



February 22, 2011

Chairman Carona
Texas State Capitol
Committee Business and Commerce
370 Sam Houston Bldg.
Austin, Texas 78701

Chairman Carona and Members of the Committee:

I am Mike Croxson, President of CareOne Services, a national provider of debt management services based in Columbia, MD. CareOne is a consumer debt management provider operating in 42 states. We have been licensed and operating in Texas since 2007. Since beginning operations in Texas, CareOne has provided Debt Management Plan (DMP) services to more than 10,000 Texans. CareOne has processed more than \$30 million in creditor payments since 2007.

Nationally, CareOne has provided nearly 1.5 million consumers with counseling assistance, has over 145,000 customers enrolled in a Debt Management Plan, has processed over 9 million creditor payments, and transferred nearly \$700 million in payments from consumers to their creditors. Further, while providing all these services, CareOne has maintained an "A" average with the Better Business Bureau.

Currently, the debt relief business in Texas is only partially regulated. Current law regulates debt management law in regards to counseling and debt management plan services. However, debt settlement services (negotiation for repayment of less than full principal balance), are not effectively regulated in Texas – and they need to be.

With the current economy, the segment of consumers that cannot afford a Debt Management Plan, yet are too solvent for bankruptcy, has grown significantly over the past few years. This is the segment of consumers that is "right" for debt settlement services. Unfortunately, consumers who find themselves in this situation have been prone to abuse caused by the lack of regulation of debt settlement services.

We worked last session in support of SB 2233, The Uniform Debt Management Services Act, which was not enacted, because it represents one of the strongest and most comprehensive frameworks for protecting consumers who need debt management and debt settlement services. However, much has changed in the industry over the last two years. After more than two years of investigation and rule-making the Federal Trade Commission issued its debt relief requirements as an

amendment to the Telephone Sales Rule (TSR) which applies to businesses that engage in telemarketing. The Rule provides the following protections for consumers:

- **No upfront fees.** A provider can't collect any fees from a customer before it has settled or otherwise resolved the consumer's debts. Fees can only be collected as each debt is resolved, effectively prohibiting front-load payments. The Rule also places restrictions on accounts where consumer funds are held to ensure consumers are protected.
- **Mandatory Disclosures.** Before enrolling a consumer in a debt relief plan a provider must disclose fundamental aspects of the services, including how long it will take for them to get results, how much it will cost, the negative consequences that could result from using debt relief services, and key information about accounts established for holding consumer funds.
- **Prohibits Misrepresentations.** The new Rule prohibits a provider from making false or unsubstantiated claims about its services.

These are strong rules that will have a beneficial impact on consumers who need these services.

The FTC Rule applies only to businesses covered by the Telemarketing Sales Rule which generally applies when engaging in inbound or outbound interstate telemarketing. As such, the Rule does not cover any provider that engages in face-to-face, Internet only, or Intrastate only sales. Additionally, the FTC has no authority over nonprofits, so the Rule does not apply to nonprofit debt relief providers. Eighty-five percent of the debt relief industry consists of nonprofit providers.

SB 141 takes the important protections of the FTC Rule and incorporates them into Texas law, effectively closing loopholes and better protecting consumers. This is a good bill that has broad industry support and real teeth to ensure that Texas consumers are served only by reputable, licensed providers of debt management services.

Respectfully,



Michael F. Croxson
President