



# ASSOCIATION OF INDEPENDENT CONSUMER CREDIT COUNSELING AGENCIES

A NON-PROFIT CORPORATION

EXHIBIT 10  
DATE 1-25-05  
HB 140

## Testimony of John Berglund Regarding HB 140

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First let me begin by thanking you for letting me offer testimony on HB140 today. My name is John Berglund and I'm here on behalf of The Association of Independent Consumer Credit Counseling Agencies (AICCCA). AICCCA is a trade association based in Washington D.C. that has approximately 35 non-profit IRS 501(c)(3) tax-exempt credit counseling agencies as members, several of whom serve consumers in the state of Montana. The Association's standards require member agencies to abide by a stringent set of standards including being licensed by any state that requires it. We believe this legislation, with certain amendments, is quite good and will afford Montana consumers a significant level of protection.

There are two areas of concern that I will address today. Before discussing those exceptions let me give you some personal background about myself. I've worked for The Consumer Credit Counseling Service of Greater Denver (CCCS of Greater Denver) since 1994 and prior to that I referred consumers in financial difficulty to this non-profit credit counseling organization since 1976 when I first became aware they existed. CCCS of Greater Denver came into existence in 1967. I served as Chair (2001-2002) of the National Foundation for Credit Counseling (NFCC). I also served the NFCC as Vice Chair for two years (1999-2001) and as Chair of their Legislative Committee (1997-1999).

The first Section we have concerns about is the language in Section 3 (6) which permits for-profit entities to provide credit counseling and debt management services to consumers. Currently for-profit entities have not entered the credit counseling field on any significant level because they have not found it profitable to do so or because state law prohibits them from doing so. Their goal is to make a profit, not to provide charitable services. The current abuses in credit counseling that have caused the United States Senate Permanent Sub-Committee on Investigations to hold a hearing this past April were committed by non-profit corporations that acted like for-profit companies.

These companies violated the rules under their IRS exempt status. The IRS is in the process of auditing and revoking the exempt status of a number of such companies at the present time. The IRS is also denying applications for new entrants into credit counseling who do not have the education of the consumer as their primary focus with debt management as only incidental to that activity. These recent actions provide

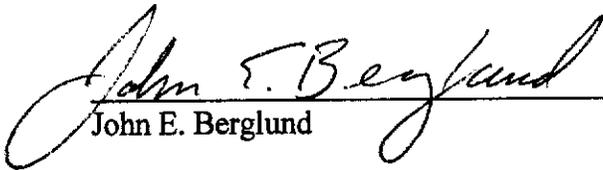
renewed assurances that the consumer protections contemplated by tax-exempt status are realized.

It isn't that being a 501(c)(3) guarantees there will never be companies that break the rules and harm consumers it is that by allowing for-profit companies into the business you are legitimizing behavior that led to consumers being harmed in the first place. Based on this history we believe that the only way to provide reasonable consumer protection is through the requirement of tax exempt status for credit counseling companies rather than to build in 501(c)(3) standards into Montana law. We and major consumer advocacy groups oppose any law that allows for-profit credit counseling both on the grounds that it provides an inherent conflict of interest and because for-profit credit counseling behavior has been the source of most abuses.

The second section I wish to comment on is the requirement that licensees must have an in-state office with a credit counselor on the premises. Currently Montana residents are probably being served by more than 25 credit counseling agencies almost all of whom do not have a physical presence in the state. By enacting this particular requirement, Montana consumers will have their choices severely limited. It is difficult to see how this is beneficial to Montana consumers in need of debt counseling. Qualified credit counselors can provide needed counseling by telephone or the Internet no matter where they are located.

If your concern relates to monitoring and controlling out-of-state agencies, this can be addressed through licensure and by requiring out of state licensees to pay the cost of Montana auditors traveling to the out of state agency headquarters to audit records pertaining to Montana consumers. This is currently being done very effectively by the States of New York and Virginia as well as many others.

Thank you again for allowing me this opportunity to address this committee.

  
John E. Berglund

1-24-05

Date

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