



Consumer Federation of America

1620 I Street, N.W., Suite 200 * Washington, DC 20006

July 30, 2009

Honorable Mark L. Pryor, Chairman
Honorable Roger F. Wicker, Ranking Member
U.S. Senate Committee on Commerce, Science and Transportation
Consumer Protection, Product Safety, and Insurance Subcommittee
Senate Russell Office Building Room 254
Washington, DC 20510

Dear Senators Pryor and Wicker:

On behalf of Consumer Federation of America (CFA), I am submitting this letter for the record in connection with the hearing you held on July 14, 2009 about “The Economy and Fraud: Protecting Consumers During Downward Economic Times.”

Created in 1968, CFA is an association of some 300 consumer groups across the United States. Our mission is to advance the consumer interest through research, advocacy and education. In addition to national, state and local nonprofit consumer advocacy and education groups, consumer cooperatives, and public power systems, CFA has members from state and local consumer agencies.

These agencies work “where the rubber meets the road,” dealing with problems that directly impact people’s lives and their wallets. Unlike most federal agencies, state and local consumer agencies usually try to resolve individual complaints in addition to taking legal action to stop large-scale abuses.

Periodically, CFA surveys these agencies in cooperation with two professional associations, the National Association of Consumer Agency Administrators (NACAA), and the North American Consumer Protection Investigators (NACPI). One of the main purposes of these surveys is to provide a national snapshot of the types of complaints that state and local consumer agencies receive.

Today we released our latest survey of 34 city, county and state consumer agencies in 19 states about their complaint data for last year.¹

¹ The survey covered a one-year period, which in most cases was January through December 2008, but some agencies keep records on a different basis, such as July through June; all were asked for data for the most recent 12-month period available. See press release at http://www.consumerfed.org/pdfs/Consumer_Complaint_Survey_Report_PR_7-30-09.pdf; the release provides a link to the full report.

In this survey we asked a new question, “During the survey period, what types of complaints did your agency receive that were particularly related to the worsening economy?”

The answers we received included:

- Aggressive debt collection tactics;
- False promises to help consumers repair bad credit, modify loans, settle debts, and forestall foreclosure;
- High-cost payday loans and bogus offers for loans with upfront fees;
- Fraudulent work-at-home and business opportunities;
- Business closings resulting in lost deposits, unused gift cards, undelivered products or services, and unfulfilled warranty repairs;
- False advertising and billing and cancelation issues;
- Tenant problems stemming from foreclosed rental properties;
- Unfinished construction projects;
- Cheating consumers on the price, quantity or quality of gasoline and home heating oil.

We are happy to note that Congress has already acted to address one of these issues with the provision in the Helping Families Save Their Homes Act of 2009 that protects tenants in foreclosed properties.

Some gift card problems were addressed by the Credit Card Accountability Responsibility and Disclosure Act of 2009, but the issue of consumer redress for the unused value of gift cards when businesses close or file for bankruptcy was not dealt with in the legislation. CFA, Consumers Union, the National Consumer Law Center, and U.S. PIRG petitioned the Federal Trade Commission last year to declare it an unfair and deceptive practice for retailers to sell gift cards without segregating and holding those funds in trust.² We also joined several consumer groups in asking the Comptroller of the Currency to require its banks to structure prepaid debit programs to qualify for deposit insurance under the Federal Deposit Insurance Corporation guidelines issued to clarify the rights of consumers who have gift cards and other kinds of prepaid cards that are issued by banks when those banks fail.³ While the FTC was interested in our concerns, these issues have not been resolved, and Congress should act to protect consumers from losing their money in these situations.

Another major area of concern is that financially-stressed consumers are vulnerable to abusive practices and outright scams in the guise of assistance. In February, CFA, National Consumer Law Center, and U.S. PIRG submitted comments to the Senate Committee on Commerce, Science and Transportation calling for Congress to enact a strong minimum standard for debt settlement companies, which often mislead consumers about the likelihood of a settlement and the effect of the settlement process on debt collection and their credit worthiness, cannot guarantee that the creditor will agree to a

² See http://static.uspirg.org/consumer/archives/FINALFTCLetter9_08.pdf

³ See http://www.consumerfed.org/pdfs/sign_on_comments_to_FDIC_prepaid_cards_8-25-08.pdf

reduced payment, and charge such high fees that consumers often don't end up saving much to make settlement offers. CFA also supports H.R.2309, which would give the FTC expedited rulemaking authority with regard to debt settlement.

Payday loans, car title loans, and loans secured by expected tax returns that cost 50, 300, 500 percent APR or more hurt cash-strapped consumers by diminishing their already-stretched purchasing power and by risking valuable family assets. Some payday loan companies are even making loans to jobless people, accepting their unemployment checks in place of a paycheck as "income."⁴ CFA joined more than a hundred other groups in supporting S.500 to give all Americans the same protection from usurious interest rates as Congress has extended to military personnel.⁵

It is interesting to note the prevalence of complaints related to credit and debt in the responses to our consumer complaint survey, not only to the question about recession-related complaints but in answer to our questions about the top, fastest-growing, and worst complaints. Credit and debt collection was #3 in the top ten complaints, mortgage-related problems, especially foreclosure rescue scams, were most frequently cited as the worst complaints, and complaints about debt collection were the top fastest-growing. CFA believes that a federal Consumer Financial Protection Agency would help consumers and state and local consumer agencies by setting minimum standards that would not preempt state laws.⁶

In regard to work-at-home scams, which take advantage of people who have lost their jobs, are having trouble entering the job market, or need extra cash, the "fake check" varieties are among the most common. Victims are "hired" as account managers or mystery shoppers and receive genuine-looking checks or money orders which are, in fact, counterfeit. In the account manager scenarios, victims are told that these checks are payments from the company's customers and are asked to deposit them in their bank accounts and send the money to the company minus their pay. The mystery shoppers are instructed to deposit the funds and make specific purchases, then send whatever amount remains back to the company, again deducting their pay.

In either case, by the time the checks or money orders are discovered to be phony, the victims have already sent the money to the crooks and are left owing it back to their banks. The average loss is \$3,000 to \$4,000, a terrible burden on consumers who are already in financial difficulty. Consumers can learn more about fake check scams at www.fakechecks.org.

This May CFA launched a public education campaign about fake check scams in cooperation with other consumer organizations; local, state and federal consumer agencies; banks and credit unions; and other concerned businesses.⁷

⁴ See Chicago Business news report, http://www.chicagobusiness.com/cgi-bin/article.pl?article_id=32134

⁵ See http://www.nclc.org/issues/legislative/content/usury_ltr_0209.pdf

⁶ See statement by CFA and other groups at http://www.consumerfed.org/pdfs/FPSC_President%27s_proposal_release.pdf

⁷ See press release and other materials at <http://www.consumerfed.org/fakecheckscams>

In preparation for the campaign, CFA commissioned a consumer survey which showed that 59 percent of adults in the United States incorrectly believe that their bank or credit union confirms that the checks or money orders they deposit are good before allowing them to withdraw the funds, and more than 40 percent do not understand that they will be held liable for the funds they withdrew if the checks or money orders were phony.

The fund availability disclosures that financial institutions must provide do not explain this. Congress could help by mandating clear, plain-language disclosures that spell out consumers' responsibilities and warn them about requests to deposit checks and wire money back, and by requiring this information to be prominently displayed.

Some problems, such as abandoned construction and home improvement jobs, and gas pumps and oil meters that short-change consumers, are dealt with primarily at the state and local level. Even where federal agencies have authority, they cannot possibly take action on every case, or reach every consumer with preventive educational information. State and local consumer agencies play a vital role in protecting the interests of consumers and legitimate businesses.

But as state and local government revenues shrink, so do the budgets of these agencies and their capacity to help consumers and stop abuses in the marketplace. Our survey report shows that many state and local consumer agencies are under severe strain, losing personnel, cutting programs, eliminating opportunities for training, and producing fewer consumer education materials. Congress could help by making grants available to state and local agencies for training, public education, improving data systems, and creating enforcement task forces.

We appreciate the opportunity to share this information and our suggestions with the subcommittee and look forward to working with you to protect consumers from fraud and abuse in these difficult economic times.

Sincerely,

A handwritten signature in cursive script that reads "Susan Grant".

Susan Grant
Director of Consumer Protection
Consumer Federation of America
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