federal Credit Service	
E 155669	American Finance Corporation	
E 155670	B & B Finance	
E 155671	Franklin Furniture	
E 155672	Woodward & Lothrop	
E 155673	Liberty Loan	
E 155674	City Finance Corporation	
E 155675	Crescent Florist	
E 155676	Casualty Hospital	
E 155677	Attorney Bernard D. Lipton	Payee has no record, check lost.
E 155678	Beneficial Loan	
E 155679	Capital Credit Corporation	
E 155680	Diners Club	
E 155681	Cafritz Hospital	
E 155682	City Finance Corporation	
E 155683	American Finance Corporation	
E 155684	Seaboard Finance	
E 155685	Household Finance Corporation	
E 155686	Kay Jewelers	
E 155687	George's	
E 155688	R. A. Abott	
E 155689	S. J. Goodman Collection	
E 155690	S. J. Goodman Collection	
E 155691	Montgomery Wards	
E 155692	Central Charge	
E 155693	Sears Roebuck & Company	
E 155694	Calvert Credit	
E 155695	Sears Roebuck & Company	
E 155696	J. H. Marshall	
E 155697	Speigel's, Inc	
E 155698	Seaboard Finance	
E 155699	General Motors Acceptance Corp	
E 155700	Doctors Hospital	
E 155701	Sears, Roebuck & Company	
E 155702	Robert Jacquers	
E 155703	National Bank of Washington	
E 155704	American Security & Trust	
E 155705	G. E. C. C	
E 155706	White & Weeks Furniture	
E 155707	Speigel's, Inc	
E 155708	G. A. C. Finance	
E 155709	Summit Loans, Inc	
E 155710	O. D. Pounds	
E 155711	Maskins Clothing	Stop payment—Lost in mail.
E 155712	Todds Electric Appliance	Stop payment—Lost in mail.
E 155713	State Loan	
E 155714	American Finance Corporation	

Check number	Payee	Remarks
E 155715	Paul Dykes Furniture	
E 155716	Haynans	
E 155717	Allied Radio	
E 155718	Woodward & Lothrop	
E 155719	Hecht Company	
E 155720	American Finance Corporation	
E 155721	East Coast Stainless Steel	
E 155722	Bolling A.F.B. Credit Union	
E 155723	Dr. Fenton	
E 155724	Capital Credit Corporation	
E 155725	Capital Furniture Company	
E 155726	Atlantic Charge Service	
E 155727	Douglas Decorators, Inc	
E 155728	Liberty Loan Company	
E 155729	Security Bank	
E 155730	Parents' Magazine, Inc	
E 155731	Midland Finance	
E 155732	Maryland Cash Loan	
E 155733	Seaboard Finance	
E 155734	Sears Roebuck & Company	
E 155735	Industrial Bank of Washington	
E 155736	Seaboard Acceptance	
E 155737	M. Goodpasture, Attorney	
E 155738	Medical Credit Association, Inc	
E 155739	Western Auto	
E 155740	Appliance Buyers Credit Corp	
E 155741	Investors Loans	
E 155742	Firestone	
E 155743	Farmers Merchants National Bank	
E 155744	Wards	
E 155745	Wards	
E 155746	Ingersall Rand Credit Union	
E 155747	American Finance Corporation	
E 155748	Hub Furniture Company	
E 155749	AAMCO	
E 155750	Investors Discount Corporation	
E 155751	Curtis Brothers Furniture Co	
E 155752	Union Trust Company	
E 155753	Capital Furniture & Appliance Co	
E 155754		Voided—Error.
E 155755	B. G. Fitzpatrick	
E 155756	Columbia Records	
E 155757	Seaboard Acceptance	
E 155758	Investors Credit Corporation	
E 155759	E. J. Korvette, Inc	
E 155760	State of Maryland, Income Tax	
E 155761	Freeds	
E 155762	Citizens Bank of Maryland	
E 155763	Sears Roebuck & Company	
E 155764	C & P Telephone Company	
E 155765	Hecht Company	
E 155766	Hahn Company	
E 155767	Airways Rent-A-Car	
E 155768	Sun Oil Company	(Payee still has check, payee cannot locate client's account.)
E 155769	Suburban Finance	
E 155770	Speigel's, Inc	
E 155771	General Tire	
E 155772	Columbia Hospital	
E 155773	Kay's Jewelers	
E 155774	Lincoen Clinic	
E 155775	American Finance Corporation	
E 155776	Washington Hospital Center	
E 155777	Woodward & Lothrop	
E 155778	Falls Church Bank	
E 155779	Household Finance Corporation	
E 155780	Investors	
E 155781	Suburban Finance	
E 155782	Seaboard Finance Company	
E 155783	Liberty Loan	
E 155784	Hub Furniture Company	
E 155785	Central Charge	
E 155786	Seaboard Finance Company	
E 155787	Central Charge	
E 155788	District Credit	
E 155789	Maryland National Bank	
E 155790	Government Employee Market	
E 155791	Hub Furniture Company	
E 155792	Household Finance Corporation	
E 155793	Sanders, Maryland	
E 155794	Sihowatters, Md	
E 155795	Stoneburner, Md	
E 155796	B. L. Gee Grocery	

Check number	Payee	Remarks
E 155797	First & Citizens National Bank	
E 155798	Speigel's, Inc	
E 155799	Interstate	
E 155800	Public Finance	
E 155801	Louis M. Arthur	
E 155802	Sears, Roebuck & Company	
E 155803	Calvert Credit	
E 155804	Merchants Credit Guide	Stop payment—Lost in mail.
E 155805	National Association of Schools & Publications, Inc	
E 155806	Capital Credit Company	
E 155807	Attorney Edward Freeman	
E 155808	Sears, Roebuck & Company	
E 155809	Lowes Company	
E 155810	Dr. Garcia	Payee didn't receive—Lost.
E 155811	City Finance	Stop payment—Lost in mail.
E 155812	Arlington Loan	Stop payment—Lost in mail.
E 155813	Grants Department Store	Stop payment—Lost in mail.
E 155814	Ben Franklin Reading Club	Stop payment—Lost in mail.
E 155815	Dr. Nibley, D.D.S	
E 155816	Kellers Adjustment	
E 155817	Paschual La Padula	
E 155818	World Book Encyclopedia	
E 155819	Fitshughs Florists	
E 155820	Seaboard Finance	
E 155821	Aetna Finance	
E 155822	General Motors Acceptance Corp	
E 155823	Riverside Beef Company	
E 155824	Beneficial Financial Company	
E 155825	Valmassel's	
#E155826	Manassor Medical Center	
#E155827	Interstate Finance	
#E155828	1st National Bank	
#E155829	Credit Bureau of Farminton	
#E155830	Old Dominion Bank	
#E155831	Hecht Company	
#E155832		Voided—Error.
#E155833	American Security & Trust	
#E155834	Castleberg	
#E155835	Kanns	
#E155836	City Finance	
#E155837	American Finance	
#E155838	G.E.C.C	
#E155839	Montgomery-Wards	
#E155840	World Book	
#E155841	Montgomery-Wards	
#E155842	Mt. Vernon National Bank	
#E155843	G.E.C.C	
#E155844	G.E.C.C	
#E155845	Investors Loan	
#E155846	Woodward & Lathrop	
#E155847	Hecht Company	
#E155848	Central Charge	
#E155849	Group Health Association	
#E155850	Lerners Shops	
#E155851	State Loan Corporation	
#E155852	Spiegels	
#E155853	G.E.C.C	
#E155854	C & R Auto Service	
#E155855	Greston Avenue Gulf	
#E155856	Charlattesuiell Tire	
#E155857	Annapolis Bank & Trust	
#E155858	Libery Loan	
#E155859	Budget Finance	
#E155860	Interstate Bankers Corporation	
#E155861	Kents Jewelers	
#E155862	Major Acceptance	
#E155863	Montgomery-Wards	
#E155864	Presto Pride	
#E155865	Major Finance Company	
#E155866	Safeway Federal Credit Union	
#E155867	Hecht Company	
#E155868	Thackston Semico	
#E155869	Repherger Furniture	
#E155870	R. Macklin Smith	
#E155871	Peoples Department Store	
#E155872	Southside Motor Company	
#E155873	Woodward & Lathrop	
#E155874	Riggs National Bank	
#E155875	Hecht Company	
#E155876	Calvert Credit	
#E155877	Sears, Roebuck & Company	
#E155878	Sears, Roebuck & Company	
#E155879	Credit Bureau	

Check number	Payee	Remarks
#E155880	Christian Science Public Service	
#E155881	Dunn & Landorf	
#E155882	Hecht Company	
#E155883	High Voltage Insurance Company	
#E155884	Liberty Loan	
#E155885	1st National Bank of Strasbury	
#E155886	Arlington Trust Company	
#E155887	Fredericks Flowers, Inc	
#E155888	G. Gregg Eveingan	
#E155889	Creditor Claims of America	
#E155890	Sears, Roebuck & Company	
#E155891	Phillas Petroleum Company	
#E155892	State Loan of Mt. Ranier	
#E155893	Central Charge	
#E155894	Suburban Finance	
#E155895	Humble Oil	
#E155896	Sears, Roebuck & Company	
#E155897	Valley Small Loan	
#E155898	Spotswood Bank	
#E155899		Voided—Error.
#E155900	Chrysler Credit	
#E155901	Hecht Company	
#E155902	J. C. Pennys Department Store	
#E155903	Interstate Bankers	
#E155904	Hopkins Furniture	
#E155905	Montgomery-Wards	
#E155906	American Finance Company	
#E155907	Suburban Finance	
#E155908	I. A. C	
#E155909	L. Frank	
#E155910	Family Finance	
#E155911	Old Dominion Bank	
#E155912	Sears, Roebuck & Company	
#E155913	Dr. Ayres	
#E155914	Hechingers	
#E155915	Capitol Credit Company	
#E155916	J. C. Penneys Department Store	
#E155917	Federated Credit Corporation	
#E155918	Singer Company	
#E155919	Beneficial Finance	
#E155920	Montgomery-Wards	
#E155921	Montgomery-Wards	
#E155922	G.M.A.C	
#E155923	Millers Stock Yard Freezer	
#E155924	Redesco, Inc	
#E155925	Major Finance	
#E155926	United Consumers Credit Bureau	
#E155927	Credit Research Company	
#E155928	Lenders Loan Company	
#E155929	American Oil Company	
#E155930	Good Year Service Stop	
#E155931	Dr. Gruver	
#E155932	District Credit Clothing	
#E155933	Suburban Finance	
#E155934	Investors	
#E155935	Capitol Finance	
#E155936	Household Finance Corporation	
#E155937	Hollywood Credit Clothing	
#E155938	Calvert Credit	
#E155939	Julius Lanshurghis	
#E155940	Hecht Company	
#E155941	Hub Furniture Company	
#E155942	Hub Furniture Company	
#E155943	Capitol Credit Corporation	
#E155944	Central Charge	
#E155945	Capitol Credit Corporation	
#E155946	G. A. Finance	
#E155947	Aetna Finance	
#E155948	Hastings Finance	
#E155949	Freedman's Hospital	
#E155950	Montgomery-Wards	
#E155951	Leonard Gross, D.D.S	
#E155952	Sears, Roebuck & Company	
#E155953	Dominic Investment	
#E155954	Atlantic Finance	
#E155955	G.M.A.C	
#E155956	Alex Hospital	
#E155957	Sears, Roebuck & Company	
#E155958	Bankers Guaranty	
#E155959	Maryland Cash	
#E155960	Hub Furniture Company	
#E155961	William Thomas	
#E155962	American Finance	

Check number	Payee	Remarks
#E155963	State Loan	
#E155964	Suburban Credit Bureau	
#E155965	Tidewater Motocycle	
#E155966	G.M.A.C	
#E155967	Aetna Finance	
#E155968	Credit Union	
#E155969	Electratrix Corporation	
#E155970	Calvert Credit	
#E155971	Western Auto	
#E155972	Navy Credit Union	
#E155973	Woodward & Lothrop	
#E155974	Spiegels	
#E155975	Hecht Company	
E 155976	Beneficial Finance Company	
E 155977	State Loan	
E 155978	Lafayette Federal Credit Union	
E 155979	Liberty Loan	
E 155980	American's Catalog Store	
E 155981	Hesco Gas Station	
E 155982	B & T Tire Supply	
E 155983	F.C.C. Employment Credit Union	
E 155984	Central Charge	
E 155985	Woodward & Lothrop	
E 155986	GEM Internation, Inc	
E 155987	Eastern Credit	
E 155988	Citizens Building & Loan	
E 155989	Colony Finance	
E 155990	G. E. C. C	
E 155991	American Sales Company	
E 155992	Household Finance Corporation	
E 155993	Franklin National Bank	
E 155994	S. Klein	
E 155995	Equity Federal Credit Union	
E 155996	Walter Reed Credit Union	Voided—Paid in full.
E 155997	Mr. Meals Garage	
E 155998	Colonial Jewelers	
E 155999	Farmers Merchants National Bank	
E 156000	S. Kann & Sons Company	

Mr. HOLLAND. One further charge that was made yesterday—and I might say this is the only charge that I have heard here in the District that specifically mentioned Credit Advisors, which, as I said, is the name under which we operate here.

Yesterday it was stated in testimony by one of your witnesses that one of our clients, a Credit Advisors client, stopped making payments to us and we sued him. I want to emphatically state that in our ten years of corporate history we have never sued any client. I make that emphatically. We have never sued any of our clients. I would request that Mr. Kneipp present to this committee the evidence he has that we have filed suit against any of our clients.

I have said before that we choose to represent the debtor. I don't believe on one hand we can sit here and say that we represent him and that we are trying to help him and as soon as he stops making payments to us we turn around and sue him. I think it would be unconscionable. That is our firm corporate policy. I would like to erase from the minds of anyone here that we would sue one of our clients.

In that connection he used the name Credit Advisors. That name has been used by other people in the industry. Quite a bit of conversation was held here yesterday on the case of Ferguson vs. Skrupa. Mr. Skrupa has, upon occasion, used the name "Credit Advisor" but not in the District to my knowledge. I emphasize there is no such client. Mr. Kniepp has no such information. If he does, I would like for him to present it here.

Another thing I would like to say is that it has been said that we favor certain creditors. I don't know where that idea arose in the minds of anyone connected with the industry. We cannot favor any creditor. It would be foreign to our nature to favor any creditor. We must favor our debtor. We must do what we must do to help the debtor out of debt.

The only time I have seen any favoring of debtors done in the debt management industry is where debt management is operated on a non-profit basis. I think one of the statements that has been submitted to this committee is by Mr. Price A. Patton. Mr. Patton was the Director of the largest non-profit counselling service in the country, namely, in the City of Chicago. Mr. Patton, in testimony before the Tydings Committee of the Senate, said the originally this non-profit corporation was set up with the help of such individuals as Marshall Field in Chicago and that the creditors were to take a minority interest in this operation. But, as they began to open up and operate and seek clients, the creditors became very much a pressure group; they took control of it to a large degree, and what would occur is that the creditors would send certain of their debtors over and by sending them over to the non-profit organization for counselling service, they are merely saying, "We would like to be favored on your disbursements." But, as far as a commercial debt counsellor is concerned, he would never favor a creditor.

To go further, sir, as far as the charges are concerned that have been made against the industry, I would like to state that Congressman Diggs introduced his bill—and I believe it is because in the State of Michigan, which is the state he represents, there is licensing for the debt management industry. The same charges that are made here today were made in 1958 and the congress took a look at the debt management industry in 1958 and they didn't take any action.

In 1963, when Mr. Diggs introduced a similiar bill, congress again didn't take action. At that point Michigan had had one full year of experience under the Debt Managment Act and I can say that that is probably one of the contributing factors to Mr. Diggs taking the approach of licensing as opposed to prohibition.

Here agin we sit in 1967 and yet in the District there has never been a true investigation of how reputable counsellors operate and of the great need for their services.

I would like to ask the debtor, our client, the consumer, the person who we help, what his opinion is.

I would like to submit as an exhibit (Exhibit 2) to this committee copies of over 125 letters we received at the time of unfavorable publicity last spring, some of them solicited, some unsoliciated, from our clients. I think these letters are testimony from people who live right here of how they feel about our organization and about the help we have been able to extend to them and how they feel about their own debt picture.

I would like to submit this to your committee, sir.

Mr. Sisk. Without objection, a copy of your Exhibit No. 2 will be made available for the file and subject to inspection by the committee. If possible, it will become a part of the record.

(The material referred to will be found in the files of the committee.)

Mr. HOLLAND. The debtor is the one for whom these hearings are convened and I think he should be the one to finally determine whether this industry is of need and service to the economy.

I thank you, sir.

Mr. SISK. Thank you, Mr. Holland, for keeping your statement so brief.

As I said, your full statement will be made a part of the record.

(The prepared statement follows:)

STATEMENT OF ELLIOTT HOLLAND, GENERAL MANAGER, BARDEN INVESTMENT MANAGEMENT CORPORATION

Introduction

I appreciate this opportunity to appear before this Subcommittee on H.R. 8929 and H.R. 9806. My name is Elliott Holland, and I am the General Manager of the Barden group of companies. We operate 56 debt counselling offices in the District of Columbia and elsewhere throughout the country under the Credit Advisors and other trade names. I hope my testimony can show this Subcommittee how professional debt counsellors help so many people bogged down in debt. I testify from daily experience in this industry. We know from working with thousands of debtors that they need our services and that they obtain a practical course in financial planning as we help them out of debt. Our actual experience disproves the many unfounded charges made against the debt management industry.

Essential Questions to be Answered

This Subcommittee should obtain answers to the following essential questions as it investigates this industry: What role do professional debt management companies play in our economy? Are their services useful, and do they satisfy a need? What are the alternatives to debt counsellors presently, and what are the alternatives if commercial debt management were to be outlawed? Do non-profit organizations fairly represent the debtors, and can they alone serve the needs of those in debt? How do responsible commercial counsellors operate in this field? How can the public best be protected from the abuses which have occurred in the past? Do the facts support the charges leveled against the industry? Which abuses are real, and which charges are unfounded?

Debt Counselling—A Definition

Debt counselling has resulted from the phenomenal growth in consumer credit—a credit expansion which has contributed dynamically to the growth of our free enterprise system, but unfortunately has left in its wake large numbers of victims to such easy credit policies. This body of overburdened debtors can be accounted for in a number of ways. Most debtors are buyers with little or no sales resistance. They buy far beyond their means and their abilities to pay. They are victims of easy credit policies. Still others make purchases in good faith, but because of illness, death, loss of employment or some other unforeseen personal catastrophe are unable to meet their contracted payments.

Regardless of the reason for default, each class of debtor faces a variety of pressures, such as demanding telephone calls, written and persistent duns, garnishment, the threat of unemployment. As these pressures mount, debtors often find that the principal solutions are: bankruptcy * * * or professional debt counselling and management.

Debt management companies are not loan companies. Fully qualified and capably trained debt management counsellors have only one objective: To guide persons in debt out of the maze of money troubles in which they have trapped themselves.

We think that the facts, when known, clearly establish the usefulness of professional debt counsellors and the need for their services. The United States Department of Labor stated in several 1966 reports: "If honestly operated, these agencies can perform a real service for persons deeply enmeshed in debt." That, of course, is not the entire quote—for the reports go on to warn of the serious abuses that have occurred in the debt management industry. The concern for these abuses is a concern the industry shares, and has prompted these hearings today. I will address myself to such problems, and the solution to them, later. For now, let us consider the "real service" which my company and other reputable ones in the debt counselling field performs.

Useful Services Performed

A professional debt counsellor helps debtors to budget and schedule their debt repayments, while providing relief from unfair or harassing creditor collection tactics. In so helping the debtor and his wife to budget and to practice financial discipline, the counsellor chooses sides. He fights for his client, since his basic responsibility is to their interests—though the end purpose of repaying all debts benefits the creditors. The usual results of a professional relationship—bills are paid off, money is returned to the creditor, and the debtor enjoys a learning experience that he carries with him in the future. He is no longer a financial refugee, he regains his self-respect by learning what too many other people, too many of us, take for granted—an ability to control his own finances.

Counselling as an Alternative to Bankruptcy or Additional Debt

Without debt counselling, many are forced into bankruptcy. In the past thirteen years, while the U.S. economy has enjoyed its most prosperous decade in history, the annual personal bankruptcy rate has increased 503 percent. Debt counselling *is* an alternative to bankruptcy, and its disruptive effects on employment, family life, and loss of pride. Like the lesser known and more costly Chapter 13 wage earner procedures, it is a method of paying your way out of debt. Much is made of the fact that debt counsellors do not advance their own money to debtors so as to pay off existing and past due obligations. That is absolutely correct! We believe that individuals already overburdened with bills and debts *cannot borrow their way out of debt.* It is too costly a solution when the highest interest charges of consolidation loans are considered. We know, because so many of the debts included in the schedule of debts we deal in, are consolidation loans. Furthermore, many debtors are by their very overextended condition poor credit risks and therefore ineligible for such loans. The many credit interests in this country prosper by keeping individuals indebt. We can only survive by resisting these interests and helping the debtor out of debt.

Why Can't the Debtor Help Himself?

You may wonder, as I did before learning answers through experience with our clients and creditors, why a debt counsellor can succeed where the individual debtor fails. Surprisingly, perhaps, our average clients are not uneducated, unemployed and poverty-stricken. Nor are the non-white minorities overly represented. Our "typical" client, fully employed, under 30, average income of $5,000, and with three or four dependents, is not much different from the celebrated profile study made of the average bankrupt. This typical debtor, and the many far more affluent clients we help, need the services of a counsellor to help them budget, deal with their creditors, and avoid repeating these problems in the future. This individual cannot always, or even often, help himself. Where the debtor himself attempts to rearrange his repayment plan with his many creditors, he frequently finds that despite the willingness of certain creditors to go along with him, each one still wants the assurance that no other creditor will receive preference. Quite frequently, therefore, the creditors will not allow such an adjustment. Yet, our experience has enabled us to bring about a workable repayment plan.

Debt counselling services in a sense are similar to those performed by employment agencies. In that field, certain persons will not suffer the embarrassment of applying for a job and being turned down, or of having to accept $1.75 an hour instead of $2.00 because of the relative bargaining positions. The creditors can exert similar leverage on the debtor, in the absence of experienced debt counsellors, that an employer can put on a prospective employee. The professional debt counsellor, like the experienced employment counsellor, can assist in the search for equality in dealing. Today, you no longer hear talk, so common only short years ago, of outlawing employment agencies. Yet, the cry to abolish commercial debt management continues. In the years to come these voices will also disappear in the wake of satisfactory experience under regulatory statutes.

Inadequacy of Non-Profit Counselling

In addition to reasons I've given, it is clear from the very provisions of H.R. 9806 that even proponents of such prohibitory legislation recognize the need for debt management services. If this bill were passed, commercial debt counsellors would be outlawed—but the services could be performed by attorneys or by non-profit or charitable organizations. I would like to emphasize that these

alternatives are as inadequate and unsatisfactory a solution to the overall problem as the alternative of bankruptcy. (Parenthetically, I oppose those who counsel bankruptcy as cure-alls or as means of solving social problems. The stigma and economic consequences are too severe.) Consider attorneys' services. Apart from the few lawyers specializing in Chapter 13 proceedings, attorneys do not want to, and cannot afford to, perform debt management services. I doubt that you will find a lawyer who after handling one such case is willing to take on another.

As for the non-profit organizations, the industry welcomes them for the assistance they potentially can give to debtors. However, experience shows that for a number of reasons, they *cannot* and *do not* begin to service the needs or numbers of debtors, as we commercial counsellors can and do. Usually, they are either creditor-oriented or paternalistic. They are part of the credit establishment, financed and supported by creditors, frequently staffed by former credit managers, and subjected to creditor pressures. Therefore, they cannot and do not exist to represent the debtor's point of view. They choose the creditor's side.

Furthermore, most debtors are unaware of their existence. Frequently, the non-profit services are offered on a 9:00 to 5:00 basis with appointments often required days or weeks in advance. The occasional debtor who is actually aware of their existence, usually needs immediate assistance—and, even more significantly, he and his wife can ill afford time off from work to obtain assistance during such office hours. Cost comparisons which have been made further demonstrate that most non-profit agency costs are about the same to the debtor as those furniished by commercial debt counsellors. Perhaps that explains why commercial counsellors assist thousands, and non-profit agencies assist only hundreds or less in the many cities where they exist side-by-side and where direct comparisons can be made. *The charge* is made that commercial companies are driven out when non-profit services are established. *The facts* are otherwise—in Fort Wayne, Indianapolis, Des Moines, Bridgeport, Spokane, and the many cities of California, to mention only a few. The statement submitted to this Subcommittee by Price A. Patton, who runs the Chicago non-profit agency, offers the best evidence, and actual experience, of the inadequacy of reliance on non-profit counselling alone.

Professional debt counsellors ask only that the market place judge which service is preferred by the debtor—and which service better restores his pride. Our average client does not want welfare-type assistance. The therapy of a reasonable fee applies to chronic debtors as well as to others needing assistance.

Several Unfounded Charges

Let me briefly discuss other charges that are unfounded.

The charge—creditors do not go along with us. *The facts*—in my introduction to this business years ago as an auditor, I made bank reconciliation analyses of thousands of checks written each week. These indicated that all major creditors accepted payments. Cancelled checks from ten years of our history indicate less than 1/10% of our checks are refused. An analysis of 1,000 consecutively numbered checks recently issued from our Detroit office indicated that only one check out of the thousand was returned. We have submitted as an exhibit the detailed tabulation of 1,000 checks issued in February from our Washington office. This convincingly shows that none of the major creditors in this area refuse our checks.

No matter how extensive the opposition to our industry from creditors—and creditor opposition and pressures can be understood since we stand between them and the debtor—refusing payment is foreign to creditors and not in their own interest. In fact, antitrust consequences might attach to any such refusals. Moreover, if a creditor has been notified that a debtor needs counselling in order to properly support his family, it would be unconscionable for that creditor to destroy the very plan that is established to repay *all* debts. I might add that however silent creditors may be in the District on the question of support for commercial debt counselling, or vocal in their opposition, their many letters of endorsement in support of proposed regulation in states like Indiana indicate concrete approval of the usefulness of the role we play. After effective regulatory bills have been enacted in numerous states, they have even more readily recognized the benefits they receive from our services.

Another charge—we advertise that we prevent garnishments and wage assignments, when in fact we cannot. *The facts*—while it is obvious that we do not have the legal power to compel a creditor not to attach the wages of one of our

clients, the fact is that debt counsellors have the ability to negotiate with creditors in such a way as to prevent them from taking that final step. It is quite unusual for a creditor to use a wage assignment or a garnishment when he has assurance that he will be receiving regular payments on behalf of the debtor. In over ten years of operation I know of not a single case where garnishments and wage assignments were not avoided after opening an account, assuming regular payments were received. In setting up a repayment plan, we give priority first to judgments, then to wage assignments and garnishments. In the few cases where we are unable to make arrangements of this type of debt, we do not retain the account or any fee, and so advise the client. But once such an account is accepted and the debtor begins making and keeps up his payments, wage assignments and garnishments do not occur.

Real Abuses Deserve Condemnation

I have been discussing some of the charges that are unfounded. Other charges have been made about real abuses—here in the District and elsewhere. We are as concerned as this Subcommittee is with the existence of such abuses—since our integrity is challenged and our very livelihood threatened through "guilt by association". That explains why we, and so many other professional counsellors in the field, have campaigned for meaningful regulation. The debt adjuster who takes his entire fee from initial payments *should* be outlawed! The company that embezzles or even commingles funds *must* be stopped! The company that purchases debts, or doubles as a debt manager and a collection agency, or alters the contract, or delays distribution of funds for an unreasonably long time *deserves* condemnation! Yet each of these abuses is controllable, and has been controlled or banned in the effective regulatory bills enacted over the last ten years. In Michigan, California, Colorado, Illinois—to mention only a few—detailed provisions, comparable to those in the Diggs Bill introduced both this session and in the 1963 and 1965, prohibit these abuses.

The Creative Legislative Solution is Regulation

In my opinion, abuses which have occurred in the District, and throughout the country, were the result of debt management activities *not* being subject to regulation. The many state legislatures that passed prohibitory bills back in 1955 and 1956, and afterwards, chose the easy method of dealing with abuses—they outlawed the business. However, this legislative response is obviously not an effective solution because of the unfortunate impact on needy debtors. What is needed is a *creative legislative solution.* It is incredible to suggest, as so many have, that meaningful legislation cannot be drafted to reach problems in this industry; every session, Congress regulates industries and practices of far greater complexity in the fields of banking, savings and loan, automobile safety, and the like. Moreover, it seems contrary to our free enterprise system to prohibit commercial businesses at all, let alone prohibiting them before attempting to regulate the so-called abuses. Has any detailed factual investigation ever been made in the District to show the extent of such abuses, or to demonstrate that regulation would be ineffectual?

The trend in this country has been to regulate the debt management industry, rather than to outlaw it. Many prohibitory bills passed were not based on factual investigations and did not fully comprehend the usefulness of the services provided by reputable professional counsellors. Many were not even opposed. The thorough legislative investigations in California and Michigan, which had the support of professional counsellors, demonstrated that regulatory, rather than prohibitory, legislation, was desirable. The experience since enactment in these states and others bears out such findings and further demonstrates that the undesirable companies disappear after effective regulation is established. This past year, Arkansas, where the debt management story was not told, and Hawaii, where there are no dobt counsellors, joined the group of states outlawing the business. However, during 1967, the states of Iowa, Connecticut and Washington all chose the regulatory solution after careful and extensive deliberations of the sort that Mr. Scalise has previously explained.

From the record of hearings held by other House District Subcommittees in 1958 and 1963, it appears that those Congressmen in attendance recognize that regulation was preferable to prohibition. We urge this Subcommittee to consider and recommend effective regulatory legislation for the District of Columbia, and thereby also recognize the usefulness of, and need for, professional debt management services.

Our Customers are Satisfied

Our group of companies is the largest debt counselling enterprise in the country. Credit Advisors of Washington, D.C., is the largest local debt counselling concern. Our survival and growth locally and nationally can only be attributable to satisfied clients. A few statistics about our local operations support this conclusion. We have helped thousands of burdened debtors since we began operations here in 1962. Credit Advisors last year returned on behalf of District debtors over $800,000 to credit organizations. Without question, we have been the subject of complaints. In correspondence with the local Better Business Bureau in May, we were informed that since June, 1962, the Bureau had received 59 written complaints from our customers—complaints, incidentally, about which we cooperated with the Bureau. During that period of time, Credit Advisors of Washington, D.C. opened over 17,000 accounts! I might also note that after a series of articles were published here about practices in this industry, we received more than 125 letters of endorsement from our customers. We have submitted a sample of those letters, without signature, as an exhibit, and would be pleased to make the originals of these samples and of other letters received available on request. Along with the many other professional debt counsellors in this industry, we are proud to stand on our records of accomplishment and service.

Conclusion

Finally, in the course of these deliberations on debt management, I refer this Subcommittee to the findings of Professor Edward W. Reed of the Banking and Financing Department of the University of Oregon, and Professor Robert Dolphin of Michigan State University. Reed, in commenting on the too easy solution of bankruptcy, stated: "Adult education courses along with debt counselling services and debt proration arrangements should be encouraged, but such programs do not reach sufficient numbers of people. Something is needed in addition to these very commendable attempts to solve an important economic and social problem. The need is now." Dolphin, in a comprehensive study entitled "An Analysis of Economic and Personal Factors Leading to Consumer Bankruptcy" stated: "The combination of denial of bankruptcy when not financially needed and financial counselling should be an effective way to curb the rapid growth of personal bankruptcy."

Just as there are no easy legislative solutions to the urban problems, such as I recently observed near our main office in Detroit, and which I know so well, there are no easy solutions in arriving at an equation of debtor needs and debtor protection, as related to the debt management industry. The oppressed debtor, suffering from too-ready credit, subject to current creditor campaigns for more restrictive bankruptcy legislation, vulnerable to garnishments, wage assignments, and confession of judgment notes, should not be denied the fair services of the professional debt counsellor. This debtor should not be denied his own choice of who will help him. The availability of the professional debt counsellor, who serves the debtor's interest exclusively, offers the debtor a meaningful alternative to the so-called helping hand of the credit establishment.

Thank you very much for this opportunity to testify.

RESUME OF ELLIOTT HOLLAND

1953–1954: Military Service.
1955–1958: Northwestern University, B.A. Business Administration.
1958–1960: Auditor, Herbert Schoenbrod & Co., C.P.A.
1960–1961: Controller, Dormeyer-Webcor.
1961–1965: Auditor, then Treasurer, Barden Investment Management Corporation.
January to November 1966: Chief of Business Loans, Midwest Area Office Economic Development Administration.
November, 1966 to date: General Manager, Barden Investment Management Corporation.

Mr. SISK. The Chair recognizes the gentleman from Indiana, Mr. Jacobs.

Mr. JACOBS. I might preface my questions, Mr. Holland, by saying my knowledge about your business is limited to ground zero and, secondly, I think your extemporaneous statement was most eloquent.

There are a couple of charges that I have heard—descriptions of your business may be better. My first question is, in the collection of the 12.5 per cent fee to which you referred, is it your policy, as it has been represented, to first collect that fee and then begin paying the debt, or do you take a part of that 12.5 per cent from each payment your client makes through your office to the creditor?

Mr. HOLLAND. I would like to say emphatically no, we do not attempt to take our fee off the top as has been charged in many cases. We write our contracts to extract an individual from debt and we amortize our fee equally over the life of that contract. There is no attempt to take our fees at the beginning or off the top as it is said.

Mr. JACOBS. By amortization, you mean the practice is to deduct the 12.5 per cent from each payment that is made to you so the complement of the money paid to you is directed, I assume, proportionately to the creditors of your client?

Mr. HOLLAND. Yes, sir. For instance, if we were to write a contract that would extend for 23 months we would amortize our fee equally in 23 equal amounts, or payments.

Mr. JACOBS. I know you have stated this for the record and sooner or later I can see it in the record, but for my own edification at the moment, would you repeat the number of accounts that are handled by an employee of yours during a week's time?

Mr. HOLLAND. In different areas it will be a different figure, but I would say the average is close to 60 in our organization.

Mr. JACOBS. Does that mean your average employee puts in up to 60 hours a week working?

Mr. HOLLAND. Our average employee puts in, depending on his stature—our managers certainly do put in a week that is even in excess of that, but our average employee puts in a week that would be 48 hours on the average. This would be an average of our consultants, our managers and also our clerical help.

Mr. JACOBS. Do you have figures to show what your per-employee hourly income is?

Mr. HOLLAND. I could submit those figures. I would be happy to submit them to the committee.

Mr. JACOBS. I think that would be very helpful. In other words, what I am talking about is the gross income of your operation per hour, per employee. I think that might be very helpful and enlightening.

Mr. JACOBS. As I understand it, if you had a client with a $2,000 total debt, your fee, of course, would be $250 for facilitating payment of that debt?

Mr. HOLLAND. Yes, sir.

Mr. JACOBS. Over what period of time would you expect that contract to run, or your contract with that client?

Mr. HOLLAND. It would be difficult to say because it depends on the structure of the individual debt. One debtor might come to us for assistance who has debts that are due in a relatively short period of time. You might be able to work him out of debt in a period of one year. Another debtor with the exact total amount of debt, but a different composition of that debt would take much longer. If he comes to you and he has an automobile and the note on that automobile is due in 36 installments and, let's say when he comes to us he still has 27 install-

ments remaining, it would depend on the structure of his debt to determine the amount of time it would take. Certainly it depends upon his earnings.

You first must set up a budget to allow him to meet his household expenses. Then, after subtracting the cash that he needs to run his household, then you come to a figure that is the available cash for retirement of debt. When you relate that to his debt composition, then you can determine how many months it would take.

Mr. JACOBS. Does your fee to the client vary with the amount of security that client has against his debt?

Mr. HOLLAND. No, there is no variance in our fee. It is, as I told you, 12.5 per cent of the gross debt.

Mr. JACOBS. Another question with regard to the intelligence of your clients. There were some comments made about that. I am just wondering if a fellow really is as bright as you say, why isn't he bright enough to write his own creditors? If he owes eight people a total of $2,000, why doesn't he take a slide rule out and determine their proportionate shares and pay it himself?

Mr. HOLLAND. There is a two part answer to your question. To begin with, I think you will recall when Sears Roebuck had a catalog that shows good, better, best. When I was a young man we weren't exactly wealthy and we knew we couldn't afford the best and the better was a little bit above our ability, so we would normally try to get what was called good. Sometimes we didn't have such great luck, but that fact I am trying to point out that advertising nowadays—Sears Roebuck doesn't advertise good, better, best any more. They advertise their best. Advertising is on a basis of "best foot forward." We sit in our living rooms and we are televised into believing that the average housewife should really be a movie star instead of a housewife and that all of the appliances that she has are the best, that they drive the best automobile—I don't want to use an unfortunate word like "brainwashing" but it does after a while sink in.

That is one of the reasons. You do find they are advertised into believing they can afford it.

Secondly, once they are in this posture, why can't they help themselves out of debt?

I think if I could relate it to the employment agency a generation ago, where people would say, "Why should I pay you to get a job for me when I can go directly to the plant and get a job myself?" It was a matter of learning. The employer and the employee. And in dealing with the employee you might have a person go directly to the employer and request a job and he might end up earning $1.50 an hour, where actually he should have earned $2.25. The fact of having someone to deal for him, someone who can bring more leverage to bear to equalize the position, he would be able to get a fairer shake.

Let's relate this to debt management. I might say a generation ago there was quite a bit of legislation that was going to outlaw employment agencies. We don't hear that any longer. We accept them and we see that they do perform a needed function.

There is the same leverage between a creditor and a debtor. In the collection department, creditors feel that they have a right to do almost whatever must be done to collect and when a debtor comes to one particular creditor, if his composition is let's say a dozen creditors, and he

goes to one and says, "I am having difficulty, and instead of paying you $12.50 a month I would like to pay you $10 a month so at least I am paying you every month and I can support my household."

Of those twelve creditors that creditor is interested in but one: himself. He doesn't want to agree to take $10 from this debtor unless he has full assurance that other creditors have cut their payments in a corresponding manner. So we have seen many times—I have a close personal friend—like myself, a graduate of Northwestern—here again, an educated man—who attempted to do this with his creditors but the first creditor wouldn't agree to it. Very few will unless they know all creditors are going to take the same cut.

I think in those two cases—first, the fact that these people, while educated, they don't maintain a control of their finances. I doubt if there is anybody in this room except myself and perhaps Mr. Rabinowitch, who actually keeps a family budget at home. They don't do this. They are televised into extending themselves.

Secondly, they can't deal with their creditors on an equal basis; they need some leverage between themselves and credit.

Mr. JACOBS. I would like you to comment on my suggestion that your analogy may not be on all fours. The question about whether a man receives $1.50 or $2.50 is usually not resolved by an employment agency, but by a union of workers in his job situation. It seems to me the leverage in that case is not so much that somebody else speaks for him but because somebody else speaks for him and a thousand other employees similarly situated. The leverage is that they are collectively bargaining.

In the debt management industry you are not collectively bargaining. Each time you bargain, I presume, you bargain for one person or one entity. So the ultimate power, the ultimate counterbalancing interest to the creditor is no greater than it was before the client came to you, except in terms of knowledge of the law and the rights of that individual. Power in the area of bargaining is no greater, regardless of who represents the individual debtor. So I don't think that precisely answers my question.

It seems to me that when the debt management company approaches the creditor for extension of credit, he could say no to the debt management company just as quickly as he could to the individual debtor without fear of any greater pressure than the individual debtor could bring to bear. It seems to me the individual debtor who is well informed, and even further informs himself, could contact the 12 creditors and try to make the same arrangement with all of them at once, just as easily as the debt management company.

Do you think my criticism of your analysis is valid?

Mr. HOLLAND. Our experience doesn't bear that out. I can say in my first exposure to the industry in 1959 that they had just opened an office in Chicago and some of the creditors at that point were not acquainted with the debt management industry, but it was only a matter of a few weeks where the creditors realized that we, in dealing with them, were handling the entire debt structure of an individual and had as our sole purpose to work them out of debt and to deal fairly, first with our client, but certainly fairly with the creditors. And we found that they will cooperate with us where they will not cooperate with the debtor.

I can give you a further example that where you have a dozen creditors some of them may be what I would term reasonable creditors who will attempt to go along with an individual, but we find that so many of the creditors believe that the old conflict between the salesman and the credit department has been won by the salesman. He will sell them and will collect. They are heavy-handed in their collection procedures and will not allow the debtor in many cases to cut his payment one bit. They will tell him if he cuts the payment and there is a garnishment proceeding, they will institute it.

When they see we have set up an account to deal with all the creditors fairly and not favor any creditor and to make regular payments on this account, they will deal with us.

Mr. JACOBS. Thank you very much for your testimony.

Mr. SISK. You mentioned that you have 56 offices. Do you mean nation-wide?

Mr. HOLLAND. Yes, sir.

Mr. SISK. In how many states do you operate?

Mr. HOLLAND. At the present time we are in eight states and the District of Columbia.

Mr. SISK. How many offices do you have in Washington, D.C.?

Mr. HOLLAND. One office in the District.

Mr. SISK. All of your activities for the District are carried on through one office?

Mr. HOLLAND. Yes, sir. We have four offices in Maryland, but one office in the District itself.

Mr. SISK. Where are those offices located in Maryland?

Mr. HOLLAND. We have one in Hagerstown, one in Elkton, one in Mt. Rainier and the other is in the Marlow Heights Subdivision.

Mr. SISK. You operate under what name of in the District?

Mr. HOLLAND. In the District, Credit Advisors.

Mr. SISK. Approximately how many clients do you have in the District of Columbia at the present time?

Mr. HOLLAND. At the present time just over 900 clients.

Mr. SISK. Is this a fair average? I realize when you complete one client you pick up new clients. What is your annual average?

Mr. HOLLAND. In the District it would have been closer to 1200 clients. That would be a fair average over the last two years. When we started up, of course——

Mr. SISK. I was going to ask, how long have you been operating in the District?

Mr. HOLLAND. Since June of 1962.

Mr. SISK. How many other credit adjustment companies, or consolidation companies are operating in the District?

Mr. HOLLAND. Mr. Chairman, I looked in the yellow pages last night because at last check there were five others, but I believe two of them have closed their offices due to the recent publicity, or at least during the last three or four months.

Mr. SISK. You are familiar with the many criticisms and have commented this morning on some of the statements that have been made before this committee. I presume you were here for the opening statement yesterday morning on this subject and I am sure you are generally familiar with other statements and publicity, particularly given to such agencies existing in the District.

I understand in answer to Mr. Jacobs your defense primarily goes to your company, I assume, and its practices; is that right?

Mr. HOLLAND. Yes, sir.

Mr. SISK. Do you have any comment to make on the fact that there are and have been abuses here in the District?

Mr. HOLLAND. I certainly do. Mr. Chairman, my feeling is and my experience has been that in the states where debt management is regulated, states like Michigan, your own home State of California, Illinois, Iowa, Connecticut, Washington State, that the abuses have disappeared because the licensing acts have required certain financial information to be submitted on all officers, that a certain financial responsibility be shown, a certain experience in the industry, certain bonding requirements, licensing requirements, audit by the agency at the cost of the licensee, and other items that have caused the industry to become one that is respected in these states.

It operates without the abuses. Michigan prior to the licensing act had abuses. At the same time, as I stated earlier, that the Federal Congress was having hearings in 1958, there were abuses in Michigan. They began to work on a bill. There was an outlawing bill proposed and there was a licensing bill proposed.

In Michigan they took the standpoint it would be harsh to outlaw business before giving it a chance to function under licensing. They licensed the business in Michigan and quite a few of the operators who are in the business prior to licensing did not apply for licensing.

Now there are not any abuses in Michigan. The same is true in California, as Mr. Rabinowitch testified yesterday. My feeling is that any abuse in any industry should be eliminated, not just debt management but any industry. I feel that the Congress here every day legislates businesses and controls businesses far more complex than debt management. I feel that once a licensing bill is passed here that those abuses will completely and totally disappear.

Mr. SISK. You operate in California?

Mr. HOLLAND. No, we do not.

Mr. SISK. You do not have any offices in California?

Mr. HOLLAND. No, we do not.

Mr. SISK. Do you operated any so-called mail operations?

Mr. HOLLAND. No, we do not.

Mr. SISK. Do you have any direct mail operations of any kind?

Mr. HOLLAND. We do on occasion send mail solicitation out. The local office here might send out a mail item to a client but we will never do it. For instance, it was mentioned yesterday there are outfits that had nothing but a mail-drop operation. This is not the case with us. We have had certain people that might have called in to our office and requested help at one time and in discussing their affairs with them we find that we really can't help them. We can give them some advice and they can handle their affairs themselves.

This does happen in quite a substantial number of cases. We follow that up in a month with a letter which I term a solicitation because it is a solicitation. "If you are having difficulty and we can help you, come and see us."

A mail operation such as was described, no.

Mr. SISK. Since you mentioned that and due to some comments yesterday, do you make any charge initially for a prospective client who comes in and you spend an hour or two with him?

Mr. HOLLAND. Unless we are able to in our interview determine that the client can be helped by our services, and unless we are able to sign the client and have him become instead of a prospective client an actual client, there is no charge. There is no interview fee.

Mr. SISK. When the client comes in and you discuss the situation with him, after determining that you can help him and he agrees on the basis of the terms you stipulate, is a contract signed? Do you have some usual form?

Mr. HOLLAND. Yes, sir.

Mr. SISK. Would you furnish to the committee a copy of your contract form?

Mr. HOLLAND. Yes, sir, I will.

Mr. SISK. It will be made a part of the record, without objection. We would appreciate your forwarding that.

(Committee insert.)

(The contract form referred to, subsequently submitted, follows:)

EXHIBIT 5

CREDIT ADVISERS, INC.,
Washington, D.C.

Contract No. ————

AGREEMENT

The undersigned Customer hereby employs the undersigned Company to act as Customer's agent in arranging and making payments to Customer's creditors, and the undersigned Company hereby agrees to act as such agent faithfully and to the best of its ability. It is understood and agreed.

1. *Application.* Customer represents that the application made to Company to employ Company to aid in liquidation of Customer's debts contains a complete and accurate list of creditor's names, addresses, terms and status of indebtedness, payment books and statements of accounts available.

2. *Balance of debts.* Customer represents that Customer's aggregate present indebtedness is $————. The following shall be additions to or reductions of Customer's aggregate present indebtedness as stated above:

(a) Interest charges, carrying charges, or such other charges as may be made by creditors, made known to Company after the date thereof.

(b) Creditors' balance from time to time added on or added to by Customer to those listed in Customer's application.

(c) Creditors' balances desired to be eliminated by Customer from those listed in Customer's application, provided Company has not contacted creditor to be eliminated.

3. *Term.* The term of this agreement shall be ———( ) months from the date hereof.

4. *Filing fee.* Customer agrees to pay Company as a filing fee to cover the cost of consultation, preparation, processing and reviewing Customer's application, contract and account cards, letters to creditors, telephone calls, and incidental benefits inuring to Customer as a result of Company's services, the sum of twenty-five ($25.00) Dollars. Upon completion of this agreement over its full ——— ( ) months' term and payment of all compensation to Company, Company agrees to refund said filing fee.

5. *Charges.* Customer shall pay to Company the sum of $———— as compensation for services as Customer's agent for the term of this agreement. Company shall be entitled to receive one————( ) of its total compensation for each month, or fraction thereof, from the date of this agreement to termination or cancellation thereof. In the event of liquidation of Customer's aggregate present indebtedness by regular payments prior to termination or cancellation, this agreement shall be considered terminated and Company shall be entitled to no further compensation. If Customer makes additions to or reductions of indebtedness as provided in Paragraph 2, compensation payable to Company shall be adjusted therefor on a pro rata basis.

6. *Payment.* Customer agrees to make payments to Company as follows:
$———— on ————; $———— on ————; $————

on ——————; $———— on ——————; $———— on ——————; and the sum of $———— per promptly each ———— thereafter until termination of this agreement. Payments shall first be applied to the filing fee as set forth in Paragraph 4, and then to the liquidation of Customer's indebtedness and charges as specified in Paragraph 5. Company shall distribute funds received to Customer's creditors promptly and for the best interest of Customer.

7. *Cancellation.* This agreement shall be cancellable by either party only upon thirty (30) days' written notice to the other party.

8. *Renewal.* At termination of this agreement if Customer desires the continued services of Company, Customer shall be entitled to renewal of this agreement upon execution of renewal agreement, upon the same terms and conditions as herein contained.

9. *General.* Customer agrees to give such cooperation and aid to Company as Company deems reasonably necessary to successfully accomplish the liquidation and/or payment of Customer's debts. Customer understands that Company undertakes only to perform services to accomplish the liquidation, and/or payment of Customer's debts and undertakes in no way to perform legal or other service.

Executed at ——————————, ——————————, —————————— day of ——————————, 19 ——, at which time a copy of this agreement was furnished to Customer.

——————————————— Customer

——————————————— Customer

——————————————— Company

By: ——————————————— Authorized agent

Mr. Sisk. Upon signing that contract, and here again if I can just outline a hypothetical case, let us say that a man owes $3,000 to a variety of companies. You sign a contract to be of such assisance as you can. What if anything is the initial charge made by your company?

Mr. Holland. We have an initial filing fee in the District. That is a charge that is made of $25. This is a refundable charge. It is part of our fee. In many cases we find that we can not fairly deal with his creditors by charging this fee in the beginning and the acceptance of our contract. Our contract does provide as part of our total fee a $25 filing fee that is either refunded to the client upon completion of his agreement with us or becomes the final charge on his contract at its termination.

Mr. Sisk. That $25, as I understand you to say, is actually only a portion of the 12½ percent charge based on the total contract?

Mr. Holland. Yes, sir.

Mr. Sisk. In other words, this actually amounts to an advance?

Mr. Holland. That is exactly what it is for.

Mr. Sisk. An advance of the fee?

Mr. Holland. Yes, sir.

Mr. Sisk. At the time the contract is signed?

Mr. Holland. Yes, sir.

Mr. Sisk. As I understand it, you are representing the Barden Investment Management Corporation. You do have credit adjustment companies or debt adjustment companies operating under a variety of names; is that correct?

Mr. Holland. Yes, we do.

Mr. Sisk. Would you furnish to the committee for the record the complete list of the names of the various companies?

Mr. Holland. I will.

(The list referred to, subsequently submitted, follows:)

EXHIBIT 3

BARDEN INVESTMENT MANAGEMENT CORP., LIST OF AFFILIATES

IN THE DISTRICT OF COLUMBIA

Credit Advisors of Washington, D.C., Inc., Second Floor, 1413 "K" Street, N.W., Washington, D.C. 20005. Suite #215, 4165 Branch Avenue, Marlow Heights Shopping Center, Washington, S.E. 20023 (not actually in The District of Columbia).

IN MARYLAND

Credit Advisors of Baltimore, Inc.—Mt. Rainier, Laurel, Hagerstown, Elkton.

IN COLORADO

Credit Advisors of Denver, Inc.—Denver, Pueblo, Colorado Springs, Ft. Collins, Thornton, Lakewood.

IN CONNECTICUT

Credit Advisors of Bridgeport, Inc.—Bridgeport.
Credit Advisors of Hartford, Inc.—Hartford, Waterbury, East Hartford.
Credit Advisors of New Haven, Inc.—New Haven, New London.

IN ILLINOIS

Credit Advisors, Inc.—Peoria, Rockford, Springfield.
Credit Advisors, Inc.—Champaign, Decatur, Moline, Chicago Heights, Danville, Chicago (Southside), Chicago (Westside), Chicago (Loop).

IN INDIANA

Credit Advisors, Inc. of Fort Wayne—Fort Wayne, Gary, South Bend, Elkhart, Hammond, East Chicago.
Credit Advisors, Inc. of Evansville—Evansville, Terre Haute, New Albany, Richmond.
Credit Advisors, Inc.—Indianapolis, Kokomo.

IN IOWA

Credit Advisors of Des Moines, Inc.—Des Moines, Sioux City.
Credit Advisors of Davenport, Inc.—Davenport, Cedar Rapids, Waterloo.

IN MICHIGAN

Union Credit Service, Inc.—Detroit, Inkster, Mt. Clemens, Ann Arbor.
Financial Adjustment Co. of Lansing, Inc.—Jackson.
Financial Adjustment Co. of Grand Rapids, Inc.—Grand Rapids, Saginaw, Bay City, Flint, Kalamazoo.

IN OREGON

Financial Adjustment Co. of Portland, Inc.—Portland.

IN WASHINGTON STATE

Union Credit Service of Washington, Inc.—Seattle, Bremerton, Tacoma, Everett.
Financial Adjustment Co. of Spokane, Inc.—Spokane.

Mr. SISK. How many are there?

Mr. HOLLAND. There are several corporations but we use only three names: Credit Advisers, which we use here in the District; Financial Adjustment Company, which we use mainly in our home State of Michigan; and the name Union Credit Service which we use on the West Coast and Washington State and in Oregon.

Mr. SISK. At any time have you had any problems in the regulated states? In other words, in those states where you operate and where they do have regulatory laws. Have there been any indictments of any of your companies?

Mr. HOLLAND. No, we have never been indicted in any state in which we have operated.

Mr. SISK. Have you ever been penalized or paid penalties?

Mr. HOLLAND. No, we have never paid any penalties for this.

Mr. SISK. With reference to the California law as to which you heard testimony on yesterday, would you class it as being induly restrictive or as being a fair regulatory law?

Have you made a study of, or are you familiar with, the California law?

Mr. HOLLAND. I am not as familiar as Mr. Rabinowitch who operates in California. In the industry we normally refer to the California statute and then the Illinois statute as the best. The best in the industry from the standpoint of being most restrictive and clearer on what should be done and what should not be done. Also, they do audit. I feel that the audit at the expense of the examinee is a very important part of any debt management act. In both of those states they do on a regular but unannounced basis audit their licensees.

Mr. SISK. In view of what you have said, do you favor a regulatory law? Do you feel that Congress should take any action with reference to the regulation of this particular type of industry in the District of Columbia?

Mr. HOLLAND. I feel that the Congress should pass a regulatory bill. To go further, I feel that had that bill been passed in 1963, when a bill quite similar to the one pending before this committee had been passed, that the alleged abuses—and I can not say there were probably real abuses—would not even be in existence today. We would not be sitting here now had the Congress passed that law back in 1963.

Mr. SISK. That leads me to ask why 22 states have passed bills prohibiting or outlawing the debt adjustment business? Why do you feel that these states felt is necessary to take that stringent action?

Mr. HOLLAND. In many of the states, and this is not from personal experience as much as from having researched it. In many of the states this was done in the mid-fifties where admittedly there were abuses. Instead of having a fair look taken at the industry at that point, the advocates of abolition were able to in effect hold the day.

We have found since that where any legislative body will take a fair look at the industry and will examine it from the standpoint of the creditor, debtor, and the members of the industry itself, that the only conclusion will be licensing.

I think it has been proven out this year in Iowa, in Connecticut, and in Washington State where regulatory bills were passed.

The trend now is toward a fair look at the industry and licensing as a result.

Mr. SISK. What is your attitude, Mr. Holland, toward the nonprofit type of counseling? Yesterday, it was mentioned that a number of cities and communities across the country are getting into what in

84-181—67——9

some cases is a completely free counseling service, operated, I suppose, in connection with welfare departments or legal aid societies.

In some cases these nonprofit groups are organized where they do charge a so-called nominal fee. What is your feeling with reference to the fact they would be adequate for a community, and therefore there would be no necessity of commercial-type operation in that area?

Mr. HOLLAND. To begin with, we in the industry certainly welcome the nonprofit operations, nonprofit debt counseling for the help they could potentially give to their clients. However, in areas like Fort Wayne, Indiana, which might be a good example, our office is on the third floor of the Getty Building in Fort Wayne. On that same floor between our office and the elevator is the nonprofit debt counseling service. We have been in Fort Wayne since 1960. They have been in Fort Wayne since late 1961. We average 25 perhaps new accounts per week in Fort Wayne. We have five employees. They have one person who is there part of the day and he handles less than 100 clients. The fact is that potentially they could help the debtor and we certainly applaud them for their potentiality. However, we find that when our clients contact us, they contact us because of an immediate problem. We have to be available to them. The nonprofit services in Fort Wayne and in Chicago and many other places where we have come in contact with them, normally are open on a nine-to-five basis, no Saturdays.

They want the wageearner and his wife to come into the office. They also have to set appointments for sometimes days but more often weeks in advance. By the time the potential client might appear his problem has perhaps predicated him to go to other sources. Some go to Chapter 13, if available. Some go into bankruptcy when actually they did not need to.

Earlier I testified to the control that the creditors will normally exercise over the nonprofit debt counseling service. This is actually the case in Illinois as Mr. Price Patten's statement will show. Mr. Patten was one of the founders of the American Association of Credit Counselors. When they decided to set up the nonprofit service in Chicago, they prevailed upon him to operate it. They guaranteed him that the creditors would take a minor interest in it. This has not been the experience.

As a matter of fact, right now there was a headline in the Chicago Tribune that said, "Debt helper needs help," because they are now out of funds, actually. I do not believe they are going to be able to meet their subscription from the creditor. They supported it two years ago, but not now.

Mr. SISK. Your statement here reminds me of a question. To what extent do creditors cooperate?

Mr. HOLLAND. Our experience has been that I would say in the District closer to 95 percent of all creditors will cooperate and those are the creditors represented on the exhibit I submitted to the committee by compilation of one thousand consecutive cancelled checks that have been cashed by these creditors. We find that creditors would like the ability to deal directly with their debtor because, as I stated before, they feel that first they can sell them and then their collection

department can effect collection. Very few of the creditors, many of them do, but we have letters we could submit showing they will accept major creditors, creditors who are even greater in this nationwide operation than we are. Some of them have a policy that they will not in writing admit that they will accept the payment plan submitted by a debt adjustor. The basis of it is it is not the creditor's own self-interest to refuse payment.

First he has made a sale. Secondly, he would like to effect collection. Where we are offering him this collection on a regular basis, it would not be in his self-interest to turn it down and they do not turn it down.

Mr. SISK. That leads me to the next question. This has to do with some specific charges brought to my attention on which we desire some other information for the committee; namely, dealing with the fact that when, say I as an individual in trouble, go to you and you make a contract with me and I have say, twenty outstanding accounts here: what assurance can you give me that my creditors are going to cooperate and they are not going to zero in on me despite the fact that you have made an agreement?

What kind of a bond or what kind of insurance do I have when I turn my money over to you that that is going to protect me from direct action, lawsuits, repossession, et cetera?

What protection does this client have; does he have any protection?

This comes right down to some of the things that have happened here in the District. I am not charging your company with that directly in the field involved, but I am sure you are aware of the charges of this type.

What can you as a company give me as assurance for turning over to you the handling and payment of my debts?

Mr. HOLLAND. Mr. Sisk, may I read just one paragraph from my written statement that answers that question adequately?

Mr. SISK. Yes.

Mr. HOLLAND. I say here:

> While it is obvious we do not have the legal power to compel a creditor not to attach the wages of one of our clients, the fact is that debt counselors have the ability to negotiate with creditors in such a way as to prevent them from taking that final step.
>
> It is quite unusual for a creditor to use a wage assignment or garnishment when he has assurance that he will be receiving regular payments on behalf of the doctor. In over ten years of operation, I know of not a single case where garnishments and wage assignments were not avoided after opening an account, assuming regular payments were received.

What I am saying there is that our experience in over ten years, while we certainly do not have the legal power to prevent a creditor from, as you say, attacking the debtor, that in operation this has not been done. We do not know of a single case where it has been done.

Mr. SISK. There have been specific cases cited. I am not pointing to your company, but we do have some citations of specific cases where actually a person had committed himself or obligated himself with the debt adjustment company and the creditor refused to cooperate. Of course, this seemingly places the client in a very untenable position.

When this situation developes, what action do you take in protecting your client? Do you make a refund or what do you do? Let us say that in this hypothetical case we have decided to pay monthly payments of $20 to X company. The X company wants $35 because that should be the amount of the monthly payment according to a prior agreement. The company decides to take action even though I've made a contract with you. What action do you take?

Mr. HOLLAND. To begin with, I must state again this has not been our experience. It has not happened to us. As to the question of whether or not if it did occur, if the next account we signed this afternoon this would occur, what I might do, I could only suggest as far as the company is concerned, certainly there would be no fee involved in such an arrangement.

If we signed a client and at some time in the future one of his creditors decided not to go along with our program, then we have not really helped that client. It would be unconscionable for us to retain the fee if we have not helped him.

Mr. SISK. You are saying that the policy of your company would be to immediately refund any fees collected from the client?

Mr. HOLLAND. If this were to happen, yes, sir.

Mr. SISK. I have one final question. You know some copies of advertising were placed in the record yesterday. I noted that there was a rather substantial change in the language of the ad of Credit Advisors, Incorporated, in today's Washington Post. What was the reason for the change in the language of this ad?

Mr. HOLLAND. I have not been made aware of any change in our advertising. However, on a rotating basis our advertising agency in Detroit does make certain changes. I am not aware of any changes that were made today.

Mr. SISK. I understand that the language in today's ad is somewhat different from what you had normally been running. You are not aware of the reasons for this change?

Mr. HOLLAND. No, Mr. Sisk. I can say this: Our ads will be changed on almost a regular basis every two or three weeks. We certainly would not have the same ad running again and again and again. This is a national policy in all of our offices. As a matter of fact, if there were a change from yesterday to today, the ad here would be the same as for our office in Seattle, Washington, Detroit, or Michigan. In other words, it would be a change for the entire chain.

Mr. SISK. I can understand that there would be certain changes as this is a normal procedure in business to change or update their advertising. It seems though that the basic change involved goes to rather fundamental statements as to what you promise the client might gain.

I am making no charges here. This was just called to my attention in line with what has been rather close perusal of all advertising on credit adjustors over a period of time. There have been some rather substantial changes as to commitments or promises made to potential clients in the most recent advertising format.

Without objection, I am going to ask permission that today's ad in the Washington Post be made also a part of the record of the Credit Advisors, Inc.

(The advertisement referred to follows:)

[From the Washington Post, Sept. 15, 1967]

BILLS PRESSING?

WE WON'T LOAD YOU UP A PENNY, BUT WE WILL HELP YOU PAY YOUR BILLS. YOU CAN'T GET OUT OF DEBT BY BORROWING, BUT YOU CAN BY BUDGETING. WE CONTACT YOUR CREDITORS, ADJUST YOUR FAMILY BUDGET, AND SUPERVISE IT FOR YOU. WE HELP YOU TO PROMPTLY PAY YOUR BILLS WITHOUT A LOAN. NO CO-SIGNERS. NO SECURITY. OVER 200 THOUSAND FAMILIES HELPED BY CREDIT ADVISORS. LET OUR HELPFUL HAND HELP YOU. FREE PVT. HOME OR OFFICE APPT.

CREDIT ADVISORS, INC.

1413 K St. NW., 2nd Flr.

393–7865

4165 Branch Ave. SE.

Marlow Hts. Shopping Ctr.

423–4850

3510 Rhode Island Ave.

In Mt. Rainier, Md.

277–8181

Evening Office or Home Appt.

SLASH BILL PAYMENTS

WE BUDGET YOUR INCOME! MANAGE YOUR DEBT PYMTS. AND CREDIT FIGHTS.

You can change from:
1. Many check payments—TO 1 payment each pay day.
2. Creditor calls at night—To peaceful sleep.
3. Worry over unpaid bills—TO security in paid up bills.

Fear of job and health—TO a carfree happy life.
NO LOANS
NO CO-SIGNERS
NO SECURITIES
FREE—Private home or office appointments.

CREDIT ADVISORS, INC.

1413 K St. NW., 2d Flr.

393–7865

4165 Branch Ave. SE.

Marlow Hts. Shopping Ctr.

423–4850

3510 Rhode Island Ave.

In Mt. Rainier, Md.

277–8181

608 Washington Blvd.

Laurel, Md.

Mr. SISK. Does the gentleman from New Mexico have any questions?

Mr. WALKER. Mr. Chairman, I do not have any questions but I would like to make this comment or observation.

This has been very interesting to me in the last few days. The thing that interests me and I think the people that have testified so far, even those in the industry, should be commended for the attitude they have, regardless of the actions of this committee.

I think something should be done, but the thing that I want to emphasize is the prudent operator seems to be willing to have some and insists and favors some regulatory action. I think they should be commended for it.

Mr. SISK. I thank my colleague from New Mexico for that statement.

I too, Mr. Holland, want to say I enjoyed your testimony this morning. I think it has been enlightening and informative to the committee. I particularly want to commend you for your recognition that there have been abuses by some people and some companies and regulatory legislation is worthy of consideration.

I want to assure you that the committee has before it bills having to do with regulation as well as bills to outlaw the procedure. All that is in front of us and I appreciate the comments that you have made.

Mr. HOLLAND. Thank you very much.

Mr. SISK. Thank you.

We have for the record a statement by Mr. Price Patton, Executive Director of the Family Financial Counseling Service of Greater Chicago, Illinois, which, along with enclosures, will be made a part of the record at this point.

(The statement and enclosures referred to follow:)

STATEMENT OF PRICE PATTON, FAMILY FINANCIAL COUNSELING SERVICE OF GREATER CHICAGO, ILLINOIS

My name is Price Patton, and I am Executive Director of the Family Financial Counseling Service of Greater Chicago in Illinois. This is a non-profit service organized in December, 1965, to provide assistance and consumer education in conformity with standards set by the American Association of Credit Counsellors, to families who find themselves in crippling installment debt situations. We administered ongoing of budget control and debt payment for over 2,000 families in the first 12 months.

My background in this work goes back to 1930 when I became aware of the widespreading involvement of wage earner families in such problems through a study made in Chicago by the present Mr. Justice Fortas, then Editor-in-Chief of the *Yale Law Journal.*

My interest in the need for consumer assistance, as established by that study, led me to leave some graduate work I was engaged in and establish a private agency to assist overburdened consumers in coping with debt and money management problems.

I believe this was the first, or at least one of the first, attempts to tackle such problems on an organized basis. I have been engaged in this work steadily since 1930, with the exception of five years in Naval Aviation during World War II. I have written two books, published by Citadel Press and David McKay, on the subjects of consumer education, family money and debt management, and have addressed many consumer and credit-oriented groups across the country over the past 25 years.

In 1950, I worked in the organization of the American Association of Credit Counsellors which has set professional standards in this field and has steadily fostered regulatory legislation in the States to implement these standards and to eradicate abuse.

It should be mentioned here that organized counseling for debt burdened consumers had its beginning in the Midwest and its main development there and on the West Coast. There are about 50 licensed agencies in Illinois at present. I do not know why, in view of the evident need, the East Coast has developed so few agencies for this work. This has never been a lucrative field for the professional counselor and it is surely one of the most trying jobs in the country today.

To give this Subcommittee an authentication of the development of this service under regulation in my State, for instance, there have been submitted a number of copies of a survey conducted in Illinois by the Governors' Advisory Board for Financial Planning and Management among 1,500 employers, business and professional interests, lawyers, labor organizations, credit unions, church and welfare groups.

Briefly, the report of the survey, with 40% of the questionnaires completed and returned, establishes that the services provided by licensed counselors in Illinois are considered beneficial by an overwhelming 95% of those surveyed. This result was reached in spite of the fact that we have had abuses in Illinois by unqualified people and is evidence that such abuses have been all but eliminated by regulation and by the determined efforts of professional counselors.

The agency of which I am Director is so far the only nonprofit consumer

The agency of which I am Director is so far the only non-profit consumer counseling agency in Illinois. It was organized with the idea of involving the broadest community control and participation. As you may know, a number of not-for-profit services have been set up in the various states within the last few years.

In this regard, the troubled consumer is faced with an increasing dilemma because most of these non-profit agencies are supported and controlled mainly by installment-creditor interests. Now, I have respect for the economic contribution of installment credit. I have due regard for its power. But as an analogy to consumer counseling, it is no lack of regard to say that alcoholic clinics should not come under the control of the liquor dealers. Creditor control of consumer assistance cannot work and cannot be permitted in the American society. It is a very great concern to me.

As a matter of fact, I must admit that, in our own agency in Chicago, we face the problem. We organized with the understanding that credit interests would remain strictly in the minority of control. However, because the small loan interests took the lead in raising the quarter million dollars needed to launch the service, control of our Board has gravitated toward those interests and our announced policy of full service to the low-income debtor is now threatened. Unless the trend is reversed and this imbalance corrected, we confront the danger of degenerating to a sort of approved collection agency, serving those clients most profitable to installment creditor interests, with considerable restrictions on our freedom to speak out on consumer credit abuses, of which our counseling agencies across the country see possibly the highest concentration of all the organizations concerned with family financial problems.

That is the concern which brings me to Washington to appear before this Subcommittee.

If and when qualified and unrestricted consumer counselling services can be established widely and maintained on a non-profit basis, I am all for such a development. I believe Federal Reserve figures indicate 40% of our families are committed for installment payments beyond a safe margin. The consumer needs all the help he can get.

But it must be recognized that the main body of the effective work in this field is being carried on today by the private, or what the loan companies call the "commercial," counselor—where both the counselor and the client family are supported and protected by adequate regulation.

The qualified private counselor must be encouraged in his efforts, of for no other reason than to have him and his experiences available to us for the establishment of effective, non-profit community services later on when enough people become aware of the magnitude of the problem.

The whole matter of the economic health of our families stands in close relation today to matters of physical and mental health. Guidance toward economic health is a matter of utmost necessity for rebuilding and preserving family stability in this society.

When I addressed the national convention of the Legal Aid Societies in Denver in 1957, in the interests of regulatory and qualifying legislation on consumer counseling (and was opposed on the platform by a public relations officer of a giant, small-loan chain), I assured the delegates that the American Association of Credit Counselors stood ready to assist any community and any state legislative body in the establishment of controlled and qualified services where such services did not exist.

Again I take the liberty of referring to Mr. Justice Fortas, then in private law practice, who was in the convention and whose remarks concerning consumer assistance were recorded in part as follows: "I deplore the efforts to eliminate this service from the roster of services that are available to American families".

It is clear in the context that he spoke of proposals to eliminate the private consumer counselor.

The passage of legislation for the District in this struggling field has great importance for the rest of the country. By eliminating private initiative here, the Congress might indeed eliminate some abuse. But by the same legislative process, in setting up adequate controls, the Congress can not only eliminate any abuses but provide an important gain in consumer assistance for the entire area.

It is the essence of my experience over the past 36 years that to deny any assistance to the overburdened consumer, as long as that assistance is beneficial and profitable to him, would be just as harsh as it would be to deny him any medical or legal services, except those provided charitably or non-profitably.

I respectfully petition you to take no action that would tend to discredit and strike down the sources of assistance which are now giving so much help and hope to a quarter of a million of the distressed families of our land.

Report of Survey by the Illinois Advisory Board on Financial Planning and Management Services, June 1, 1967

A Conspectus

A Total of 1500 Survey Questionaires
mailed to Illinois people representing business, labor, government, religion, civic groups, law, and education.

High Interest Indicated by
40% completed questionaires returned
50.6% requested copies of the results

In Communities Where No Financial Planning Service Is Available
88.2% of those expressing opinions favored establishing such a service

Benefit of Financial Planning and Management Services
95.3% of those answering felt the services are beneficial to the general community

Who Should Provide This Service?
46.6% said professional credit counselors

Consumer Economics Instruction in Our Educational Institutions
78.8% indicated it was inadequate

Need for Further Development of Family Financial Counseling Services
71% encouraged expansion

For details see tabulations below.

RESULTS OF SURVEY QUESTIONAIRE

	Percentage analysis based on opinions expressed in 583 replies	
	Yes	No
1. Are family financial counseling services available in your area?	58.4	41.6
2. Have you had occassion to deal with, or observe the work of such a counseling organization?	50.9	49.1
If so, was the service 171 adequate 84 mediocre 52 poor		
3. Are those individuals with financial management problems—and the community in general—aware of the financial counselor as a source of help?	35.7	64.3
4. If there is no service in your community, would you like to see one established there?	88.2	11.8
5. Would the services of a family financial counselor be beneficial to—		
an individual with financial management problems?	96.8	3.2
the family of that individual?	97.1	2.9
the employer of that individual?	93.7	6.3
the creditor of that individual?	93.9	6.1
6. Which one of the following groups do you feel can, and should, be the major provider of family financial counseling services? 151 Social/welfare agencies 100 credit managers 35 lawyers 326 professional credit counselors 50 employers 37 other		
7. Are your educational institutions providing adequate instruction in consumer economics, and money management?	21.2	78.8
8. Are you a 4 labor union 144 employer 186 creditor 11 educator 127 civic/welfare organization 87 Governmental agency/official 7 communications media 10 church organization 31 other		
9. Which development in family financial counseling would you like to see? 321 expanded 55 left as is 76 other		
10. As an employer, or business man, has family financial counseling been helpful to your firm?	58.5	41.5
was there a long term effect resulting from this help?	54.5	45.5

Distribution of Questionnaire by Categories

Category	Number	Category	Number
Chambers of Commerce	426	Consumer Finance Companies	91
Department of Public Aid	100	Retail & Department Stores	96
Township Supervisors	101	Labor Councils	26
Credit Bureaus	92	Universities and colleges	18
Newspapers	77	Collection Agencies	25
Banks	76	Credit Unions	23
Manufacturers	68	Savings & Loan Associations	15
Physicians	81	Better Business Bureaus	2
Family Service Agencies	32	Local Government Officials	2
Ministers	47	Certified Public Accountants	2
Attorneys at law	34	Internal Revenue Office	1
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For additional copies of this report write to:
Illinois Advisory Board
Financial Planning and Management Service
1733 Washington Street
Waukegan, Illinois 60085

STATE OF ILLINOIS,
DEPARTMENT OF FINANCIAL INSTITUTIONS,
January 18, 1965.

To Licensees Operating in Accordance With the Requirements of the Financial Planning and Management Service Act:

The enclosed standards have been sanctioned jointly by the Chicago Better Business Bureau and the Illinois Association of Credit Counselors and has been delivered to Chicago Newspapers as a guide to them in accepting material submitted by advertisers.

We request that you apply the principles of advertising contained in this document.

Very truly yours,

JOSEPH E. KNIGHT,
Director, Financial Institutions.
JAMES J. WALSH,
Supervisor, Financial Planning Division.

STANDARDS FOR ADVERTISING THE SERVICES OF CONSUMER CREDIT COUNSELING

Issued jointly by the Better Business Bureau of Metropolitan Chicago, Inc., and the Illinois Association of Credit Counselors

Purpose: The intent of these Standards is to encourage and preserve dependability in the advertising and business practices of credit Counselors.

It is the spirit of these Standards that advertising shall be accurate and clear; that representations to clients and creditors shall not have the tendency or capacity to confuse, mislead or deceive them in any way.

It shall be understood these recommendations relate and are applicable to firms engaged in providing financial counseling and debt payment service to consumers in which the counselors manages the financial affairs of a consumer, receiving and disbursing funds or evidence thereof to his creditors. Such firms may also be known as debt counselors, pro-raters, debt consolidators or debt poolers. However, for the convenience of phrasing these Standards, all firms or persons so engaged will hereinafter be referred to as credit counselors.

1. Representation: No representation, however made, shall be employed by a credit counselor which tends to mislead the public in any manner with respect to the service offered.

2. Predicted Payment: Since the amount of money a debtor can devote to a debt management program involves factors which may be determined only after a detailed study of his family requirements, income and ability to pay, no predicted amount or period of payment, exact or approximated, can or shall be made prior to an interview. Therefore, the use of a payment chart or any statement of the following nature shall be avoided.

Example:

"Do you owe $1000? Pay as low as $25"
"Up to 36 months to pay"
"Cut your payments in half"
"Lower your payments by as much as $50 per month"

3. (a) Exaggerations: No expression, however made, shall be used which states or implies no financial problem or debt is too great for the credit counselor to solve.

Example:

"No more financial worries"
"We'll solve all your debt problems"
"Forget your debts"
"Good-by to garnishments"
"Owe only one debt"
"Get out of debt today"
"Bills paid for you"
"Debts disappear like magic"

These and all other similar expressions which represent that funds other than the consumers will be used to pay creditors are prohibited.

(b) Misleading Expressions: Statements, phrases or words which may be literally accurate but which might confuse readers, or which may have a misleading implication shall not be used.

Typical of such objectionable statement is:

"Consolidate your debts"

Recommended expressions:

"Debt grouping"
"Consolidate your payments"
"Combine your payments"

4. Cash Advance: Since it is generally recognized by industry members as an unsound business practice, no representation, however made, shall be used which states or creates the impression any amount of cash or an advance in money is offered or can be provided by a credit counselor.

No word or phrase may be used which could be interpreted as offering a loan unless completely clarified by explanatory language.

Example:

"No co-signers"
"No collateral"
"No security needed"

Recommended expression:

"No co-signers—No collateral—Because we do not lend you money"

5. Identity: All advertising shall contain the firm's true name and true address. If a trade style is used, other than a registered corporate name and which is not the name of the owner or owners, it shall be registered as required by local statute.

6. Subterfuge: It shall be an unfair practice for a credit counselor to use a dummy or fictitious firm to secure clients, nor may referrals be received from a bona fide firm created for this purpose.

Advertising which appears to offer loans, or a subterfuge to steer applicants to the advertiser is condemned.

7. Charges: Where service fees are regulated by statute, reference to such fees in advertising, if made, shall conform to the statute. Where not regulated by statute, no deceptive wording shall be used which would tend to confuse or mislead the debtor as to the cost of the service.

8. Scare Approach: No veiled of scare techniques or representation of any nature shall be used which seeks to alarm the unknowing individual.

Example:

"Urgent, call me immediately, Gloria"
"Are you in trouble? Call me. Jean"

It should be understood that these standards may be supplemented, or revised, to encompass practices not presently anticipated or to conform with any jurisdictional regulation, statutory or otherwise.

Mr. SISK. I have just been informed that Linn Twinem, the American Bar representative, who was supposed to be the next witness this morning was called out of town. Without objection, his statement will be made a part of the record. The committee is sorry that Mr. Twinem was not able to make an appearance in person.

Mr. SISK. Without objection, the National Better Business Bureau of the City of New York will be permitted to file a statement.

(Subsequently, the following letter and exhibits were received for the record:)

NATIONAL BETTER BUSINESS BUREAU, INC.,
OFFICE OF THE PRESIDENT,
New York, N.Y., September 18, 1967.

Mr. DONALD J. TUBRIDY,
House District Committee,
Longworth House Office Building,
Washington, D.C.

DEAR MR. TUBRIDY: The National Better Business Bureau wishes to go on record as supporting the legislation now pending in the House of Representatives which would prohibit the business of debt adjusting in the District of Columbia except as an incident to the lawful practice of law or as an activity engaged in by a non-profit corporation or association.

The alternative, regulation of the debt adjusting business, would appear to lend dignity to the debt adjusters as "licensed" organizations while affording little real protection to the public.

The activities of debt adjusters have been known to the National Better Business Bureau for many years. Attached is a bulletin entitled "Debt Adjusters—Boon or Burden?" which was issued by the National Better Business Bureau in July, 1955. All of the information reaching the Bureau since the publication of that bulletin has tended to confirm the statements made and the conclusions reached in the bulletin. A subsequent release, issued in April, 1965, is also attached.

In many cases, having collected fees in advance, debt adjusters have gone out of business, leaving the debtor more impoverished than ever.

The debt adjuster is not in a position to render effective relief without the consent of the creditors. The files of local Better Business Bureaus are replete with examples where such consent has not been given and where the debtor's property has been seized or his salary attached.

The commercial debt adjuster must charge a fee for his services and this has the effect of simply adding another debt to the many already owed by the over-burdened debtor.

In contrast are the non-profit family credit counseling services which are operating in more than 50 communities in the United States today with many more communities in the planning stages. These credit counseling services operate at a professional level and with a high degree of efficiency. They make no charge to the debtor for their services or a very nominal charge in some cases.

At its February, 1961 meeting, the Executive Council of the AFL–CIO went on record as stating that "The debt adjusting business, regulated or unregulated, is not economically or socially desirable as a commercial activity and should be eliminated."

Statutes outlawing the commercial debt pooling business have already been passed in 22 states as noted in the attached bulletin dated July, 1967.

As you will note from this bulletin, some states have sought to regulate this business. However, the National Better Business Bureau believes that regulation is not sufficient. The best course would seem to be the outright prohibition of a practice that seldom gives the promised relief and often victimizes the suffering debtor.

Sincerely yours,

K. B. WILLSON.

NATIONAL BETTER BUSINESS BUREAU,
DIVISION OF PUBLIC INFORMATION,
New York, N.Y.

SPOTLIGHT ON SCHEMES; A SPECIAL NEWS REPORT

Debt Adjusting—How To Add to Your Financial Woes

(By Kenneth B. Willson, President, National Better Business Bureau)

One of the cruelest deceptions played on the debt-ridden citizen has many aliases:

"Debt adjusting," "debt pooling," "debt liquidation," "budget planning," "pro-rating," "debt lumping."

They're all misnomers. More accurately, the name of the racket is "debt accumulation," and its chief victims are wage earners in the lower income brackets.

Whatever it's called, the scheme has the effect of sinking the person already heavily burdened with debt into a financial quagmire. It prompted one official to comment:

"We have never run across as many pitiful cases of preying on public misery and difficulties as in this scheme."

The business of debt pooling has existed for 25 years and reports received by the National Better Business Bureau indicate that it continues to flourish despite legislative action by some states.

There are licensed, reputable firms in the business of "credit counseling" and they are not to be confused with the many unregulated debt adjusters who supposedly pro-rate the income of a debtor to his creditors for an outlandish fee or service charge.

It works this way:

The financially-strapped wage earner agrees to turn over part of his income to the debt adjuster, who then doles out the money to creditors who have allegedly consented to the distribution plan.

For this service the adjuster charges a fee which ranges from 10% to 35% of the total amount of the debt.

One debt pooling company reported that its fees are 10% of the total indebtedness. An analysis of complaints from dissatisfied clients who withdrew from the plan showed that, to these people at least, charges actually ranged from 16% to 58%.

The major difficulty is that almost never is the plan carried to a successful conclusion. Either the creditors fail to go along with the arrangement or the debtor finds it impossible to live with.

The end result is that the debtor winds up with another debt—the adjuster's fee. This charge becomes due and payable regardless of the success of the plan.

Debt adjusters do not lend money nor do they assume legal responsibility for any money owed by clients. That obligation remains the responsibility of the customer.

The adjuster lures his victim with such seductive advertising as this:

"If installment payments or past-due bills are troubling you, let us consolidate and arrange to pay all your bills, past due or not, with one low payment you can afford.

"If you owe $1,000, you may pay as little as $15 per week; $2,000, $25 per week, and $3,000, $35 per week."

The adjuster may add these soothing words:

"Keep your creditors satisfied," "avoid garnishments," "obtain peace of mind."

In one typical case, a now defunct debt pooling company collected $214 from one client, but made only a single payment of $38 to a lone creditor.

The premises of one Chicago firm was found suddenly closed and the office abandoned, stranding 97 clients who had paid in sizable amounts. The owner had skipped town and customers were unable to get an accounting of money paid in or out.

The National Bureau has actively campaigned against debt pooling for many years. In a 1955 bulletin it warned that "these operations are well on their way to becoming a national scandal."

Since that time, 14 states have outlawed commercial debt adjusting outright. Three others prohibit the activity on the basis that is constitutes the practice of law. Six states attempt to regulate it by statute.

These are a few guidelines for hard-pressed consumers:

For a debt consolidation plan to work, creditors must agree to accept smaller payments than they are now getting. They often refuse.

If you do business with a "credit counselor," etc., be sure he is responsible. Check with the local Better Business Bureau for a factual report.

If your debts have been turned over to a collection agency, discuss your financial problems with them. Tell them the truth and ask for their help. Usually a solution can be reached.

Avoid taking any steps which would pile debt on top of debt and bear in mind that there is much the debtor can do for himself.

In many cities, family welfare agencies, legal aid societies, retail credit bureaus, etc., are willing to assume the burden of debt adjustment for the deserving debtor at little or no expense to him.

National Better Business Bureau, Inc., New York, N.Y.

DEBT ADJUSTERS—BOON OR BURDEN??

Unregulated Pro-Rating Companies Are Subject of Many Complaints

Debt adjusters are individuals or companies engaged in the business of pro-rating the income of a debtor to his creditors for a fee or service charge.

Ideally, the service they render to debt-laden members of society would include setting up a budget on a workable basis. It would allocate a definite amount of income to debt retirement purposes, including payment of the adjuster's fee as defined by contract. The adjuster would then prepare a plan for distributing the available income periodically to the various creditors on a pro-rata basis. This would usually require obtaining substantial concessions from some creditors. However, if satisfactory arrangements could be effected, the debtor would make regular payment of the total amount budgeted for debt retirement to the adjuster who would then disburse it to himself and the creditors in accordance with the agreed formula. The ultimate objective would be final emancipation of the family from its debts and the re-establishment of its credit.

COMPLAINTS ACCOMPANY GROWTH

The business is not a new one. Known variously as pro-raters, debt poolers, debt managers, credit counsellors, budget systems, funding agencies, etc., this type of company has functioned in some cities for more than two decades. Within the past year or two, however, their number has multiplied and the geographic scope of their operations has increased at a prodigious rate.

Some operators extend or transfer their activities from one city to another. In February, a Federal grand jury in Chicago indicted several companies and individuals charging fraud by radio advertisement, mail fraud and conspiracy in the operation of a debt adjustment scheme. Two of these individuals were formerly identified with a pro-rata business in Columbus, Ohio, which had been the subject of numerous complaints to the Columbus Better Business Bureau. During the past year, criminal warrants have likewise been issued in Detroit, Michigan against one "budget system" operator who had previously promoted similar businesses in a number of Eastern cities. The charges resulted from numerous complaints to the Detroit Better Business Bureau and the authorities alleging "bait" advertising and failure of this promoter to perform promised debt adjustment services after collecting his fees in advance.

There are debt adjusters who have operated in some communities for many years, free of justified criticism or complaint to the Better Business Bureau. Certainly, it would be unfair to condemn a newcomer solely on the grounds of newness. It is nevertheless true that those who have swarmed into the debt adjustment field recently have included a large proportion of unscrupulous or incompetent opportunists whose activities have spread misery throughout the land. They have used extravagant and deceptive advertising to claim far more than they were in position to deliver. They have made false promises to persons whom they knew, or should have known, were beyond redemption, credit-wise. They have withheld their own fees from the debtors' payments but have failed promptly to make agreed payments to creditors or to obtain creditors' accession to the pro-rata plan devised. The net result of their activities, in many cases, has been to leave already desperate people more hopelessly mired in debt and litigation than before.

SITUATION SERIOUS IN MANY CITIES

That these practices do not exist in isolated cases only is indicated by a survey which the National Better Business Bureau recently made of Better Business Bureau experience with pro-raters in forty cities in all sections of the United States. In seven of these cities, pro-raters have been operating, mostly on a limited scale, without serious complaint to the Bureaus. In five others, sufficient time had not elapsed to permit a significant accumulation of customer experience in Bureau files. In the remaining twenty-eight cities, Better Business Bureau experience with pro-raters has been, on the whole, unfavorable. Most of the larger cities are included in this category and, in more than half, complaints have increased so rapidly within the past year as to create serious problems.

It should not be inferred that every pro-rater in each of these cities has been the subject of justified criticism. But the tactics employed by a majority of the pro-raters have made the complaint picture so black that some Bureaus have been forced to the conclusion that continued uncontrolled operation of these services in their communities would not be in the public interest.

MISLEADING ADVERTISEMENTS

Many complaints have their inception in printed or broadcast advertising claims such as "Forget Your Debts," "Rid yourself of the worries and troubles of all your creditors," "Pay Us What You Can Afford," and similar representations calculated falsely to imply that, once the debt adjustment company is employed, the debtor has no further responsibility or obligation to his creditors.

Other advertising statements—"Bills Paid For You," "We Pay Them For You," "Do you need financial assistance and have no collateral?", "Pay your bills without borrowing with single payment," etc.—have had the capacity to deceive as to the true and limited service which the debt adjuster can offer. Some advertising has misled debtors to believe that they can get a loan or credit which the pro-rater will use to pay off all their debts. The Cleveland Better Business Bureau reports the case of one company using the word "Finance" as part of its title. Some debt adjustment services have even advertised in classified columns under the heading of "Loans." Of course, the pro-rater performs no such function, a truth which some complainants have not discovered until after they have signed agreements which they did not understand, and paid fees for non-existent loans.

LIMITATIONS OF SERVICE

At best, the pro-rater offers a means whereby an individual may retire his total indebtedness, although automatically increased to the extent of the pro-rater's fees, in regular amounts over a period of time which will be consistent with his capacity to pay. The complete success of such an expedient would depend upon the honesty of the pro-rater and his qualifications to analyze his client's financial and budgetary problems, the character of the client and his ability to carry through on the agreement reached, and the willingness of creditors to accept proffered plans for reduced or extended payments, among other factors. The experience of Better Business Bureaus suggests that the proportion of cases in which these circumstances ideally co-exist may be very small.

TAKING ALL COMERS

Advertisements of some debt adjustment companies have implied an ability to solve the problems of any or all debt ridden persons regardless of their circumstances, character or reputation.

On the contrary, it is generally recognized by informed sources that the proportion of over-indebted persons who can be helped by a debt adjustment service is limited. A mid-west firm which has operated without complaint to the local Better Business Bureau for many years, has advised NBBB that it finds it necessary to turn down six out of every ten applications, "mainly because of (1) a desire to keep some item that is entirely out of proportion, such as an expensive automobile or other luxury item that could be turned back or, (2) reduced income to the point where it barely does more than cover the living budget or, (3) lack of the feeling that they are in serious trouble and determination to live on a meager budget to pull themselves out." A west coast organization, whose record is equally free of complaint, has stated that it will accept as clients only those overindebted persons whose income allows monies to be applied toward the liquidation of their obligations over an extended period of time. This organization takes the position that no pro-rate office has the moral right to accept persons who can pay off their obligations by liquidating assets or by securing a loan, or those whose earnings are currently insufficient to do more than meet barest living expenses regardless of the nature of their debts.

It has been the experience of many Better Business Bureaus that there are other pro-raters who do not concern themselves with the fitness of applicants for service. In many cases, the only test applied appears to have been the applicant's ability to pay the debt adjuster's fee.

AGREEMENTS FAVOR PRO-RATERS

"No interest. No co-signers. No security needed. No reference check," is an advertising theme employed by many pro-raters. What is not disclosed is that while interest is not charged, there are substantial service charges, often as high as 35% of total indebtedness, added to the debtor's already overwhelming financial burden. Nor is it disclosed that references, co-signers and security are not required because the debt pooling company assumes no financial risk.

Customarily, the debtor is induced to sign a contract legally binding on him. If, because of non-fulfillment of promises or other cause of dissatisfaction, the disillusioned client seeks to withdraw from a pro-rating plan, he frequently finds that he can do so only at the sacrifice of most, if not all, of the money that he has paid in. He may even face supplementary collection proceedings by the pro-rater. Many such complainants do not have a copy of the agreement that they signed, but investigation by a Better Business Bureau has generally developed that the document is weighted in favor of the pro-rater's receiving the full amount of his fees at the expense of the client and creditors. There is no uniformity in the amount of fees charged by debt adjustment companies or in the method of their exaction. The same company may charge different rates to different clients. In many cases, however, the pro-rater demands the full amount of fees contemplated for the entire life of the agreement, regardless of how long it may be in effect.

Generally, the fee is based on a percentage of the client's total indebtedness which may be augmented by "bookkeeping charges" based on the number of accounts involved. Total charges may amount to from 10% to 35%, or more, of the total indebtedness. They may be considerably more than what prospective clients may anticipate. A New York company, for example, has represented that its fees are 10% of the total indebtedness. An analysis by the Better Business Bureau of New York City of complaints from dissatisfied clients who withdraw from the plan showed that, to these people, charges actually ranged from 16% to 58%.

PILING DEBT ON DEBT

The agreement has sometimes permitted the pro-rater to deduct all or most of his fee from the client's initial payments. In other cases, a percentage is to be deducted from each payment during the life of the agreement, but, under these circumstances, some pro-raters have set up "reserve funds" by the expedient of postponing payments to creditors. If a client cancels the agreement before it has run its course, the pro-rater applies the "reserve" toward the satisfaction of the total fees he would have collected had the agreement been completed. If sufficient funds are not on hand for this purpose, the client is presented with a bill for the balance. If he fails to pay, the debt adjuster may institute legal proceedings to collect. There is an example of an Ohio company which induced its clients to sign *cognovit* notes for the full amount of its fees. Such notes are, in effect, a confession of judgment and the Better Business Bureau of Akron recently reported that 21 judgments, totalling $1,896.83, had been taken against one debt adjuster's clients who had signed such notes. Similar judgments totalling $497.13 were reported as to five customers of another debt pooling firm. In many cases, where judgments are taken, the holder of the note may garnishee the debtor's wages.

There is a strong suspicion that some pro-raters so conduct their operations as deliberately to encourage clients to withdraw from agreements during the early life thereof. In such cases, the unfortunate client discovers that, at considerable expense to himself, he has not only failed to improve his position *vis a vis* his creditors, but has acquired a new creditor, i.e., the pro-rater.

RELATION TO CREDITORS MISREPRESENTED

Many complaints have arisen from sales representations in advertising and at interviews calculated to lead the debtor to believe that all of the sales credit organizations, banks, loan companies and others to whom he is indebted will automatically agree to whatever plan for payment the pro-rater may devise. The Boston Better Business Bureau, which has pioneered in educating the public on this subject, has pointed out that creditors are under no requirement so to soften

the contractual obligations of heir debtors and many creditors decline to accept agreements offered by debt adjustment companies.

These facts are not disclosed to prospective customers by the unscrupulous debt adjuster. It is not explained that some creditors, whether accepting the pro-rata arrangement or not, may add additional finance or interest charges, if their accounts are not paid according to the original terms. If legal action has been or is instituted by a creditor against a debtor, only an attorney can provide legal service, if required. A debt adjustment plan does not preclude nor prevent a creditor from taking his usual action to collect, including legal action.

THE ST. LOUIS SURVEY

In February, 1955, the St. Louis Better Business Bureau published the results of a questionnaire to several hundreds of its members in those fields of business most likely to be involved in any attempt by debt adjusters to represent creditors of business firms. Replies, of which 60% were from retail merchants selling on charge or installment plan, and 40% from banks, loan companies and sales finance and discount companies, are tabulated as follows:

[In percent]

	Yes	No
Do Debt Adjusters Serve a Useful Purpose?	10	90
Do You Accept Agreements From Debt Adjusters?	30	70
Do Debt Adjusters Pay Promptly?	12½	87½
Do Debt Adjusters Usually Pay Off the Entire Amount?	0	100
Are Clients Excessively Debt Ridden?	67	33

Returns from another questionnaire distributed by the Memphis Better Business Bureau indicated that approximately the same situation existed in that city. Recently, the Better Business Bureau of Baton Rouge, La., surveyed the principal firms doing an installment business in its area and discovered that less than 10% had any working arrangement with the debt adjustment company operating in that city.

In its bulletin, the St. Louis Bureau pointed out that respondents to its questionnaire did not rate all proraters in that city uniformly as to reliability; based on past experience, the creditors might negotiate more readily with a few of the existing debt adjustment companies than they would with others. However, the overall picture presented by the above tabulation is not such as to justify confidence in the employment of pro-raters generally as a means of extricating excessively debt-ridden persons from their financial difficulties.

MISERY COMPOUNDED

Having been led to believe that through employment of a pro-rater, they had solved all problems relating to their excessive accumulation of debts, some clients are encouraged to ignore direct demands for payment by creditors. Complainants to Better Business Bureaus include many whose sojourn in such a fool's paradise has been interrupted by the intrusion of lawsuits, garnishee proceedings, repossessions, or other legal steps taken by creditors who have lost patience. Similar denouements have sometimes followed failure of the pro-rater to make prompt payments to creditors as agreed, even though the client has faithfully met his obligations to the debt adjustment company.

Some short-lived debt adjustment companies have closed their doors after paying only a fraction of the amount collected to creditors, leaving their clients in worse financial straits than before. The Rochester Better Business Bureau reports a typical case where a now defunct prorating company collected $214.00 from one client, but made a lone payment of only $38.00 to a single creditor. If the operators are not bonded and leave no assets behind them, there is little that can be done for the victims in these cases.

ALTERNATIVES AVAILABLE

There are many, including some Better Business Bureaus, who believe that there is no need or economic justification for the existence of the pro-rater; that he does not offer a service of genuine value to debtor and creditor, or that his functions are, or could be, performed more satisfactorily by some other kind of

agency. These critics point out that there is much that the debtor can do for himself and that, in many cities, family welfare agencies, Legal Aid Societies and retail credit bureaus are willing to assume the burden of debt adjustment for the deserving debtor at little or no expense to him.

Under an Ohio law, a debtor can set up a trusteeship through a municipal court which will pro-rate a portion of his income to his debtors at nominal cost. A recent Wisconsin statute enables wage earners to amortize their debts through the state courts Chapter XIII of the Federal Bankruptcy Act permits wage earners less than $5,000 a year to establish trusteeships for the liquidation of their debts, without resort to bankruptcy, over a period of three years, if necessary. Nearly 10,000 such proceedings were filed during 1954.

LACK OF REGULATION

In Wisconsin, there is a licensing law supplemented by rules and regulations governing debt adjustment companies, only one of which operates in that state. Minnesota also has a licensing law. A recent Maine statute prohibits anyone other than an attorney from engaging in this business. In Pennsylvania, the courts have construed the collection agency law so as to prohibit debt adjusters from taking fees from debtors; hence, there are no pro-rate companies in Pennsylvania. So far as NBBB is aware, in other jurisdictions, any individual, hower ill-qualified may set himself up in business as a pro-rater without any restriction or regulation of his operations whatever.

Legislation has been proposed in other states which would prohibit the operation of a debt adjustment business for profit or which would seek to license and regulate the business. The net effect of some of the proposed laws which NBBB has seen would appear to be to lend dignity to debt adjusters as state-licensed organizations while affording little real protection to the public. That would seem to be true of any legislation which:

a) would permit unqualified or unscrupulous individuals to accept money from desperately involved debtors without obtaining the agreement of creditors to participate in a workable pro-rate plan;

b) would permit the adjuster to exact exhorbitant fees, openly or by subterfuge;

c) would permit the adjuster to deduct all or a substantial portion of his fees in advance rather than on a pro-rata basis as service is performed; or which

d) did not provide for competent supervision by a state agency adequately financed and staffed.

A NATIONAL SCANDAL

In this bulletin, the sole purpose of the National Better Business Bureau has been to draw attention to a situation that is fast approaching a national scandal. We do not suggest that all debt adjusters are charlatans. Better Business Bureaus in those cities where debt adjusters have fulfilled their promises to the public to the satisfaction of debtors and the creditor community alike have not questioned the value of the service which this type of business offers.

It is for the lawmakers to decide whether the activities of pro-rate companies should be prohibited, whether they should be regulated and whether the states should provide other facilities for performing debt adjustment services, as in Ohio and Wisconsin. Without presuming to decide these questions, the National Better Business Bureau offers the following observations:

In a vocation which offers any individual the opportunity to handle other peoples' money without regard to his reputation, financial responsibility, experience and other qualifications, and without regulation by or accountability to any public agency, the potentiality for evil is great. The evidence is more than ample to support the view that this potential has been realized by an alarmingly high proportion of debt adjusters under existing circumstances.

Service Bulletin—Prepared for Chamber of Commerce Members of the National Better Business Bureau, Inc., New York, N.Y., July 1967

HAWAII BECOMES 22ND STATE TO PROHIBIT COMMERCIAL DEBT ADJUSTING

On March 30, 1967, Hawaii became the twenty-second state to prohibit the commercial practice of debt adjusting when Governor Burns approved House Bill No. 33. The bill was introduced by State Representative George W. T. Loo of Honolulu.

84-181—67——10

"Debt Adjuster" is defined to mean a person who for a profit engages in the business of acting as an intermediary between a debtor and his creditors for the purpose of settling, compromising or in any way altering the terms of payment of any debts of the debtor, and who:

1. Receives money, or property or other thing of value from the debtor, or on behalf of the debtor, for distribution among the creditors of the debtor, or
2. Otherwise arranges for payment to, or distribution among, the creditors of the debtor.

House Bill No. 33 exempts "a nonprofit or charitable corporation or association who acts as an adjuster of a debtor's debts, even though the nonprofit corporation or association may charge and collect nominal sums as reimbursement for expenses in connection with such services."

According to Mr. Loo, House Bill No. 33 is patterned after the Kansas Act and is essentially the Kansas Act except for Sections 4 and 5. In Section 4, Legal Aid Society was included in the definition of attorney; the exemption for a creditor of the debtor or an agent of one or more creditors was deleted; the exemption for a person who makes a loan to the debtor and acts as an adjuster for debtor's loan in the disbursement of the proceeds of the loan, was deleted. Section 5 was added to make clear that money lenders are not effected by this Act.

STATES WHICH BAN DEBT POOLING

The twenty-two states which have outlawed debt pooling are:

State	Year	State	Year
Arkansas	1967	New York	1956
Delaware	1966	North Carolina	1963
Florida	1959	Ohio	1957
Georgia	1956	Oklahoma	1957
Hawaii	1967	Pennsylvania	1955
Kansas	1961	Rhode Island	1964
Maine	1955	South Carolina	1963
Massachusetts	1955	Texas	1965
Missouri	1963	Virginia	1956
New Jersey	1961	West Virginia	1957
New Mexico	1965	Wyoming	1957

STATE WHICH REGULATE DEBT POOLING BY STATUTE

Six states, while not prohibiting commercial debt pooling, attempt to regulate it by statute. They are: California, Illinois, Michigan, Minnesota, Oregon and Wisconsin.

Mr. SISK. We also have letters from Finance Management Company of Rock Island, Illinois and Consumers Credit Counselors, Decatur, Illinois, which, without objection, will be made a part of the record.

(The letters referred to follow:)

FINANCE MANAGEMENT COMPANY,
Rock Island, Ill., August 18, 1967.

Hon. B. F. SISK,
House of Representatives,
Washington, D.C.

DEAR MR. SISK: It is my understanding that Subcommittee number five, of the House, will be holding hearings on credit counselling and debt adjusting in the near future.

I am presently engaged in this business and feel that myself and other persons in our industry should be given an opportunity to speak before your committee, and answer any questions that may arise. I know that there is quite a controversy about our business, and will, also, acknowledge the fact that there are people in this business, as in any other business, who create bad situations.

As a member of the Illinois Association of Credit Counselors, and the American Association, for several years we have been very instrumental in trying to rid the industry of the bad operator.

I am sure that if your committee would take time to interview and question the authorities in the states that hold regulation, you will find that the violations created are very, very few, and that in the areas where our members operate they are held in very high regard.

I would appreciate any consideration your committee could show to our industry.

Respectfully,

R. A. BOWERS,
General Manager.

CONSUMER CREDIT COUNSELORS,
A DIVISION OF THE CREDIT BUREAU,
Decatur, Ill., August 14, 1967.

Hon. B. F. SISK,
House of Representatives,
Washington, D.C.

DEAR MR. SISK: All members of our industry are most concerned at plans to regulate or prohibit professional credit counseling in the District of Columbia.

Our firm has been in the business of consumer credit counseling and financial budgeting for almost thirty years. We enjoy an excellent reputation with Decatur credit grantors, including retailers, medical professions and financial institutions and the Association of Commerce.

However, many years ago there was a great deal of abuse in our area by firms going into some type of prorating service and being interested only in retiring their fee, which was projected in advance for their service. This type of thing is now completely stopped. All our industry is licensed and bonded to the State of Illinois; the Director of Financial Institutions enforces the regulations concerning their licensees. We are completely audited, much the same as the consumer finance industry in Illinois, at least once a year, and the cost is assessed to us by the State of Illinois. Our receipts, payment checks, and counseling fees are thoroughly checked. This has driven the unethical operator from the field.

Previous to the time that such services were licensed and bonded in the State of Illinois we had performed this service for families for the past twenty-five years on about the same fee basis. It is not, nor is it intended to be, a lucrative type of business, but is set up for the good of the families and their creditors. We are enclosing a copy of our Annual Report for 1966. If you will check our pages you will find that we assisted 404 families last year. Our debt liquidation through counseling was $196,532.

We believe that you will be doing a disservice to commerce, which is carried on through the channels of credit and whose life blood is credit, if you prohibit credit counseling by ethical, responsible firms in Washington, D.C. We are certain that machinery for bona fide firms can be established just as it was in the State of Illinois.

Thank you for your attention to this letter, and we hope that you will consider our statements in favor of credit counseling through a licensing and bonding law.

Sincerely,

MRS. JOSEPHINE F. SHAFER,
Assistant General Manager.

Mr. SISK. The next witness will be Mr. Ronald L. Snellings, Navy Federal Credit Union, Washington, D.C.

Mr. Snellings, will you take the witness stand.

Is he here? (No response.)

Without objection, Mr. Snellings' statement, which I believe we already have, will be made a part of the record.

(The statement follows:)

Statement of Ronald L. Snellings, Director, Member Services Division, Navy Federal Credit Union

BIOGRAPHY

For the record, my name is Ronald L. Snellings. I am the Director of the Member Services Division of the Navy Federal Credit Union and have served in this capacity since July 1961. Prior to that time, I served as Assistant Branch Manager of the American Security and Trust Company. I am a member of the Board of Directors of the Metropolitan Area Credit Union Management Association, a member of the board of directors of the Consumer Credit Association of Greater Washington, and an associate member of the International Consumer Credit Association. I am also Certified Consumer Credit Executive and a Certified Public Accountant.

I have worked in the field of consumer finance in Washington, D.C. for more than 15 years and have had considerable exposure to the local consumers' debt problems. I am a native Washingtonian.

I. INTRODUCTION

As an experienced credit grantor and counselor in consumer finance in the District of Columbia, I wish to give favorable testimony on behalf of House Bill H.R. 9806.

II. REASONS FOR ELIMINATION

There are ten reasons for prohibiting the business of debt adjusting in the District of Columbia as proposed by House Bill H.R. 9806.

1. The fee charged for such services—often 10 or 12 percent of each payment in addition to an initial conference fee of $25—adds to the burden the debtor already bears and actually postpones the date when he will be debt-free.

2. The benefits received by the consumer from this arrangement are extremely questionable. Debt adjustors lend no money; make no attempt to counsel; do not assure that the debt plan devised will leave their victims enough money to live on.

3. By promising quick results which can't be delivered, the debt adjustor deters the debtor from seeking the financial counsel which he so badly needs.

4. Educational efforts are nonexistent by the professional pro-rater in Washington.

5. Deceptive and misleading advertising are used to obtain clients.

6. Credit grantors will not cooperate with professional debt adjustors due to the lack of adequate counseling and the reputation maintained in the community.

It will be stated by opposers to your bill that credit grantors cooperate because they accept the professional debt adjustors remittances. It is true that my organization accepts these checks. However, we do this because our attorney has instructed us to accept remittances from "all third parties for partial payments" as it is a normal business practice of the credit union such as—wives remittances for husbands, mothers for sons, insurance companies, banks, attorneys and many others.

7. 25% of the consumers need counseling only, as opposed to pro-rating. The paid professional is interested in pro-rating only since his fees are based on the amount of debt funds he handles.

8. Licensing of professional debt adjustors brings to mind some concern. Almost every skilled or professional person requires some experience and/or education before he can be licensed. Qualifications of "trained counselors" in use by the professionl debt adjustor is questionable.

9. Reformulation of family financial money management is not possible through the professional debt adjustor without detailed budgetary counseling, educational efforts, and a direct contributory effort by the consumer. The consumer without improving his spending habits, will redevelop the same problem since he has learned little from his professional debt adjustor.

10. The District of Columbia represents a safe refuge for two professional debt adjuster due to the many surrounding states which have outlawed the profes-

sional pro-rater. (See U.S. Map, Enclosure 1—dark area represents states outlawing professional pro-raters; the light area is D.C. and Maryland.)

What I have observed while counseling credit union members and other consumer borrowers has led me to conclude that legislation which would merely regulate the professional debt adjustor would not really protect the consumer.

III. DIFFICULTY OF REASONABLE REGULATIONS OF PROFESSIONAL DEBT COUNSELING

Let's consider the matter of false or misleading advertising. (Enclosure 2). On 18 August, classified ads appearing in a local newspaper encouraged debtors to "pay all your overdue bills in one easy weekly payment". "Let us help you out of debt fast!" one ad promised. Another ad told debtors that they could avoid garnishment if they would only allow the advertiser to "*consolidate your bills*, past due or not, into one low payment you can afford".

Intended or not, the implication between the lines was that the debt consolidator would pay off the debtor's bills immediately and collect from the debtor later in e-a-s-y installments.

Significantly, *the ad did not specify the number of installments to be paid*, the amount of each installment that would be applied to the debt, or the amount of the service charge that would be imposed for "credit management".

Moreover, the ad contained sample *weekly* payments which, to the unsophisticated debtor, would appear to be approximately four times lower than the *monthly* payments of a licensed loan company, a bank or a credit union lending an identical sum of money.

Since the Senate hearings on August 25, 1967, note how the complexion of the ad for credit advisers has changed. There are no more statements of consolidation, no payment examples and still no statement of fees which are charged at a rate of 12%. There is a law in effect in the District of Columbia which governs fraudulent advertising (Enclosure 3). The first series of ads previously cited bordered on violating this statute.

When laws which purport to control misleading advertising cannot eliminate such practices, one doubts that legislation could regulate debt adjustors effectively.

IV. EXPERIENCES

From what I have observed, I would say, categorically, that commercial debt adjustors make little, if any, attempt to counsel their clients, teach them the fundamentals of sound money management, or show them, really, how to solve their financial problems. On the contrary, the debt adjustor aggravates financial distress; he doesn't alleviate it.

One credit union member who patronized a debt adjustor told me that her bills were totaled to determine how much each creditor was to receive per month. The debt adjustor advised the member that the amount of monthly salary remaining would be used for monthly living expenses.

There was no attempt to set up a budget; no attempt to advise the member how she could cut down on expenses; no attempt to suggest means of increasing her $5800 per year income.

A debt adjustor could perhaps argue that he spends his *time* on his clients, and that for this, he deserves 12% of the client's weekly payment, but the time expended is short and the service, superficial.

Once having determined how much the debtor owes, the debt adjustor fills out a few simple forms, sends them off periodically to the debtor's creditors and ignores the circumstances which contributed to the debtor's financial distress. For the record, I would like to submit Exhibits 4, 5, and 6 to illustrate the dearth of effort the debt adjustor expends on his clients. These are samples of the forms used by one D.C. pro-rater.

Sadly, the people who fall for the debt adjustor's spiel are usually those who can least afford it. A random sample of NFCU members who were patronizing debt adjustors include: one GS–7, two GS–6's, one GS–5, one GS–4.

Their combined salaries total $28,967. Their combined debt $28,850. While some people who resort to the debt adjustor are led to do so because of legitimate, but burdensome, expenses, it is evident, from reading their records, that most have lost the ability to manage their funds. They have no idea how to plan

their expenses, nor do they know the proper percentage of their incomes which they can reasonably allot to such needs as food, shelter, clothing and transportation, much less how much they can afford to spend on non-essentials such as color television sets or trips to Hawaii.

What these people need is counseling to reestablish good financial habits, and I would like to present an example of what counseling can accomplish.

In May of this year, a 26 year old, single government girl earning $6,451 a year fell behind on her payments to the Navy Federal Credit Union. Subsequent conversation with the girl revealed that she owed a total of $4,346.34,—$2,269.22 of which was owed on a 1966 model sports car and $2,077.12 on miscellaneous bills to local department stores,—the credit captive of a major manufacturer, a bank and a credit union.

The girl had already contacted a debt adjustor and had forwarded him $158,—or nearly half a month's pay,—for disbursement to her creditors. Only $49 of the $158 was ever disbursed and no attempt whatsoever was made to assist the girl in handling her finances realistically. One of our counselors talked with the girl in the case history just cited. He helped her to set up a realistic budget, advised her to seek part-time employment and locate a roommate to share expenses, personally contacted her creditors, and made arrangements partial payments where necessary.

Currently, this individual has located a roommate to begin sharing expenses, is making regular payments on her debts, and expects to be debt-free by June 1968.

It is difficult to say what might have happened to the girl in the case history had she continued to patronize the debt adjustor and had she not been counseled. But I would doubt very much that she would ever have found herself in a position to meet her financial obligations. Counseling is a "must" in assisting the overburdened debtor, and debt adjustors do not counsel. Similar experiences were cited in the recent series in the Evening Star newspaper of Washington titled "Debtor Beware" (Exhibit 7).

Thirty-one other hardship cases handled in my office reflect the following results:

Original debts—prior to counseling	$263, 505. 56
Debt balances as of 8/1/67—after counseling through pro-rating	133, 357. 48
Amount of debt paid	$130, 148. 08
Percentage of original debt paid	49%
Cost to consumer for counseling service	0

V. SOLUTION

The problems of professional debt adjustors have been cited. It must be recognized there is an apparent need for counseling service, therefore, a replacement for the professional debt adjustor is necessary if the proposed legislation is passed.

If the consumers of this community are to be taught how to handle their finances, then a non-profit, consumer credit counseling service center should be established. And I might interject that other major metropolitan areas have already established such centers.

In other cities, centers now in operation are helping debtors in developing common sense plans for the orderly liquidation of debts and they are finding that *one-fourth of the people requesting assistance need only counseling—and not supervised pro-rating—to restore financial health.*

This fact is of major significance and I feel it should be most carefully considered by this committee.

I have tried to give you reasons why mere regulations of professional debt adjustors is not feasible. I have also tried to present the facts which have led me to conclude that debt adjustors must be eliminated in the District of Columbia.

I believe that financial counseling is the only way that overburdened debtors can be helped effectively and I would urge the local business community to give serious thought to the establishment of a community supported consumer credit counseling center.

Thank you.

EXHIBIT 4

Credit Advisors, Inc.

FINANCIAL MANAGEMENT
301 EVANS BLDG.
1420 NEW YORK AVE., N.W.
WASHINGTON D.C.
EX 3-7865

BONDED PROTECTION

We the undersigned do hereby request that you accept the terms set forth herein by CREDIT ADVISORS, INC., so that we can resolve our financial affairs.

A review of our indebtedness indicates that we may make a distribution to all our creditors by 12-21-62 your part being $99.23 monthly

Your cooperation in participating in this arrangement will be appreciated. This will enable all of our creditors to receive their share of our income monthly until such time as our indebtedness may be refinanced or liquidated.

If this arrangement is unsatisfactory, please contact CREDIT ADVISORS, INC.

Paul Lovell
7720 Eagle Court
Alex. Va.
ADDRESS

------------------------------ 77385 ------

Our Account # B15624. Clip here and return lower section

Navy Fed Credit Un.

Our present balance $________

Our records have been posted ________

Initialed by ________

#203

EXHIBIT 6

114324-08

Credit Advisors, Inc.

FINANCIAL MANAGEMENT
301 EVANS BLDG.
1420 NEW YORK AVE., N.W.
WASHINGTON D.C.
EX 3-7865

20 APR 67 12 23

BONDED PROTECTION

We the undersigned do hereby request that you accept the terms set forth herein by CREDIT ADVISORS, INC., so that we can resolve our financial affairs.

A review of our indebtedness indicates that we may make a distribution to all our creditors by 4-27 your part being $ 12 — mo

Your cooperation in participating in this arrangement will be appreciated. This will enable all of our creditors to receive their share of our income monthly until such time as our indebtedness may be refinanced or liquidated.

If this arrangement is unsatisfactory, please contact CREDIT ADVISORS, INC.

LANA GROMOFF
4501 S. Four-mile Run Dr.
Arl
ADDRESS

- -

Our Account # B17304 Clip here and return lower section

Navy Fed. Credit Union

Our present balance $________

Our records have been posted ________

Initialed by ________

EXHIBIT 5

114324-08

Credit Advisors, Inc.

FINANCIAL MANAGEMENT
301 EVANS BLDG.
1420 NEW YORK AVE., N.W.
WASHINGTON D.C.
EX 3-7865

BONDED PROTECTION

We the undersigned do hereby request that you accept the terms set forth herein by CREDIT ADVISORS, INC., so that we can resolve our financial affairs.

A review of our indebtedness indicates that we may make a distribution to all our creditors by 4-21 your part being $32.96 mo

Your cooperation in participating in this arrangement will be appreciated. This will enable all of our creditors to receive their share of our income monthly until such time as our indebtedness may be refinanced or liquidated.

If this arrangement is unsatisfactory, please contact CREDIT ADVISORS, INC.

LANA GROMOFF
4501 S. Four-mile RUN. Dr.
Arl. - Va. ADDRESS

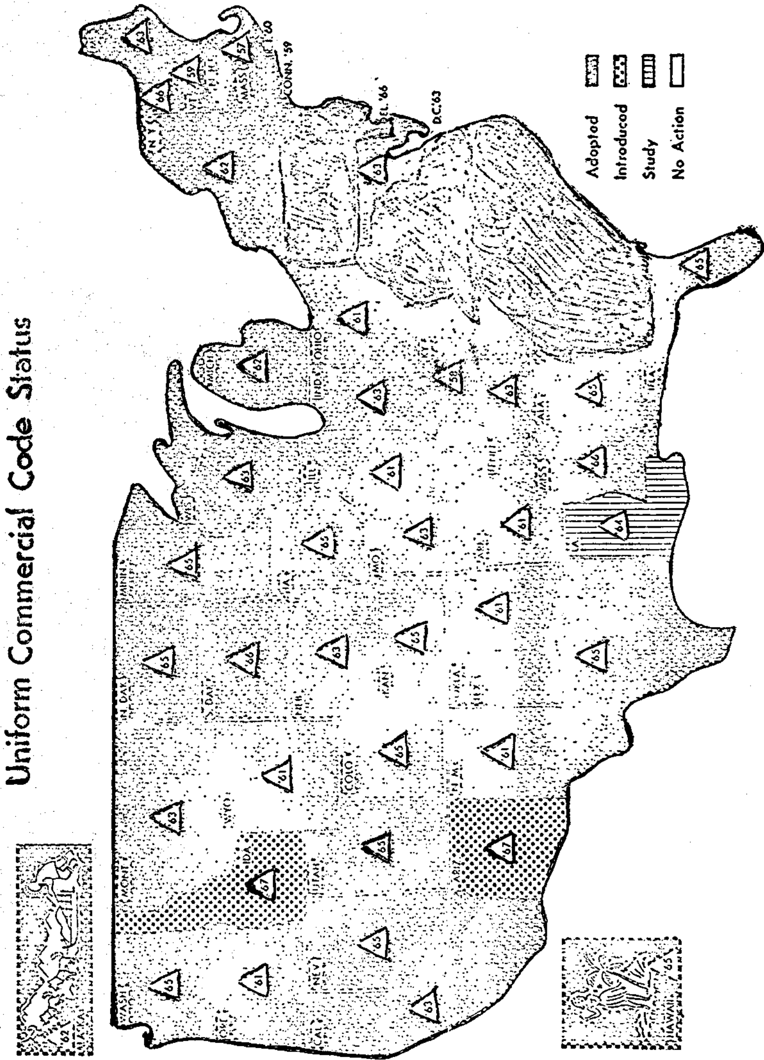
Our Account # B17304 Clip here and return lower section.

Arl. Credit Union

Our present balance $______

Our records have been posted ______

Initialed by ______



[Table of Contents for Uniform Commercial Code begins on page 4481.]

© 1967, Commerce Clearing House, Inc.

Newspaper Advertising Before Congressional Hearing

redit Advisors

BILLS PRESSING?

us consolidate your bills, pas- or not, into one low paymen- can afford. Garnishment- ided. For example:

000 ...$15 per week
000 ...$25 per week
000 ...$35 per week

NOT A LOAN
ERICA'S LARGEST AND MOST REPUTABLE CREDIT MANAGEMENT CO.

Credit Advisors, Inc.
1413 K ST. NW., 2ND FLR.
393-7865
4165 BRANCH AVE. SE.
RLOW HTS. SHOPPING CTR.
423-4850
3510 RHODE ISLAND AVE.
IN MT. RAINIER, MD.
277-8181
vening Office or Home appt.

A DEBT PLAN

LET US CONSOLIDATE your bills, past due or not, into one low payment you can afford. Garnisaments avoided.

For example:

IF YOU OWE	PAY AS LOW AS
$1000	$15 per week
$2000	$25 per week
$3000	$35 per week

NOT A LOAN
NO CO-SIGNERS OR SECURITY

AMERICA'S LARGEST & MOST Reputable Credit Management Co.

CREDIT ADVISORS INC.

393-7865
1413 K St. N.W. 2nd Fl.

423-4850
4165 Branch Ave. S.E.
Marlow Hgts. Shopping Center

277-8181
3510 RHODE ISLAND AVE., N.E.

EVE. OFFICE & HOME APPTS.

amily Budget Service

RSONALS 7 PERSONALS 7

Bill Problems?

pplications up to $15,000 accepted

Let us help you get out of debt fast! Pay all your overdue bills in one easy weekly payment. Not a loan co. Bad credit no problem.

IF YOU OWE $500 $1000 $2000
OU PAY as low as $7 wk. $12 wk. $21 wk.

FAMILY BUDGET SERVICE
Dept. WP
1 Center St., Danielson, Conn. 06239

Please send FREE confidential application. I understand I am under NO obligation.

AME .... Amount I owe $....
DDRESS ....

Other

ATT: MONEY — To $500,000. Put all bills in one place. Save interest. Bad credit handled. 628-4323 anytime.

BEHIND IN YOUR HOUSE PAYMENTS? Or need money for any reason. Same day service for D.C. home owners. ST 3-5551.

After Senate District Committee's Business and Finance Subcommittee Hearing on 25 August 1967

SLASH BILL PAYMENTS

WE BUDGET YOUR INCOME! MANAGE YOUR DEBT PAYMENTS AND CREDIT FIGHTS!

You can change from:
1. Many check payments-TO 1 payment each pay day.
2. Creditor calls at night-TO peaceful sleep.
3. Worry over unpaid bills-TO security in paid up bills.
4. Fear of job and health-TO a carefree happy life.

NO LOANS
NO CO-SIGNERS
NO SECURITIES
FREE-Private home or office appointments.

Credit Advisors, Inc.
1413 K ST. NW., 2ND FLR.
393-7865
4165 BRANCH AVE. SE.
MARLOW HTS. SHOPPING CTR.
423-4850
3510 RHODE ISLAND AVE.
IN MT. RAINIER, MD.
277-8181
608 Washington Blvd.
LAUREL, MD

BILL PAYMENTS

WE BUDGET YOUR INCOME! MANAGE YOUR DEBT PAYMENTS! END CREDITOR FIGHTS!
You can change from:
No 1 Many check payments to 1 payment each pay day
No 2 Creditor calls at night— to peaceful sleep
No 3 Worry over unpaid bills— to security in paid up bills
No 4 Fear of job and health— to a carefree happy life

NOT A LOAN
NO CO-SIGNERS OR SECURITY

AMERICA'S LARGEST & MOST Reputable Credit Management Co.

CREDIT ADVISORS INC.

393-7865
1413 K St. N.W. 2nd Fl.

423-4850
4165 Branch Ave. S.E.
Marlow Hgts. Shopping Center

277-8181
3510 RHODE ISLAND AVE., N.E

EVE. OFFICE & HOME APPTS.

After House District Committee's Hearings on 14 September 1967

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Enclosure 2

ENCLOSURE 3

FRAUDULENT ADVERTISING

It shall be unlawful in the District of Columbia for any person, firm, association, corporation, or advertising agency, either directly or indirectly, to display or exhibit to the public in any manner whatever, whether by handbill, placard, poster, picture, film, or otherwise; or to insert or cause to be inserted in any newspaper, magazine, or other publication printed in the District of Columbia; or to issue, exhibit, or in any way distribute or disseminate to the public; or to deliver, exhibit, mail, or send to any person, firm, association, or corporation any false, untrue, or misleading statement, representation, or advertisement with intent to sell, barter, or exchange any goods, wares, or merchandise or anything of value or to deceive, mislead, or induce any person, firm, association or corporation to purchase, discount, or in any way invest in or accept as collateral security any bonds, bill, share of stock, note, warehouse receipt, or any security; or with the purpose to deceive, mislead, or induce any person, firm, association, or corporation to purchase, make any loan upon or invest in any property of any kind; or use any of the aforesaid methods with the intent or purpose to deceive, mislead, or induce any other person, firm or corporation for a valuable consideration to employ the services of any person, firm, association or corporation so advertising such services.

(May 29, 1916, 39 Stat. 165, ch. 130 #1.)

Mr. SISK. Do we have a representative from the Metropolitan Washington Board of Trade? The witness will state his name for the benefit of the reporter.

STATEMENT OF RALPH E. BECKER, GENERAL COUNSEL, METROPOLITAN WASHINGTON BOARD OF TRADE, PRESENTED BY CHARLES C. COON, ASSISTANT EXECUTIVE VICE PRESIDENT

Mr. COON. Thank you, Mr. Chairman.

My name is Charles Coon, Mr. Chairman, and I am the Assistant Executive Vice President of the Metropolitan Washington Board of Trade.

Mr. SISK. If there is anyone you would like to bring to the witness table with you, you may do so.

Mr. COON. We have a problem here this morning Mr. Chairman. The gentleman who was to present the testimony for the Board of Trade was the general counsel of our organization, Mr. Ralph E. Becker. Mr. Becker at the last moment found himself unable to be here this morning. If I have the Chairman's permission, I would like to read the statement that he would make.

Mr. SISK. All right.

Mr. COON. Thank you.

My brief statement supporting passage of H.R. 9806, a bill to prohibit the business of debt adjusting in the District of Columbia except as an incident to the lawful practice of law or as an activity engaged in by a nonprofit corporation or association, is in accordance with the policy of the Board of Directors of the Board of Trade.

Committees of the Board of Trade have studied and reviewed the matter of "budget planners" and "debt adjusting services" on several occasions during the last ten or twelve years. Policy to prohibit the operation of these services was first adopted in 1958 despite, as might be expected, the general basic attitude of business people in opposition to outlawing businesses of any kind.

Inasmuch as Miriam Ottenberg of the Washington Star earlier this year wrote a series of comprehensive articles on the operations of debt

consolidating firms in the Washington area which have been reviewed by the committee, I will not take the time to discuss the modus operandi of such firms. Let me just say that in our judgment their services are unnecessarily costly and often fail to solve the problem since reputable business firms do not usually care to deal with them.

According to Miss Ottenberg, 21 states, including neighboring Virginia and the City of Baltimore, prohibit the operation of debt consolidating firms. This is an increase of six states in the last nine years.

We are also informed that debt consolidating firms are prohibited in the Dominion of Canada. Since we understand there are twelve states which regulate such operations in some way, it is perfectly clear that the operation of debt consolidating firms has been a matter of national concern.

In our judgment there are other and far more dependable services available to those who are in debt. Banks, credit unions and small loan companies operating under state or Federal control can be helpful either in making cash loans to relieve pressures or counseling concerning debt settlement without charge. The Legal Aid Society is also available at no cost.

We recognize, however, that most of these agencies are not generally used by our low-income people. Therefore it seems perfectly clear that a free credit counseling service operated as a community agency should be established here as it has been in many other large cities of America.

In cooperation with District Government, we have joined with the D.C. Chamber of Commerce in a study of alleged exploitive practices by retailers. We are reviewing the possibility of the organizing of a free consumer education service, similar to services established in other cities. We have asked the Federal Trade Commission, District Government agencies, Better Business Bureau, Legal Aid Society and the Neighborhood Legal Services to give us evidence of overpricing, misrepresentation and bad credit practices in disadvantaged neighborhoods to determine what recommendations can be developed for lessening or eliminating such practices. The District Commissioners have already announced that they will initiate free consumer counseling service in the near future and this should include credit counseling.

It is therefore apparent that steps are under way to provide the kind of counseling services that are needed by people of modest means who are in debt and there would therefore seem to be no possible need for these commercial debt-adjusting operations.

That is the conclusion of his statement, Mr. Chairman.

Mr. SISK. Thank you, Mr. Coon, for the statement this morning.

As I understand your statement, there is a proposal to establish some type of counseling or consumer service here in the District; is that correct?

Mr. COON. Yes, sir.

Mr. SISK. How far along is that effort at this time?

Mr. COON. The District Commissioners have expressed their intent to do this. We are cooperating with them and the District of Columbia Chamber of Commerce by examining the evidences that we can get of these kinds of practices and trying to determine what the problems would be in the establishment of a service of this kind. We only just

within the last month or so came to this agreement with the District Commissioners to try to be helpful in this.

There have been some meetings on this but we have got some distance to go before we have any recommendations to make on this matter.

Mr. SISK. Has the Board of Trade made any study or any specific report on the activities of the Credit Adjustors in this area? Are you or the Board knowledgeable of the experiences in this area in the past few years? I notice your statement does not include any particular information along that line. Knowing generally and having high regard for the Board of Trade and your activities, I was wondering if you had a study committee looking into this matter.

Mr. COON. I do not think so for some time, Mr. Chairman. This statement, I am sure, reflects a policy of the Board that has been established for some years and has been periodically reviewed and in the judgment of the members of our Board there has not been reason to change it. On that basis I would be glad to let the committee know further on that, but I am not aware of any recent study of the kind that you mentioned.

Mr. SISK. The overwhelming majority of the business houses, particularly in downtown Washington are members of the Board of Trade, are they not?

Mr. COON. Yes, sir.

Mr. SISK. Are you aware as an individual or in conversations with businessmen as to their general attitude toward helpfulness or lack of helpfulness, if that be true, of credit-adjusting firms?

Mr. COON. No, sir, Mr. Chairman. I am not competent to answer that question. I would be delighted to try to get an answer for you but I do not feel competent to try to comment, if I may.

Mr. SISK. In other words, to the extent to which local firms may be cooperating in the credit consolidation programs a matter in which you are not informed? Are you yourself connected with any local business?

Mr. COON. I am the Assistant Executive Vice President of the Board, Mr. Chairman. I am Mr. Press' assistant in a staff position in the Board. I am sure that if Mr. Becker were here with you this morning he could answer your questions for you. I am just not competent to do it on this subject.

Mr. SISK. Any questions of the gentleman?

Mr. WALKER. No.

Mr. SISK. Thank you, Mr. Coon, for your appearance.

Mr. COON. Let me express Mr. Becker's regret at not being here this morning.

Mr. SISK. We regret he was unable to appear.

Mr. COON. Thank you.

Mr. SISK. Is Mr. Zimmer in the room?

(No response.)

Mr. SISK. Without objection, Mr. Zimmer's statement will be made a part of the record.

(The statement follows:)

STATEMENT OF ANDREW P. ZIMMER, ATTORNEY

My name is Andrew P. Zimmer, and I am a member of the Bar of the District of Columbia and have been in general practice here some six years, presently with an office at 1342 "H" Street, N.W.

During the course of that time I have been consulted by a number of persons whose personal debts exceeded their ability to pay them, or who faced an uncertain employment future because of the threat of garnishment or creditor pressure upon their employer. Some had gone to local debt-consolidators whose advertising had caught their attention, others sought to deal directly with several creditors to compose or extend their indebtedness, still others had made up their mind to declare themselves as bankrupts. In a half dozen or so cases I felt that an effective and equitable solution to their problem could be achieved through filing a "Wage Earner's Plan" under Chapter XIII, of the Federal Bankruptcy Act, and I counselled these clients to do this.

My purpose in appearing before this subcommittee, thus, is simply to detail and explain a little, the kinds of debtor relief presently available under Chapter XIII and how it operated in certain examples drawn from my own experience.

Basically, Chapter XIII was added to the existing bankruptcy laws in 1938 to provide for satisfaction of creditors' claims out of future earnings of a debtor under a Court approved plan of composition or extension of the debts. The debtor must merely show that his principal income is derived from wages, salary or commissions, and the size of his income does not affect eligibility. Upon filing his petition and paying Court costs of $31.00, the Court will issue an order restraining the creditors from interfering with his property or earnings, and directing them to submit proofs of their claims and acceptances of the debtor's proposed plan. The "plan" is simply that part of the petition which states how much the debtor proposes to allocate from his earnings to pay his creditors, the frequency of such payment, and other pertinent information. A first meeting of creditors is called, where the plan will be confirmed if approved by a majority in number and amount of all unsecured creditors whose claims have been proven and allowed. Now this coercion of the minority of disapproving unsecured creditors, as well as the exclusion of secured creditors who reject the plan, is one of the chief advantages of Chapter XIII over an individual attempt on part of the debtor to seek a modification of his indebtedness. The Court will confirm the plan when it appears that it is in the best interests of creditors and is feasible to carry out. It will appoint a trustee to receive payments from the debtor directly or wage deductions from the debtor's employer, and thereafter make disbursements quarterly to each creditor pro-rata, until the plan is completed or ended for other reasons. The trustee is allowed a fee of 5% of monies actually disbursed, plus actual expenses, usually totalling another 2½%. However, the debtor invariably saves a good deal more than this, since the accumulation of interest on his unsecured debt stops upon the filing of the plan. This often can be a substantial saving, especially if any of the creditors are lenders operating under small acts permitting interest in excess of 6% per annum.

The following are persons I have represented in Chapter XIII proceedings in Washington, D.C.:

1. Government employee, male, age 50, single, many years with his agency, very anxious over debts totalling $2,900. His personnel officer had received numerous creditor notices, and the employee had unsuccessfully sought help from a debt adjuster. A plan proposing monthly payments of $135 was confirmed, all creditors accepting, and fully carried out over four years, final disbursements being made this spring, with all creditors paid off in full.

2. Government employee, female, age 45, single, a number of years in her agency, but had lost her position at a substantial grade because of heavy indebtedness and some reckless financial dealings. She was in serious trouble over this, completely demoralized, had lost all her records, but was determined to pay back some forty creditors a total indebtedness of $8,000. Her plan, proposing monthly payments of $100 was deemed feasible in part because of her evident good intentions and perseverence. Four years later, this plan is still active, payments were increased to $150 monthly, and as result of relief from her creditors' pressures, the debtor has regained and even advanced above her former position in her agency.

3. Medical technician, now a hotel employee, 24 years old, single, who had written dishonored checks totalling $700 and faced serious consequences. His plan proposed to pay $60 monthly, was accepted by all creditors, and has permitted him to advance in his new employment without fear of garnishment or other penalties. This plan is current.

4. Construction company estimator, age 30, divorced, who had written dishonored checks and owed debts totalling $1850, was subject to penal action and creditor pressure that would disaffect any employer. His plan to pay $100 monthly

was confirmed, is current, and he has reestablished credit and been given greatly increased responsibility in his job.

5. Electrical estimator, age 32, married with child, who owed $1500 falling due at about $150 monthly, which he could not meet. His plan proposed initial payments of $40 a month, which the Referee of the Maryland District ultimately would not approve. However the delay between the plan's filing and denial permitted debtor to improve his situation to a point where he can now himself satisfy his creditors.

6. Government employee, messenger, age 30, married, with three children; debts about $1500. His plan proposed payments of $31 monthly, but failed after several months and was dismissed by the Court, with a small distribution made to creditors.

At this point I wish to give credit to the enlightened approach of the Honorable John A. Bresnahan, the Referee in Washington, D.C., and to Roger M. Whelan, the standing trustee, in interpreting the legislative intent of Chapter XIII as being one of getting moneys from the debtor to the creditor as quickly and efficiently as possible, and then encouraging the debtor to bring problems arising during the period of the plan promptly and candidly to the attention of the Court.

The committee may wonder what might happen if there should be a sudden growth or rapid increase in the number of filings of such petitions. One jurisdiction confronted with this problem, the Southern District of Ohio (which includes Cincinnati), had over 2000 active plans, receiving between 20 to 25 new filings a week and was disbursing to creditors about $70,000 per month in 1964. It was realized that manual bookkeeping was no longer satisfactory, and some mechanization appeared to be called for. A changeover to data processing was made and felt by the trustee to be the answer to his problems in trying to keep efficient and accurate records of his operation and incidentally, permitted a 20% reduction in the total figure for trustee's fee and handling costs in that district.[1] Kansas City, Kansas, is another jurisdiction that has successfully dealt with the challenge of a great rise in filings due to community and local bar acceptance of the Chapter XIII remedy, by turning to automatic data processing. In 1965, 1,362 cases were closed in Kansas District Court, according to its standing trustee, with almost $2,000,000 paid to creditors.[2]

Although discussions appear from time to time,[3] I feel that not enough members of the bar or the community are aware of the remedies available for debtors' relief under the provisions of Chapter XIII. Particularly where the debtor's separation is aggravated by dishonored checks outstanding, or high interest small loans in default, does Chapter XIII afford remedies not available to the debtor acting on his own or through a representative. Based on the average cost to an average debtor of about ⅙ of his indebtedness, it must be borne in mind that also in the average case, this would be largely offset by the lapse of interest falling due after the filing date.

Therefore from both the point of view of effecting cooperation by creditors and economy to the debtor, Chapter XIII proceedings have much to recommend them.

Mr. SISK. Do we have Mr. B. H. Feldman in the room representing the Budget Counselors, Inc.?

Without objection, the statement of Mr. Feldman on behalf of Budget Counselors, Inc., will be made a part of the record.

(The statement follows:)

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[1] Article, "A Wage Earner's Plan That Works," by William R. Schumacher, (trustee in Southern District of Ohio), p. 64, Vol. 19, No. 2, Spring 1965, Quarterly Report, Personal Finance Law.

[2] Article by Claude L. Rice, *ibid.*, page 69, Vol. 20, No. 2, Spring 1966. This article, by the standing trustee in the Kansas City District, contains a statistical breakdown of how plans closed during 1965 progressed after filing, showing 610 completed, average period 47 months, creditors 99–100% paid; 564 dismissed before completion average period 31 months, with creditors 20–52% paid off (depending on their class); 188 converted into bankruptcy adjudications, an average of 25 months after filing, with creditors receiving 47–73% of claimed amount. A total of almost $2,000,000 was disbursed to creditors, or about $1,500 average per case, with about $275 paid additionally by the average debtor for his attorney's fee, Court costs, trustee's fees and costs, constituting an average of one-sixth of his total payment.

[3] See Quarterly Report, Personal Finance Law, 115 Broadway, New York, N.Y., which keeps abreast of developments in this field, including recent legislative proposals, and court opinions. See also: "Relief for the Wage Earning Debtor: Chapter XIII or Private Debt Adjustment?", Northwestern University Law Review, Vol. 55, July–August, 1960, No. 3.; U.S. Supreme Court opinion in Perry v. Commerce Loan Co., 15 L. Ed. 827 (1965).

STATEMENT OF B. H. FELDMAN, PRESIDENT, BUDGET COUNSELORS, INC.

My name is B. H. Feldman, and I am President of Budget Counselors, Inc. in Washington, D.C. I requested this opportunity to submit a statement to this Subcommittee in order to express my views on the bill relating to the debt management business which you introduced, just as I had requested the opportunity to testify on a similar bill introduced in the House in 1958. I said then and I say now that there is a definite need for our type of service.

This industry performs a definite service to the debtor and the community. Unfortunately, there are many that do not know how to control their finances. I know that I am qualified to counsel these individuals because for many years I was in the consumer finance and small loan business. Therefore, I am fully acquainted with the facts.

I believe that as long as the business community overloads these poor people there must and should be someone to help them stand on their two feet and try to help them meet their obligations within their income instead of having them go from one loan company to another. In a number of cases, some of these people have gone to as many as six loan companies and four banking institutions and are forever "robbing Peter to pay Paul". As you know, interest, service charges and other hidden charges are added to these accounts. Therefore, the debtor gets further in debt. This finally leads to harassment, litigation and/or repossession. In my opinion, the debtor can not borrow his way out of debt.

I fight for the debtor. I analyze all of his debts (and in many cases, he is not even aware of the total), and analyze his income and expenses to determine how much he needs to meet his current expenses and how much he can use to liquidate his past indebtedness. I also counsel him as to how to manage his finances in the future. The debtor is apprised of the various interest and service charges included in his total debt. We then try to liquidate this type of debt as quickly as possible by a payment that the debtor can afford.

I have operated this business since 1955 and take pride in my many accomplishments on behalf of the debtor. I have letters from both customers and their creditors to substantiate this. The majority of the creditors not only don't object to my services, but are happy to cooperate because they now feel that the debtor realizes his obligations and has taken his first step to accomplish this. In contacting the creditor, we verify the balance, include a payment, and submit a proposed schedule of future payments. The creditors know of my reputation for fast and courteous service. The debtor also is advised as to his status periodically.

We specialize in helping Government and Military personnel stationed in the local area and all over the world. The many individuals who are transferred from place to place are in particular need of a service such as ours. The local debtors we help also need this service.

No doubt there have been abuses in our industry just as there have been abuses in other unregulated businesses. This should not justify outlawing my business. In the small loan industry and the savings and loan industry, there were many abuses and adverse publicity before they were regulated. But these industries were regulated and not prohibited. The most recent area trouble was in the Maryland savings and loan industry. If the Maryland companies had been regulated earlier, the many losses to the public would not have occurred. The same necessity for public trust and regulation applies to our business as well.

I think that much of the adverse publicity and opposition to debt counseling comes from the public not knowing the facts, and is created by creditor interests which are themselves adverse to the public interest.

I don't oppose the so-called non-profit organizations, but these associations don't reach enough of the public. If they are formed, they should not be exclusive. They lack the necessary funds to advertise to the public that they exist and to pay competent people to advise the debtor and take an interest in his problems. If these associations are creditor oriented, as they always seem to be, the possible abuses are even greater than the problems we now have. Beside the costs necessary to administer this type of association, which will be added to the businessmen's sale prices to the public, specific cases can be mishandled by passing on pertinent information to some of the creditors backing the organization.

I have an article, which appeared in the Washington Evening Star on May 7, 1958, stating that the hearing on that date before a House subcommittee, scheduled for 30 minutes broke up two hours later, and my integrity was unquestioned by the subcommittee. Rather than outlawing our business, the lawmakers were questioning the constitutionality of the legislation proposed to bar businesses

such as mine. I can recall at that hearing in 1958 that a representative of the Washington Board of Trade described us as "interlopers", only one of the many names we have been called before and since then. When this person was asked by the Subcommittee to identify himsel, he stated he was a manager of a loan company. In reply to his criticism of our business, Congressman Multer asked him whether it was right that he keep these people in debt and wrong for me to try to help them get out of debt. The gentleman did not reply and took his seat.

In fact, there have been attempts to legislate "truth about lending." I submit to you that the same people who would support the elimination of my business also have been against "truth about lending" legislation.

I ask you to review the alternatives to my service. Bankruptcy, high interest rates, higher prices charged by the community to cover the losses incurred and repossession of the debtors' assets. None of these are beneficial.

In 1957, we were visited by the License Bureau of Washington. After going over our operations throughly, they left completely satisfied and firmly convinced that we were performing a most worthwhile service.

I again ask you, as I have asked many times in the past, to regulate the industry, but don't outlaw us. You will find that the community will benefit, and my twelve years of hard work will not have been in vain.

Thank you.

Mr. SISK. Is Mr. John Immer, of the Federation of Citizens Associations of the District of Columbia, in the room?

(No response.)

Its report will be included in the record at this point.

(The report referred to follows:)

FEDERATION OF CITIZENS ASSOCIATIONS OF THE DISTRICT OF COLUMBIA—REPORT OF THE LAW AND LEGISLATION COMMITTEE

This Bill, introduced by Mr. Diggs, would regulate the business of debt adjusting in the District of Columbia other than as an incident to the practice of law.

Debt adjusting, also known as budget counseling, budget planning, budget service, credit advising, etc., involves the collection of regular periodic payments from a debtor, usually faced with obligations which he cannot meet, with the express purpose of arranging with the contracting party's creditors to take less money or accept smaller or less frequent payments. For such services the debt adjustor charges some percentage of the payments received by him, such fee being deducted before creditors share in the payment.

While there are several of these debt adjusting companies which apparently operate a legitimate business, many have quickly sprung up and as quickly disappeared, usually with some of their clients' money. This type of outfit preys upon people who can least afford to take the loss.

It has been proposed to outlaw these debt adjustors, but although this may be an expensive way to get one's debts paid, there are many people, mostly those with limited intelligence or very little education or both, who need help in order to extricate themselves from financial ruin, loss of jobs, and the misery this entails. Therefore, your Law and Legislation Committee believes that a Bill fairly regulating such business would be better than an attempt to abolish it, and that H.R. 829 is such a Bill.

The following resoluion is therefore recommended:

Be it resolved by the Federation of Citizens Associations of the District of Columbia in meeting assembled this 8th day of June 1967, That it endorses H.R. 8929 and urges prompt passage thereof, and that copies of this resolution be sent to the D. C. Board of Commissioners and the House and Senate Committees on the District of Columbia.

Approved unanimously by the Federal on June 8, 1967.

JAMES A. WILLEY,
Chairman, Law and Legislation Committee.
JOHN R. IMMER, *President.*
MRS. EDWARD B. MORRIS,
Secretary.

Mr. SISK. That concludes the list of witnesses.

Are there others in the room who desire to be heard on this subject at this time?

(No response.)

Mr. SISK. If not, without objection, we have for the record a series of letters and comments, first one from the American Federation of Labor and Congress of Industrial Organizations.

Without objection, their statement will be made a part of the record.

(The statement follows:)

STATEMENT OF F. H. MCGUIGAN, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

I am a Legislative Representative of the AFL–CIO. This statement is submitted on behalf of the AFL–CIO and the Greater Washington Central Labor Council.

Both organizations whole heartedly support H.R. 9806 introduced by Congressman Broyhill which if enacted will prohibit the business of debt adjusting in the District of Columbia except as an incident to the lawful practice of law or as an activity engaged in by a non-profit corporation or association.

The "debt adjustment" or "debt pooling" commercial enterprises have proved in many cases to be an abusive scheme whereby the debtor has been deceived and overcharged.

The debt adjuster has frequently imposed a heavy economic burden on the already overloaded debtor. Frequently the debtor receives no effective relief because his property is seized or his salary attached notwithstanding the adjuster's announced plan to pro-rate his income among his creditors.

We are opposed to H.R. 8929 because even the best intentioned and most extensively regulated pro-rater is not in a position to render effective relief without the consent of the creditors. We are told that consent of the creditors to accept payments from commercial debt pooling firms in the District of Columbia is rarely obtained.

Moreover, budget planning, advice and guidance is available through the consumer counselling programs of the AFL–CIO Community Services Activities and other non-profit agencies and, in addition, overburdened debtors may obtain loans to consolidate debts thru credit unions and other credit agencies together with free budget counselling and advice.

Because the debt adjustment racket has hit especially hard at the working people of the country it has been a matter of particular concern to the AFL–CIO. At it's meeting in February 1961 the federation's Executive Council declared flatly "the debt adjusting business regulated or unregulated, is not economically or socially desirable as a commercial activity and should be eliminated.

As a result of the alarms sounded by labor and other organizations statutes outlawing the debt pooling business have passed in 21 states. They include, Arkansas, Delaware, Florida, George, Kansas, Maine, Massachusetts, Missouri, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, Texas and Wyoming. Baltimore city has also prohibited it.

Some states have regulated this business. However, most observers agree regulation is not sufficient and that the best course is to prohibit outright a practice that seldom gives the promised relief and often victimizes the suffering debtor.

We suggest that every member of this committee read "Debtor Beware" (copy attached) the 1967 reprint of a series of articles that appeared in the Washington Star which expose the "debt-consolidating" firms in the Washington area.

We further pledge our support to see that commercial debt pooling firms are outlawed in the District of Columbia.

Mr. SISK. Without objection, a letter from Credit Management Company of Des Moines, Iowa, signed by Mr. John Robb, Executive Manager, will be made a part of the record.

(The letter follows:)

CREDIT MANAGEMENT COMPANY,
Des Moines, Iowa, August 9, 1967.

Hon. B. F. SISK,
House of Representatives,
Washington, D.C.

Less than a year ago the writer, as Chairman of the Finance Subcommittee for the Governor's Commission on Consumer Problems, held hearings in Des Moines in regard to the practices of some debt management or pro rating organizations. Frankly, I was shocked at some of the testimony given during this hearing, copies of which I am attaching to this letter.

As Executive Manager of a non profit debt organization, I was extremely concerned that the testimony that was given would besmirch the whole industry, because we who are working in the credit industry day after day know that these people have to have some place where they can go, and (1) secure advice about their problems; (2) If necessary, actually take over the management of the money of the people involved.

Debt management, when run legitimately and under close regulation, can be extremely beneficial to those who are having money management problems.

Our own organization is owned and controlled by the Consumer Credit Association of Des Moines, which too is a non profit organization, chartered for the betterment of credit conditions for both the debtor and the creditor. Handling some of these problem children is not as easy as it would seem on the surface, and the cost of administering the program runs fairly close to 11% per case, based on the theory that the subject will need a three year program to get out of difficulty.

Probably one of the most knowledgeable persons, at the present time, about some facets of debt management would be Perry B. Hall, Assistant Director, The National Study Service, San Anselmo, California. Mr. Hall delivered a lecture, just a short time ago in regard to debt management organizations, in which he stated that he found the so called free debt management organizations spent more time trying to raise funds to carry on their activity than they did in counselling individuals.

One of the most knowledgeable individuals in the field of debt management is an individual by the name of Price Patton of Chicago, Illinois. Mr. Patton has had about 20 years experience in the field of debt management and has handled both what could be referred to as a profit making organization, and a no charge organization.

I am enclosing a copy of the law which was passed here in the State of Iowa, and if you were to get such a law passed in the District of Columbia, I am sure you would find that the "fast buck boys" would leave for other climates.

One provision, which I felt, should have been included in this law, and which wasn't, was the one covering advertising. If the law had stated, that instead of the Banking Department checking out advertising, that "it is illegal to advertise" this would have put an end entirely to the type of operations, which apparently you are going to investigate very shortly.

It is regrettable, in this day and age, that a few unscrupulous individuals can cause so much difficulty for an industry (the Credit Industry as a whole), as to put our whole industry in a bad light.

Sincerely,

JOHN H. ROBB,
Executive Manager.

Mr. SISK. Also, we have a letter from Macomb Credit Adjustors of Mount Clemens, Michigan, signed by Mr. Irwin King. It will be made a part of the record.

(The letter follows:)

MACOMB CREDIT ADJUSTORS,
Mount Clemens, Mich., August 21, 1967.

Hon. B. F. SISK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: I have just learned that you, as Chairman of Subcommittee #5 of the House District Committee, are preparing a call for hearings on Credit Counselling and Debt Adjusting to determine whether the Congress will be asked to regulate or prohibit professional credit counselling in the District of Columbia. It is the "regulate or prohibit" phrase that motivates this intrusion upon an already busy schedule. However, I am hopeful I will furnish some infor-

mation that will assist you and your Committee to filter through the numerous facts, both the well warranted and the ill conceived, that are so prevalent on this subject.

While I have no business interest in the function of credit counselling in the District, I do have a dedicated and personal interest and concern in the profession as a whole. I see daily the good it is doing and has done in the solution of the problems of the debt ridden. Its establishment was not brought about through the selfish planning of individuals with an eye out for a profit. The profession came into being by the demand and need of families and individuals floundering in debt and gravely in need of experienced and qualified direction. It has grown over the years due to the increased demand for its services. To prohibit any such function is to ignore and deny this entreaty by those in need of this service.

There are many promoting the opinion that professional credit counselling is unnecessary. They make every attempt to ridicule and embarrass those that seek its help. Upon examination, these advocates reveal their true purpose when their altruistic cloaks are removed to reveal the credit grantor, the lender or the collector. By their enthusiastic efforts to destroy or eliminate the profession, they prove the need of professional and qualified assistance for the over-indebted. The effectiveness of its service is shown in some measure by the virulence of the attacks of its foes. Only the very naive could support or take up their "cry" for the elimination of this service. Their intent and purpose is much too obvious.

The cause of debt adjustment is furthered by the formation of so-called "free" consumer credit counselling services throughout the Country. These firms are sponsored agencies, supported largely by credit firms, especially small loan companies. The establishment of these programs appear hypocritical in view of the fact its sponsors are promoting the opinion professional credit counselling is unnecessary. The fact these programs are creditor orientated leaves a doubt "if these plans will be of long-range benefit to the public, since creditors are naturally concerned with maintaining a high volume of credit activity." Regardless, their information adds to the evidence supporting the need of credit counselling.

The true requisitness of credit counselling is best proven by those that seek its service. These are not debtors that seek to "cheat" their creditors or evade their just debts. They are families that have found themselves foolishly and unwisely overburdened with debt. They have every desire to meet their responsibility, but little knowledge or, in some cases, will power to find the solution to their problems. Most have lost communication with their creditors. They need direction and supervision. The ethical and professional counsellor provides this link.

The numbers seeking this service have grown greatly and rapidly during the last five years. Many of these have been floundering for years with little or no appreciable result. For many, their total debts have snowballed. This is due to their "borrowing from Peter to pay Paul" approach to solve their debt problems. Professional counselling, through constant supervision and planning, provides the solution they are seeking, and the majority are successful.

The question arises as to why they seek this service. Are they *lured* to professional counsellors by promises of an easy life and small payments to creditors. For the uninformed to read the cheap advertising and come-on ads of a few firms, operating under the guise of professional counsellors, it is easy to assume that such is the case. But, the number of this type of firm are few in proportion to the total in operation. Whenever a need arises, there are always the few who try to use the situation purely for personal gain. This type should not cast a reflection on the majority. This majority provide a needed service and this fact must be heeded.

The average creditor will agree that most debt counsellors are performing in an ethical and constructive fashion. Regardless the opponents of debt counselling continue to feed their fires with stories on the operations of the mentioned few. I had the displeasure of reading the series of articles in the "Washington Star" that made an attempt to establish the opinion that the operation of the culprit firms, featured in the article, was that of all counselling firms. If this were true, this letter would not be necessary because there would be no credit counselling firms in operation. The opponents of debt counselling may assume that debtors are stupid, but we, who work with them, have a much higher opinion.

The subject of "luring" debtors is most interesting to me. The ethical counsellor finds the mentioned advertising more distasteful than the average. Most debt counsellors operate on reputation and referral. My office, the oldest in Macomb County, third largest County in Michigan, has operated without advertising for the last seven years. We are proud to continue to maintain a volume of new business as large or larger as any of the so called advertising firms. We pay no

premium to the party making the referral. Our Law in Michigan prohibits any such payment, but, this office made no such payment before the Law went into affect. We rely entirely upon reputation and service for referral. To do so demands we perform a needed service with a successful result. We are doing just that, and so are the majority.

As one final point on the subject of the necessity of this profession, let me quote from the Federal Reserve Bulletin, March 1967, page 347: "(during 1966)—personal bankruptcies kept rising at a rapid rate. The number filed increased by over 13,000 last year, and the total for the year was more than triple that of a decade ago. Bankruptcy is often thought of as a procedure used primarily by businesses, whereas in fact it is used far more often by individuals. Moreover, the nonbusiness share of total bankruptcies continues to grow. In 1956 it was 85 percent; last year it was 91 percent." It appears the need for professional assistance is growing and prohibition of the only service available to offset the disaster of bankruptcy should be avoided.

In "A Study of Debt Adjustment in Michigan" a doctoral thesis submitted January, 1959, to the University of Southern California, Dr. Bud R. Hutchinson, surveying operations of private debt adjustors in Michigan, found that many were doing a good job. Only a few firms were operating in a way to indicate the need for state regulation. He concluded: "Since debt adjustment, if done well, can make a valuable contribution to the rehabilitation of some debt-oppressed individuals and since debt adjustment, if unregulated, can work a hardship upon such individuals as well as others, regulation of this business is urgently recommended."

A regulatory, licensing law went into effect in Michigan, on January 1, 1962, and has since been considered by many as a "Model Regulation." My office, operating before the Law, found no difficulty operating under the Law. In fact, the ethical Counsellor prefers to operate under regulation. The majority of the unethical operators left the State when the Law went into effect, and are now operating in unregulated States.

Similar regulatory bills have been put in effect in other States, most recent being Connecticut and Nebraska and, it is my understanding, a judiciary committee in Rhode Island has just recommended passage of a bill in that State. The need is obvious throughout the Country, and legislators are rising to the occasion by providing a regulated and controlled process that will provide the answer to the problem.

Let me thank you for your time. I believe deeply in credit and debt counselling, because I work daily with those that need its services, and could go on for hours, but I know your time is valuable. Let me volunteer my personal services to supply you with facts or figures or any information you may feel you or your Committee could use to reach logical decision on this subject. I would be pleased and proud to furnish you with whatever information you may desire. I shall look forward to your request.

Again, thank you.

Sincerely,

ERWIN R. KING.

Mr. SISK. We have a letter to our colleague and a member of this committee, the Hon. Brock Adams from Washington State. The letter will be made a part of the record. Also, an enclosure which he has presented, which is the law adopted by the State of Washington, relating to debt adjusting. These will be made a part of the record.

(The letter and enclosure follow:)

BOGLE, GATES, DOBRIN, WAKEFIELD & LONG,
Seattle, September 12, 1967.

Hon. BROCK ADAMS,
House of Representatives,
Cannon Office Building,
Washington, D.C.

DEAR MR. ADAMS: This letter will confirm our telephone conversation with you this afternoon. We advised you that we represent the Pacific Northwest Association of Credit Counselors, a trade association of firms which engage in the debt adjusting business in the Northwest. Our clients are greatly concerned about certain legislation now pending before the House Committee which deals with the affairs of the District of Columbia. As we understand it, this legislation would prohibit the debt adjusting business in the District. Because of the importance

which is naturally attached to legislation adopted by the Congress, even though in this instance only affecting the District of Columbia, our clients are greatly concerned and request your aid in opposing it.

We represented the Association in the 1967 session of the Washington Legislature and cooperated with the State Attorney General, organized labor and other groups in urging the Legislature to enact a law which would regulate the debt adjusting industry in this state. Such legislation was enacted. From all reports it is effectively regulating the industry. Enclosed are two copies of Substitute House Bill No. 16 setting forth the legislation as enacted.

In essence, this legislation requires each debt adjusting firm to obtain a license from the State and to become bonded. It also limits the amount which can be charged and requires periodic reports to the debtor. The members of the Association which we represent actually assisted in the drafting of the Bill because they were most anxious to eliminate from the industry the firms which were causing all of them to suffer from a public relations standpoint.

The writer firmly believes that there is a place for this type of business. We have seen debt adjusting firms actually save people from bankruptcy. In our own practice we have had many occasions to refer clients to the reputable debt adjusting firms rather than seek the more drastic and far more painful remedy of bankruptcy. In addition to saving the individual's self respect, the debt adjusting firm enables his creditors to be paid. We found that much of the pressure behind legislation which would ban this type of business actually came from the small loan lobby. Apparently, the small loan companies would like to be the only source of relief to the hard-pressed debtor other than bankruptcy. The debt adjusting firms constitute competition for these firms.

We sincerely appreciate the time which you gave us on the telephone and we hope that you will be able to work against enactment of prohibitory legislation and instead in favor of a regulatory Bill for the District.

Very truly yours,

ROBERT A. STEWART.

SUBSTITUTE HOUSE BILL NO. 16, BY COMMITTEE ON BUSINESS AND PROFESSIONS

(State of Washington, 40th Regular Session)

Read first time February 25, 1967, and passed to second reading.

AN ACT Relating to debt adjusting; providing for the supervision, regulation, licensing and bonding of debt adjusters and debt adjusting agencies; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

New section. Section 1. Unless a different meaning is plainly required by the context, the following words and phases as hereinafter used in this act shall have the following meanings:

(1) "Debt adjusting" means the managing, counseling, settling, adjusting, prorating, or liquidating of the indebtedness of a debtor, or receiving funds for the purpose of distributing said funds among creditors in payment or partial payment of obligations of a debtor.

(2) "Debt adjuster", which includes any person known as a debt pooler, debt manager, debt consolidator, debt prorater, or credit counselor, is any individual person engaging in or holding himself out as engaging in the business of debt adjusting for compensation. The term shall not include:

(a) Attorneys at law, escrow agents, accountants, broker-dealers in securities, or investment advisers in securities, while performing services solely incidental to the practice of their professions;

(b) Any person, partnership, association, or corporation doing business under and as permitted by any law of this state or of the United States relating to banks, small loan companies, industrial loan companies, trust companies, mutual savings banks, savings and loan associations, building and loan associations, credit unions, crop credit associations, development credit corporations, industrial development corporations, title insurance companies, or insurance companies.

(c) Persons who, as employees on a regular salary or wage of an employer not engaged in the busines of debt adjusting, perform credit services for their employer;

(d) Public officers while acting in their official capacities and persons acting under court order;

(e) Any person while performing services incidental to the dissolution, winding up or liquidation of a partnership, corporation, or other business enterprise.

(f) Nonprofit organizations dealing exclusively with debts owing from commercial enterprises to business creditors.

(3) "Debt adjusting agency" is any partnership, corporation, or association engaging in or holding itself out as engaging in the business of debt adjusting.

(4) "License" means a debt adjuster license or debt adjusting agency license issued under the provisions of this act.

(5) "Licensee" means a debt adjuster or debt adjusting agency to whom a license has been issued under the provisions of this act.

(6) "Director" means the director of the department of motor vehicles.

New section. Sec. 2. No debt adjuster, debt adjusting agency, or branch office of any debt adjusting agency may engage in the business of debt adjusting within this state except as authorized by this act and without first obtaining a license from the director.

New section. Sec. 3. An application for a license shall be in writing, under oath, and in the form prescribed by the director. The application shall contain such relevant information as the director may require, but in all cases shall contain the name and residential and business addresses of each individual applicant, and of each member when the applicant is a partnership or association, and of each director and officer when the applicant is a corporation.

Except as provided hereinafter in this section the applicant shall pay an investigation fee of fifty dollars and a licensing fee of fifty dollars: PROVIDED, That a branch office of a licensed debt adjusting agency need not pay an investigation fee but only the licensing fee. If a license is not issued in response to the application, the director shall return fifty dollars to the applicant. An annual license fee of fifty dollars shall be paid to the director by January 1st of each year. If the annual license fee is not paid by January 1st, the licensee shall be assessed a penalty for late payment in the amount of twenty-five dollars. And if the fee and penalty are not paid by January 31st, reapplication for a new license will be necessary, which may include taking any examination prescribed by the director.

The applicant shall file a surety bond with the director or in lieu thereof the applicant may file with the director a cash deposit or other negotiable security acceptable to the director and under conditions set forth in section 4 of this act: PROVIDED, That each branch office of a debt adjusting agency shall be required to be bonded as provided herein, but no bond will be required of an individual applicant while he is employed by a bonded debt adjusting agency or branch thereof.

The applicant shall furnish the director with such proof as the director may reasonably require to establish the qualifications set forth in section 6 of this act.

If the applicant is an individual person making an original license application he shall pay an examination fee of fifty dollars.

If the applicant is applying for a debt adjusting agency license it shall furnish the director with complete forms of all contracts and assignments designed for execution by debtors making any assignments to or placing any property with the applicant for the purpose of paying the creditors of such debtors, and complete forms of all contracts and agreements designed for execution by creditors to whom payments are made by the applicant. Only such forms furnished the director and not disapproved by him shall be used by a debt adjusting agency licensee.

New section. Sec. 4. The bond, required in section 3 of this act, shall be a surety bond, annually renewable on January 1st, to be approved by the director as to form and content, in the sum of *ten thousand dollars*, executed by the applicant as principal and by a surety company authorized to do business in this state as a surety, whose liability shall not exceed the said sum in the aggregate. Such bond shall run to the state of Washington as obligee for the benefit of the state and of any person or persons who may have cause of action against the principal of said bond under the provisions of this act. Such bond shall be conditioned that said principal as licensee hereunder will not commit any fraudulent act and will comply with the provisions of this act and the rules lawfully adopted hereunder, and will pay to the state and any such person or persons any and all moneys that may become due and owing from such principal under and by virtue of the provisions of this act. The surety on such bond shall be released and discharged from all liability accruing on such bond after the expiration of thirty days from the date upon which such surety shall have lodged with the director a written request to be released and discharged, but this provision shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty day period. The director shall promptly upon receiving any such request notify the

principal who furnished the bond, and unless the principal shall, on or before the expiration of the thirty day period, file a new bond, the director shall forthwith cancel the principal's license.

An applicant for a license under this act may furnish, file and deposit with the director, in lieu of the surety bond provided for herein, United States currency or bonds, respresenting obligations of the United States, or bonds of the state of Washington or any legal subdivision thereof, for which the faith of the United States, the state of Washington or any legal subdivision thereof is pledged, for the payment of both the principal and interest, equal in amount to the amount of the bond required by this act. The security deposited with the director in lieu of the surety bond shall be returned to the licensee at the expiration of three years after the license issued thereon has expired or been revoked if no legal action has been instituted against the licensee or on the bond at the expiration of said three years.

New section. Sec. 5. If the licensee has failed to account to a debtor or distribute to the debtor's creditors such amounts as are required by this act and the contract between the debtor and licensee, the debtor, his legal representative or receiver, or the director, shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given pursuant to the provisions of section 4 of this act, for loss suffered by the debtor, not exceeding the face of the bond or security, and without the necessity of joining the licensee in such suit or action. No action shall be brought upon any bond or security given under section 4 of this act after the expiration of three years from the revocation or expiration of the license issued thereon. Upon entering judgment for plaintiff in any action on the bond required under section 4 of this act, for more than the sum tendered in the court by the defendant, if any, the court shall include in the judgment reasonable compensation for services of plaintiff's attorney in the action.

New section. Sec. 6. The director shall issue a license to an applicant if the following requirements are met:

(1) The application is complete and the applicant has complied with section 3 of this act.

(2) Neither an individual applicant, nor any of the applicant's members if the applicant is a partnership or association, nor any of the applicant's officers or directors if the applicant is a corporation: (a) Has ever been convicted of forgery, embezzlement, obtaining money under false pretenses, larcency, extortion, conspiracy to defraud or any other like offense, or has been disbarred from the practice of law; (b) has participated in a violation of this act or of any valid rules, orders or decisions of the director promulgated under this act; (c) has had a license to engage in the business of debt adjusting revoked or removed for any reason other than for failure to pay licensing fees in this or any other state; or (d) is an employee or owner of a collection agency, or process serving business.

(3) An individual applicant is at least twenty-one years of age, a citizen of the United States, and a resident of this state for at least one year.

(4) An applicant which is a partnership, corporation, or association is authorized to do business in this state.

(5) An individual applicant for an original license as a debt adjuster has passed an examination administered by the director, which examination may be oral or written, or partly oral and partly written, and shall be practical in nature and sufficiently thorough to ascertain the applicant's fitness. Questions on bookkeeping, credit adjusting, business ethics, agency, contracts, debtor and creditor relationships, trust funds and the provisions of this act may be included in the examination.

New section. Sec. 7. Each license shall:

(1) Be in the form and size prescribed by the director;

(2) Show the name of the licensee and the address at which the business of debt adjusting is to be conducted;

(3) Show the date of expiration of the license as December 31st, and show such other matter as may be prescribed by the director;

(4) While in force, be at all times conspicuously displayed in the outer office of the debt adjusting agency or branch thereof; and

(5) Not be transferable or assignable.

New section. Sec. 8. By contract a licensee may charge a reasonable fee for debt adjusting services, which fee may not exceed *fifteen percent* of the total debts reported to and listed with the licensee by the debtor and/or the debtor's listed creditors. The licensee may require an *initial* payment by the debtor of an

amount not to exceed *twenty-five* dollars which initial payment shall be part of the total allowable fee contracted for, and may not otherwise take or receive for services performed for any one person more than fifteen percent of the amount received by it at any one time from or on behalf of that person.

In the event of cancellation or default on performance of the contract by the debtor prior to its successful completition, the licensee may collect in addition to fees previously received, six percent of that portion of the remaining indebtedness listed on said contract which was due when the contract was entered into, but not to exceed seventy-five dollars.

A licensee shall not be entitled to retain any fee until notifying all creditors listed by the debtor that the debtor has engaged the licensee in a program of debt adjusting.

New section. Sec. 9. If a licensee contracts for, receives or makes any charge in excess of the maximums permitted by this act, except as the result of an accidental and bona fide error, the licensee's contract with the debtor shall be void and the licensee shall return to the debtor the amount of all payments received from the debtor or on his behalf and not distributed to creditors.

New section. Sec. 10. Every contract between a licensee and a debtor shall:

(1) List every debt to be handled with the creditor's name and disclose the approximate total of all known debts;

(2) Provide in precise terms payments reasonably within the ability of the debtor to pay;

(3) Disclose in precise terms the rate and amount of the licensee's charge;

(4) Disclose the approximate number and amount of installments required to pay the debts in full;

(5) Disclose the name and address of the licensee and of the debtor; and

(6) Contain such other and further provisions or disclosures as the director shall determine are necessary for the protection of the debtor and the proper conduct of business by the licensee.

New section. Sec. 11 Every licensee shall perform the following functions:

(1) Make a permanent record of all payments by debtors, or on the debtor's behalf, and of all disbursements to creditors of such debtors, and shall keep and maintain in this state all such records, and all payments not distributed to creditors. No person shall intentionally make any false entry in any such record, or intentionally mutilate, destroy or otherwise dispose of any such record. Such records shall at all times be open for inspection by the director or his authorized agent, and shall be preserved as original records or by microfilm or other methods of duplication acceptable to the director, for at least six years after making the final entry therein.

(2) Deliver a completed copy of the contract between the licensee and a debtor to the debtor immediately after the debtor executes the contract, and sign the debtor's copy of such contract.

(3) Unless paid by check or money order, deliver a receipt to a debtor for each payment within five days after receipt of such payment.

(4) *Distribute to the creditors of the debtor at least once each forty days after receipt* of payment during the term of the contract at least sixty percent of each payment received from the debtor. No more than twenty-five percent of any payment shall be allocated to the debtor's undistributed reserve account. In the event of cancellation or default on performance of the contract by the debtor, the licensee must distribute to the creditors of the debtor the funds of the debtor held by the licensee, less the amount retained by the licensee in accordance with section 8 of this act.

(5) *At least once every six months render an accounting to the debtor which shall indicate the total amount received from or on behalf of the debtor, the total amount paid to each creditor*, the total amount which any creditor has agreed to accept as payment in full on any debt owed him by the debtor, the amount of charges deducted, and any amount held in reserve. The licensee shall in addition render such an account to a debtor within ten days after written demand.

New section. Sec. 12. A licensee shall not:

(1) Take any contract, or other instrument which has any blank spaces when signed by the debtor;

(2) Receive or charge any fee in the form of a promissory note or other promise to pay or receive or accept any mortgage or other security for any fee, whether as to real or personal property;

(3) Lend money or credit;

(4) Take any confession of judgment or power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceedings;

(5) Take, concurrent with the signing of the contract or as a part of the contract or as part of the application for the contract, a release of any obligation to be performed on the part of the licensee;

(6) Advertise his services, display, distribute, broadcast or televise, or permit his services to be displayed, advertised, distributed, broadcasted or televised in any manner whatsoever wherein any false, misleading or deceptive statement or representation with regard to the services to be performed by the licensee, or the charges to be made therefor, is made;

(7) Offer, pay, or give any cash, fee. gift, bonus, premiums, reward, or other compensation to any person for referring any prospective customer to the licensee;

(8) Receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person in the debtor's behalf in connection with his activities as a licensee; or

(9) Disclose to anyone, other than the director or his agent, the debtors who have contracted with the licensee; nor shall the licensee disclose the creditors of a debtor to anyone other than: (a) The debtor, or (b) the director or his agent, or (c) another creditor of the debtor and then only to the extent necessary to secure the cooperation of such a creditor in a debt adjusting plan.

New section. Sec. 13. Without limiting the generality of the foregoing and other applicable laws, the licensee, manager or employee of a licensee shall not:

(1) Prepare, advise, or sign a release of attachment or garnishment, stipulation, affidavit for exemption, compromise agreement or other legal or court document, nor furnish legal advice or perform legal services of any kind;

(2) Represent that he is authorized or competent to furnish legal advice or perform legal services;

(3) Assume authority on behalf of creditors or a debtor or accept a power of attorney authorizing it to employ or terminate the services of any attorney or to arrange the terms of or compensate for such services; or

(4) Communicate with the debtor or creditor or any other person in the name of any attorney or upon the stationery of any attorney or prepare any form or instrument which only attorneys are authorized to prepare.

New section. Sec. 14. Nothing in this act shall be construed as prohibiting the assignment of wages by a debtor to a licensee, if such assignment is otherwise in accordance with the law of this state.

New section. Sec. 15. Any payment received by a licensee from or on behalf of a debtor shall be held in trust by the licensee from the moment it is received. The licensee shall not commingle such payment with his own property or funds, but shall maintain a separate trust account and deposit in such account all such payments received. All disbursements whether to the debtor or to the creditors of the debtor, or to the licensee, shall be made from such account.

New section. Sec. 16. The director shall, upon reasonable opportunity to be heard, revoke any license issued pursuant to this act if he finds that:

(1) The licensee has failed to renew its bond as required by this act;

(2) The licensee has violated any provision of this act or any rule, promulgated by the director under the authority of this act or any order or decision of the director hereunder; or

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the director in refusing originally to issue such license.

New section. Sec. 17. The director may promulgate rules, make specific decisions, orders and rulings, including therein demands and findings, and take other necessary action for the implementation and enforcement of this act. The director may include among rules promulgated, those which describe and forbid deceptive advertising.

New section. Sec. 18. The administrative procedure act, Chapter 34.04 RCW, shall wherever applicable herein, govern the rights, remedies, and procedures respecting the administration of this act.

New section. Sec. 19. Any person who violates any provision of this act or aids or abets such violation, or any rule lawfully promulgated hereunder or any order or decision of the director hereunder, or any person who operates as a debt adjuster without a license, shall be guilty of a misdemeanor.

New section. Sec. 20. Notwithstanding any other actions which may be brought under the laws of this state, the attorney general or the prosecuting attorney of any county within the state may bring an action in the name of the state against any person to restrain and prevent any violation of this act.

New section. Sec. 21. The attorney general may accept an assurance of discontinuance of any act or practice deemed in violation of this act in the enforcement thereof from any person engaging in or who has engaged in such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his principal place of business, or in the alternative, in Thurston county. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this act for the purpose of securing any injunction as provided for in section 20 of this act: Provided, That after commencement of any action by a prosecuting attorney, as provided therein, the attorney general may not accept an assurance of discontinuance without the consent of said prosecuting attorney.

New section. Sec. 22. Any person who violates any injunction issued pursuant to this act shall forfeit and pay a civil penalty of not more than one thousand dollars. For the purpose of this section the superior court issuing any injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties.

New section. Sec. 23. The provisions of this act shall not invalidate or make unlawful contracts between debt adjusters and debtors executed prior to the effective date of this act.

New section. Sec. 24. If any provision of this act, or its application to any person or circumstance, is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, is not affected.

Mr. SISK. The record will be kept open for at least a week or 10 days. There is some material that has been promised to the committee that will be made a part of the record. The record will be kept open for that purpose.

Rather than close the hearing at this time, the Chair is going to recess these hearings subject to the call of the Chair. With that statement, the committee stands adjourned.

(Whereupon, at 11:26 a.m., the subcommittee adjourned.)

(Subsequently, the following Addendum was received for the record from the Bureau of Labor Standards of the Department of Labor:)

ADDENDUM

SUMMARY OF STATE LAWS PROHIBITING OR REGULATING THE BUSINESS OF DEBT POOLING

Received too late for inclusion in the text is an *Iowa* law, effective July 1, 1967, regulating the business of debt management, bringing to 13 the number of States with regulatory laws. Twenty-two States prohibit this business as does the City of Baltimore, Maryland, by ordinance.

Administration of the Iowa law is the responsibility of the Superintendent of Banking. The law requires an applicant who wishes to engage in the business to obtain a license for each office, renewable annually, at an initial cost of $50 and $100 for each renewal. An investigation fee of $100 is also required. Each application must be accompanied by a penal bond in the amount of $10,000 for each office. The Superintendent may require a larger bond, up to a maximum of $25,000.

The exemptions are similar to those found in most of the regulatory laws, as are the prohibited practices (see pages 8 and 11).

The maximum fee which a licensee may charge for his services is 12½ percent of any payment made by the debtor and distributed to his creditors. There must be a written contract, containing specified information, and the debtor must be furnished a completed copy. A licensee may not receive any fee unless he has the consent of at least 50 percent of the total number of the creditors listed in the licensee's contract with the debtor, or such a like number of creditors have accepted a distribution of payment. The debtor must be informed of the creditors who have not agreed to the licensee's handling of the debtor's account.

The licensee is required to furnish the debtor with a monthly written statement of disbursements made and fees deducted from his account. Funds received from the debtor are to be distributed to creditors within 30 days after receipt, except for the initial payment which may be remitted within 45 days. The

licensee is required to maintain a separate trust account of funds received from the debtor.

The Superintendent is authorized to examine the condition and affairs of each licensee, who must pay the cost of such examination, up to $100 a day.

OCTOBER 3, 1967.

Re Credit Advisors, Inc., 1413 K Street, N.W. 2nd floor, Washington, D.C., (bill to prohibit debt adjustment, No. H.R. 9806).

Hon. JOEL T. BROYHILL,
House of Representatives,
Washington, D.C.

MY DEAR MR. BROYHILL: As I understand, you have a Bill pending legislation to possibly curtail the activities of such companies, as the above.

With respect to the same, I have been a victim of Credit Advisor's method of business dealings in that they advertise to relieve the constituent of their financial responsibilities in that all you have to do is give them your money, and they will make all the arrangements to make payments. But they do not relate, or tell you how they go about the same. They do make you sign a Contract, but the so called "contract" which they relate as meaning "nothing" and can be broken at any time, does not work just that way. It was necessary for me to take these people to Court, and the Judge said that I signed a Contract to let them do whatever they wanted with my money, and that I could not interfere within 90 days hence. So in the 90 days, what they proceed to do, is ruin ones credit rating.

After only two weeks of Credit Advisors handling some $160.00 of my money, I was deluged and plagued by everyone whom I owed money, whereas heretofore I paid my bills on the stated dates and times that they were supposed to be paid. It became so embarrassing, they were phoning me at my Government office, at my home, sending me open face cards, so that I quickly took what cash I had available, even tho Credit Advisers had my money, and sent it to the people who wanted money. I quickly asked Credit Advisors to return all of my money to me, including the $25.00 Retainer fee, but they would not release it to me.

The way they go about the same, Credit Advisors plan or tend to ruin ones credit rating by holding off all Creditors until where they come to the payees rescue. This they do not relate or tell you in the Contract. I did not need that kind of help; just wanted to be relieved of paying all the small bills, and by lumping it in one sum, would make it easier for me all around. However, that is not the way they go about it. In the ninety days they accumulate their constituents money, ruin their credit rating in the mean time, and then proceed to pay them as little as they possibly can, and embarrass the constituent all around. In taking them to Court I lost some $60.00 and could not retain the same. The Judge said that a Bill was pending; that is all about he could do. They got the best of me in the entire situation, by misrepresenting the bill of goods they sell in every which way. The Judge said that I gave them 90 days, in the Contract, leaveway to do whatever they wished with my money and to spend it the way they pleased. But this is not the way they sell their bill of goods.

In lieu of the pending Bill, thought you would appreciate this kind of information, as I have since heard of a number of other people who have lost even more money than myself in dealing with these kind of companies.

Respectfully,

MISS MARY AGNES BLUM.

BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., November 14, 1967.

Re H.R. 9806, to prohibit the business of debt adjusting in the District of Columbia; H.R. 8929, to regulate the business of debt adjusting in the District of Columbia.

Hon. JOHN L. MCMILLAN,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MCMILLAN: The Bar Association of the District of Columbia has considered the above-referenced Bills and desires to make known to the Committee on the District of Columbia that it supports enactment of H.R. 9806. This Bill, if enacted, would prohibit the business of debt adjusting in the

District of Columbia, except as an incident to the lawful practice of law or as an activity engaged in by a nonprofit corporation or association.

It is felt by the Association that the business of "debt adjusting," as defined in both Bills, is of such a nature as to lend itself to grave abuses and can give rise to relationships of trust and counseling in which the debt adjustor's client may need counsel as to the legality of claims against him, usury and other abuses by his creditors, legal remedies involved in the debtor-creditor relationships, and the application of the Bankruptcy Act.

In view of the above, the Association feels that the activity known as "debt adjusting" should be prohibited rather than regulated. "Debt adjusting" should not be an activity engaged in by persons who have not been admitted to the Bar, except that, subject to applicable restrictions on the unauthorized practice of law, nonprofit or charitable corporations or associations which engage in debt adjusting as a service to the community should be allowed to do so for nominal sums as reimbursement for expenses. We understand that such nonprofit or charitable corporations or associations have performed such services in other communities, and we feel this is appropriate.

Respectfully submitted,

JOHN E. POWELL, *President.*