Michael Kerr

From: comments
Sent: Friday, March 18, 2011 12:15 PM
To: michael.kerr@nccusl.org
Subject: FW:

From: Martin Lynch [mailto:mlynch@cambridgecredit.org]
Sent: Friday, March 18, 2011 11:46 AM
To: comments
Subject:

To the Uniform Law Commission:

Thank you for the work you've already done on this bill, the vast majority of which my agency supports, and for allowing the opportunity to provide comment.

As the Compliance Manager of a counseling agency with a client base of roughly 13,000, I would like to express our agency's concerns about the trust account provisions of the revised Act. The revised UDMSA would require that an agency's trust account(s) be administered by an unaffiliated third party. There are several reasons that this particular requirement should not be extended to non-profit credit counseling agencies.

1. The trust account requirement to employ a third-party administrator would add considerable cost to our operations. As non-profit agencies, we have strict limitations on the fees we can charge our clients, who are already in financial distress. At Cambridge, our average monthly fee is already just under $25.00, much less than we could charge in many states, but a figure that results when we waive and reduce fees for our clients. We presume that the costs would be considerable because there are a number of different types of transactions that can occur with a trust account, including fair share fee transactions after a client's payment has been disbursed, NSF reimbursements, returns of funds to our operational account after a client has cancelled a program (At present, we refund immediately from our operational account, and are reimbursed afterward from the state trust account.), the transfer of funds when clients move from one state to another, etc.

2. Several states already require that our agency maintain separate trust accounts for their residents. States that pass the revised UDMSA in its current form and include an in-state trust account requirement would necessitate multiple third-party administrators and further increase costs to our agency.

3. The wire transfers and disbursements made by our agency are crucial to our clients' success, and, by extension, to our agency's success. Adding another step in the process that would be beyond our immediate control and supervision unnecessarily complicates these procedures at their most critical point.

4. The FTC's intent when it revised its Telemarketing Sales Rule to require debt relief agencies to place funds in an independently administered account was to prevent the removal of funds by a settlement company after a consumer had dropped out of the company's plan. This protection is warranted, but it need not be extended to non-profit credit counseling agencies, which are already bound by statute to immediately return any and all undisbursed funds to the client if the client cancels their debt management plan. There are also extensive bonding requirements in place that provide an additional level of consumer protection.

Sincerely,

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