Written Statement of John Ansbach
Legislative Director
United States Organizations of Bankruptcy Alternatives
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Committee on Commerce, Science & Transportation

"Chairman Rockefeller, Ranking Member Hutchison, Distinguished members of the Committee,

Thank you so much for the opportunity to be here today and to contribute to what I hope is a helpful and informative hearing for you on the topic of debt settlement.

My name is John Ansbach, and I volunteer in service as the Legislative Director of the Unites States Organizations for Bankruptcy Alternatives or "USOBA." USOBA is a trade association in Houston Texas whose members are ~200 companies that offer debt relief services to financially strapped consumers who are trying to avoid bankruptcy. In addition to supporting these member companies, USOBA also serves as a resource to consumers who are trying to find out information about the debt resolution process and what to look for in an honest, ethical provider. It is in my capacity as the Legislative Director of USOBA that I appear before you today.

I want you to know, as well, so that I can shed light on other areas of interest to the committee, that I am also the Chief Operating Officer and Genera Counsel of what we in the industry refer to as a 'back-end' company. As such, our company works for other companies servicing their clients. In this role, I directly oversee more than 100 Texas employees in the city of Frisco just north of Dallas who talk to debt settlement consumers every day, supporting them, negotiating for them, giving them information about the unsecured debt process and otherwise helping them to meet their savings goals and succeed in their programs.

The title of today's hearing is "The Debt Settlement Industry – The Consumer's Experience." In this regard, I want to offer as much information as I can to help this Committee better understand debt settlement and what it can and has done to help consumers.

In this regard, please let me begin today with a real life example of debt settlement. It is the story of Faith Zabriske, a wonderful woman in my home state of Texas who has lived the nightmare of being overwhelmed by debt, and who utilized the services of a debt settlement company to not only survive that nightmare, but to emerge from it stronger and financially stable.

Ms. Zabriske suffered an injury a few years ago and like many Americans was forced to turn to her credit cards to pay medical bills and other living expenses to survive.

Although she recovered from her injuries, she was soon overwhelmed by the debt created by her ordeal. At that point she did exactly what the Better Business Bureau and consumer advocates tell consumers to do who are in such situations: she called her credit card company to find out if they would work with her on repayment of the debt. At the time, Ms. Zabriske had a credit score in the high 700s and had always paid her debts timely.

Unfortunately, what Ms. Zabriske found from her creditor was not help, but rather a refusal to work with her. She was told that until she was six months delinquent, the bank wouldn't work with her. She tried credit counseling, as well, but they were similarly unhelpful.

It wasn't until she enrolled in a debt settlement program that she found true support. After working her program, saving money as needed, her provider was able to help Ms. Zabriske settle all of her debts and today she is debt free, on the path to financial stability.

Ms. Zabriske is here today, having traveled all the way from Texas to tell her story. USOBA offered to have her appear today to tell this story herself, but she was not extended an invitation.

Mr. Gary Ross from Illinois, another consumer who had a successful experience with debt settlement is also here and prepared to tell his story. HE was also offered, but like Ms. Zabriske was not extended an opportunity to tell his story.

If any member of this committee or anyone else would like to visit with either of these good folks to hear their story and their experience, they welcome the opportunity to visit after this hearing.

Ladies and gentlemen of this committee, Ms. Zabriske and Mr. Ross represent just two of hundreds of stories of consumers who have had successful outcomes in debt settlement programs. In fact, in the Federal Trade Commission's own public comment period, of the 200 consumer testimonials the Commission received, we understand those testimonials ran 40:1 in favor and in support of preserving debt settlement as an important option for consumers in need.

And in fact, that is truly what we are here to talk about: preserving options. The truth is that USOBA, as well as our sister trade group the Association of Settlement Companies ("TASC"), supports strong consumer protection regulation in the debt settlement industry, including the overwhelming majority of what has been proposed by the FTC in its August Notice of Public Rulemaking. Stronger consumer disclosure requirements are needed and should be adopted. Rules proscribing certain misrepresentations in advertising are needed and should be adopted. In fact, USOBA and TASC have been arguing and working in support of these actions as well as others for more than 5 years now in roughly 20 states, including but not limited to licensing and registration requirements; bonding and insurance requirements;

strong advertising rules; reasonable fee regulation including limits on amount and timing of fee collection; contract requirements that set out specific language that must be included for the benefit of consumers; requiring education for consumers; even requiring multiple language efforts where debtors in need don't speak English as a first language to ensure an understanding of the program. These efforts are ongoing even as we sit here today in California, Texas, Florida, Pennsylvania, New York, Illinois, Connecticut and Maryland. Nevada, Tennessee, Minnesota, Oregon, Utah, Montana, Delaware, Rhode Island and Colorado have already adopted debt settlement statutes with input from both consumer groups and industry trade organizations.

In short, the industry has supported and continues to work for strong consumer protection regulation of this industry; regulation that manages to enact such protection while preserving the ability of honest, ethical companies to provide consumers with the services and options they need.

What we cannot support, however, and what we understand the FTC is attempting to implement via the Telemarketing Sales Rule, is fee regulation that would kill the industry. The FTC's proposed "advance fee ban" would put 85% of our members – most of whom are small business owners – out of business. They would accomplish this by essentially starving these businesses of revenue, disallowing the collection of any fees for services rendered unless and until there was a settlement of a debt, a process that often takes up to a year or more. In short, the FTC proposes to require American businesses owners to work for free for up to a year – paying their own employees to talk to and help consumers; paying their rent; addressing expenses related to information technology and required infrastructures – all the while being unable to collect fees from the very consumers they are trying to help.

The truly troubling part of this effort is that there exists another more reasonable alternative, which the states themselves have adopted and which would be preempted by this effort. More specifically, the states of Colorado, Utah, Montana, Nevada, Delaware and Tennessee have adopted a capped and limited pay as you go fee structure that both limits the amount of money a consumer may be charged and when the fees may be collected.

Tennessee in particular has a very workable system that balances good consumer protection and the rights of honest ethical providers to be compensated for their services. Under the Tennessee law, a provider may charge in one of two ways: a savings model that allows for fee recovery based on what the provider saves the consumer; and, a 'pay as you go' fee system, under which no more than 17% of a consumer's enrolled debt may be charged. Further, fees cannot be collected any sooner than in equal payments spread out over half the life of a consumer's program. In a typical case where $10,000 in debt is enrolled then, a consumer may not be charged more than $1,700. This fee must then be collected over half the life of a program. Where programs typically last thirty-six months, half the life would be eighteen months, thus fees of $1,700 over eighteen months or $94 per month. The result is a good, middle of the road approach than ensures a consumer does not face high up front fees, while preserving a modicum of revenue for his or her provider, allowing the business to pay its employees and rent.

Distinguished members, the allegations that are often made by the consumer groups in particular, and which you may hear today, resonate around one critical point: that debt settlement services are "rarely if ever provided to consumers" as promised. Well ladies and gentlemen, please allow me to report the following facts that we believe refute such assertions:

- USOBA members alone have settled more than **$1.4 billion in unsecured debt** over the last few years

- This debt was settled for consumers who experienced an **average reduction of 53%;** that is, they settled their debt for 47 cents on the dollar

- Our members alone are right now servicing **more than 277,000 consumers**, consumers who will be stranded and left to bankruptcy if the FTC's rule is passed as drafted and these providers go out of business.

- When you add TASC's members into this mix, you find that roughly **$3 billion of unsecured debt** has been settled for America consumers.

If I may, let me also add for you the very most recent numbers from my company, just one USOBA member company that services other providers working for consumers:

Last month alone, in March 2010, we:

- Settled 1,491 individual accounts with a value at enrollment of $9.14 million
- Those accounts were settled for $3.9 million, or $0.36 on the dollar, a savings of 64% to the consumers

Over the last 3 months (Jan-March), we:

- Settled ~3800 accounts (3,793) with a total value at enrollment of $22.9 million
- Those accounts were settled at an average of $0.36 on the dollar, again saving those consumers 64% on their outstanding debts

To date, my company has settled more than 39,000 accounts with a value of $214.5 million at approximately $0.40 on the dollar – a 60% savings to American consumers. We are currently working on settling $1.17 billion in debt for our consumers, again most if not all of whom will be stranded and abandoned to bankruptcy if we are forced out of business by the FTC's proposed fee ban.

On this last note, I do want you to know the impact of the FTC's proposed fee regulation on employees. In my home state of Texas, alone, we estimate more than 1,100 Texans will lose their jobs if this rule is adopted. These are hard working folks employed by USOBA member companies, only. If we add the TASC companies, we estimate this number is closer to 2500-3000 jobs lost just in Texas. While we do not have numbers in every state, we do know that hundreds if not thousands of more jobs will be lost from this rule, specifically in California and Florida, where debt settlement is a much needed service due to economic conditions and the still lingering effects of the housing bubble. In short, it is likely if not certain that as many as 10,000 Americans will lose their jobs if the FTC rejects the approach adopted by the states and proceeds instead with the radical fee ban they propose.

Senators, we know you – like USOBA and TASC - want to protect consumers. And we know you – like USOBA and TASC - want to ensure that honest, ethical debt settlement companies can continue to help those consumers, keeping employed the thousands of hard working folks who dedicate their days to helping people get out of debt responsibly and ethically. In that, please allow us to work with you and the Commission on a reasonable approach that includes reasonable fee regulation, as well as the many other consumer protections we and so many others support.

On behalf of the 160 people in my company in Frisco, Texas, the thousands of others employed by our members companies, the more than a quarter million consumers they serve right now across the country, as well as the folks employed by TASC and the consumers they serve, I thank you so much for the opportunity to contribute to this discussion and I look forward to trying to answer any questions you may have.