2006 NFCC Spring President's Address

Delivered by:
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Good Morning, and welcome to what will surely be a very exciting Spring Meeting. As Don Leu mentioned, we have some terrific sessions planned and some important speakers lined up to address issues that are fundamental to nonprofit credit counseling.

It's really mind-boggling to step back and take a look at how the landscape surrounding credit counseling has changed over the past year and is changing as we speak. I believe the nonprofit credit counseling sector will survive these changes, and will do so in a way that is consistent with the NFCC core mission. There is much at stake. Because while our sector is in turmoil, the numbers of at risk consumers - at or over the edge financially - are growing. And many are confused about where to go to find help. One of our speakers later today, Travis Plunkett of the Consumer Federation of America, summed it up quite well in a recent news piece when he said, "It is virtually impossible to distinguish the honest, caring agencies from the rip-off artists by just looking at a TV ad or making a quick phone call." He goes on to say, "…look at several agencies closely before making a decision…One place to start is the NFCC."

The NFCC sets the national standard for quality and as such must provide the leadership and actively participate in the direction these changes are taking. NFCC members take this leadership role very seriously as evidenced by the significant turnout at this year's meeting here in Washington. What is happening today will impact and shape the credit counseling sector for years to come.

There are important decisions that will be made in the coming months particularly around reform---legislative and regulatory. Along with the IRS' investigations to sort out legitimate 501(c)(3) credit counseling agencies, there is heavy lobbying at work by some of the less scrupulous counseling entities in states across the country with the objective to legislate for-profit credit counseling to create safe havens for entities whose nonprofit status is revoked. Members must counter these efforts state by state.

DMPs are under attack in Congress with the latest debates around DMP caps, designed to take head on the "DMP mills" via federal legislation. At issue is really "fair share," not DMPs. The fair share model is "the elephant in the room" that has improperly provided incentive for behavior and services resulting in the egregious abuses to consumers, and it must be redesigned.

We will also carefully assess bankruptcy-related services. The counseling and education mandate under BAPCPA is unfunded. We must be realistic about the cost of delivery and figure out how to adequately fund the services before bankruptcy filings climb back to historic levels.

NFCC leaders will work with policy makers at the federal and state levels, and key stakeholders to address these and the many other issues before us. Our time together here in the nation's Capital is one step in our journey.

Today, the NFCC is better aligned and positioned to speak with a unified voice than ever before. This is thanks to the hard work of our member agencies and the national staff who work tirelessly towards fulfilling our common mission.

Now let me take a few minutes to talk about what is happening on the legislative front.

As you know, the United States Senate included in the Charitable Title of their version of the Tax Reconciliation bill, known as S.2020, additional provisions for credit counseling agencies in order to obtain and maintain nonprofit status under Section 501(c)(3) of the Internal Revenue Code. While several of the provisions of S.2020 would have been acceptable with some modifications, the cornerstone of the provisions was a cap on DMP activity. Knowing that enactment of such a cap would be detrimental to consumers and would effectively force most community-based nonprofit credit counseling agencies to close their doors, the NFCC mobilized its members to contact their Members of Congress to eliminate this provision.

I am happy to report that the final bill that was signed into law last week by President Bush did NOT contain any provisions related to credit counseling and I thank you for rallying to prevent this action.

While this was an important victory for the NFCC and the nonprofit credit counseling sector, this issue is not yet over as both the House and Senate are continuing to work on a second bill which may include credit counseling provisions.

It will be important to convey our concerns about this and other very important issues when we meet with Members of Congress tomorrow. Again, ultimately it is the model for fair share that will need to be addressed.

As I referenced earlier, there are efforts at the state level on the part of well-funded for profit "look a-likes" to legislate for-profit credit counseling.

Let me use the state of Maryland as an example.

NFCC members and staff testified before that Maryland House of Delegates in March to oppose a bill which would allow for-profit companies to engage in credit counseling and related services. The bill proposed to abandon an established position in Maryland law that ensures that services provided to financially troubled consumers are designed to benefit them, and not to enhance the bottom line of a for-profit company.

In Maryland, we were successful, and the for-profit bill died. However, the for-profit interests have not given up; in fact there are other states with similar bills pending, including California, Colorado, and Montana. This is a reminder that we must be vigilant on this front.

What needs to be made clear in these battles is that nonprofit and for-profit organizations are not the same. By virtue of their status under IRC 501(c)(3), legitimate nonprofit counseling agencies must provide holistic, comprehensive financial counseling, and educational assistance. For-profit entities have no such requirements and by their very nature have profits as a priority whether or not the consumer is served appropriately.

The “new entrants” or “poster child for bad conduct” as quoted last week by IRS commissioner Mark Everson, are for-profits in sheep’s clothing, are well-funded and very deliberate in their efforts.

We can mislead ourselves that we can coexist with for-profit entities but in the long term that won’t work! And, in the end it is the consumer who will lose.

From a regulatory perspective, the IRS is furthering its several year scrutiny of tax-exempt credit counseling organizations.

Just last week, the Internal Revenue Service released a public statement announcing steps to ensure these organizations comply with the law.

The IRS stated that the audits of 41 organizations, it said representing more than 40 percent of the revenue in the industry, have been completed, and that all of the completed audits have resulted in revocation, proposed revocation, or other termination of tax-exempt status. The list of the 41 organizations has not been made public. However, none of the dozen credit counseling organizations known to have lost their tax-exempt status since the IRS began their audits are NFCC members.

According to the IRS, the revocations resulted from these organizations failing to provide the level of public education and benefit required to qualify for tax exemption. And that these agencies offered little or no counseling or education and appeared to be primarily motivated by profit. In many instances, these agencies also served the private interests of related for-profit businesses, officers, and directors.

Over the past two years, the IRS has been auditing 63 nonprofit credit counseling agencies of the estimated 700-plus in our sector. And although only a few agencies to date have had their nonprofit status revoked, we fully expect to see many more announced in the months ahead. While we do not know where this will end up and exactly who it will impact, it is incumbent upon us that we ensure NFCC members who provide quality credit counseling retain their 501(c)(3) status. And the IRS guidance of last week differentiating ABC agencies from DEF ones suggest that in their work to address the “abuses” that they will differentiate and not throw the baby out with the bath water.

Shortly after starting work at the NFCC, I attended the US Senate Subcommittee hearings here in Washington. Our member, Jim Kroening, from Minnesota testified. What struck me then, and strikes me now is the difference between NFCC members and the others: like those subpoenaed to attend those Hearings who were ultimately unmasked in the subsequent Senate Report; those today are very worried about ultimate IRS actions that could even go beyond “revocations.”

As cited in the PSI Report, at its core, it is the stringent NFCC Member Quality Standards, and the COA accreditation requirements that differentiate NFCC agencies. And although it is too soon to tell what our world will look like when the IRS has completed its industry wide review, I suspect there will be NFCC members, all nonprofits, serving clients and communities just as they have for more than 50 years.

A little over a decade ago, there were 200 credit counseling agencies – NFCC members. Perhaps what we're really living here is "Back to the Future" and over this next decade there will be only a few hundred nonprofit credit counseling agencies operating under standards consistent with NFCC requirements today.

There has been a lot of recent media coverage on all of this which, of course, is not surprising. The unfortunate byproduct of this coverage is both the poisoning of an entire sector of the charitable nonprofit community and a very confused public. Our public relations challenge is enormous and will likely get even trickier in the months ahead.

It is important that we raise public awareness about the importance and availability of quality credit counseling and continue to promote the NFCC brand as a safe-haven for consumers to turn to during times of financial difficulty. The NFCC is working diligently on this front. Our visibility within the news media is higher, and we have become the go-to source for dozens of influential journalists across the country on issues about our sector, as well as financial counseling and education. We also recently initiated a public service announcement campaign to raise awareness of the NFCC brand.

Much of the NFCC's success in the news media over the past several months stems from our decision to take a leadership position with the implementation of the bankruptcy reform law.

Bankruptcy Reform is playing a major role in the changing landscape. Over the first six months, the NFCC has emerged as the clear leader in the delivery of counseling and education, mandated by the law, as the NFCC represents 70 percent of the agencies approved to conduct pre-filing bankruptcy counseling and 80 percent of those agencies approved to conduct both pre-filing counseling and pre-discharge education. And today bankruptcy counseling and education represents a third of the client sessions in approved agencies.

Last month, the NFCC with the extraordinary help of its membership put together a report representing a snapshot of what our agencies were finding six months after the law took effect. Given much of the media coverage and misinformation, we felt it was important to set the record straight and essentially tell our story. And our story is a compelling one. The report entitled "Meeting the Mandate" reveals the NFCC's achievement of counseling nearly 200,000 financially troubled American consumers in just over five months since the law took effect.

We will discuss the findings from the bankruptcy report in more detail during a panel discussion later today. But as we look ahead, here are some of the questions from a public policy and consumer impact perspective that we need to ask ourselves, the public, our policymakers, and the creditor community. These are not solely NFCC questions, but concern all of us.

Do we believe that the current low level of bankruptcy filings is likely to continue? We think not. And if it's not – how are we going to meet any significantly increased credit counseling demand?

Do we believe that consumers should continue to have access to face-to face counseling, if they so choose? We believe they should. Isn't a choice in education between in-person and remote delivery options in the best public interest?

How can nonprofit agencies continue to provide quality counseling and education when it faces a financial loss when it delivers these services? We are committed to providing needed services, but clearly require additional funding to perform them.

As we look even beyond the next few months, how can the private and public sectors help make the credit counseling and education mandate of the new bankruptcy law remain viable and robust for Americans? We look forward to further discussion and debate on this topic.

Some observers have been saying that the early results show that credit counseling provision isn't working as intended, viewing it as "unnecessary" or "providing no real benefit" for consumers considering filing for bankruptcy. They say that a basic problem with the credit-counseling provision of the bankruptcy law is that it's too late by the time many consumers get counseling. These same observers argue that the reason the credit counseling has not been successful is because it is not shifting many people into debt-management plans instead of filing for bankruptcy.

I take exception to this litmus test for success. Reputable nonprofit credit counseling agencies are in the business of financial education, we are not collection agencies.

While we applaud efforts to help us reach consumers as early as possible, so that they avoid even discussing bankruptcy as an option, we believe the intent of the counseling and education provisions within the law and, by the way, the reason we supported the education mandate, is to simply provide financial education and money management tools to consumers who desperately need it. I would argue, as would many, that despite what we're reading in the newspapers, that its success is measured in financial literacy, not the number of DMPs generated.

Our agencies are hearing from consumers across the country that the financial information they're getting is valuable in helping them to understand their situation and avoid future financial pitfalls.

Financial education is at the core of the NFCC's mission as it leads to a better quality of life for the people that we serve. The NFCC is dedicated to helping people learn to manage their money and avoid financial difficulty, as we are all better off if people are equipped with the tools they need to build a sound personal financial house and be financially empowered.

Let’s consider the current financial environment for consumers in this country that is creating a burgeoning real need for our services.

Americans like to spend money — in many cases, more money than they earn. You know the ominous statistics…U.S. credit card debt exceeds $800 billion; total consumer debt stands at over 2 trillion dollars, and climbing. Easy credit has helped fuel a spree that has contributed to these excessive amounts of debt.

And I believe that there is another growing crisis that will exacerbate these statistics, and it surrounds the issue of consumer mortgage-related debt.

Consider the following:

Consumers owe a whopping $9 trillion in mortgage debt.

In 2005, U.S. foreclosures jumped 25 percent to a total of 846,982 foreclosures reported during the year.

Fifty percent of mortgages written over the last two years have been adjustable rate mortgages and many buyers qualified for these loans because of low “teaser rates.”

Just over the last two years, $2 trillion of adjustable rate mortgages were written and are scheduled to reset this year and next to much higher interest rates, making them much less affordable.

Sub-prime mortgage lending has reached $700 billion, or 12 percent of total mortgages.

These are all very concerning for the American consumer. At the NFCC, we’ve been contacted by policymakers – from the public and private sectors, wanting to address what they perceive is a growing problem: that consumers are over-extended with their mortgages and many subscribe for products they didn’t understand initially whose homes will be at-risk with rising interest rates. They recognize that a lack of financial education or literacy is as big an issue as easy access to credit and a go-go spending culture.

Over the next few years, more and more of our agencies will be focused on educating consumers about their mortgage loans and saving their homes.

NFCC housing services have been growing. To give you a sense of the NFCC’s housing reach, during the 2004-2005 program year for the NFCC Housing Intermediary, the NFCC conducted 99,884 housing counseling sessions. In addition, the NFCC conducted approximately 480,000 general counseling sessions of which about 20 percent involved discussion of housing issues.

We believe that as NFCC member housing services increase over the next few years, that much strategic thinking, service development, and counselor training will be dedicated to this service segment. And NFCC members are ready for this challenge. Just look at what has been accomplished in just one year when the NFCC assumed from AARP the role of HUD national HECM Intermediary to meet the growing demand for reverse mortgage counseling.

From June 2005 to May 2006, the NFCC expanded its HUD HECM Network from 11 agencies to 44, and from 45 counselors to 238, as of May 12, 2006. The NFCC network alone now has enough theoretical capacity to meet the entire projected nationwide demand for HECM counseling for next year based on informal projections by the National Reverse Mortgage Lenders Association (NRMLA) and industry leaders. During its tenure as the sole HECM Intermediary, counseling queues have been eliminated, and consumer wait times from initial contact to counseling have been reduced to less than 10 business days. At the same time, Network counseling continues to meet the highest standards established by the AARP Reverse Mortgage Education Project. And this has occurred simultaneously with the ramp-up and delivery of bankruptcy counseling services.

At the NFCC we see housing counseling, as well as bankruptcy, being transformational to our mix of service delivery well into the future.

In closing…in 2006, the NFCC will be very busy working with stakeholders and fulfilling our mission…most likely delivering quality education services to double the clients that agencies served in 2005.

We are working with legislators and regulators who are shaping the future of our sector…and must do so at the federal and state levels.

We are working with the media to raise awareness about quality credit counseling, financial education and the NFCC brand…and will work hard to counter the barrage of negative messages with the shake-down that is taking place in our sector.

We are mobilizing nationally to reach more consumers as early as possible as the demand for financial counseling and education services increases…including consumers considering bankruptcy, experiencing housing problems, or accessing equity in homes to meet financial needs in later years…and

We are raising the level of financial literacy in this country…

We are the NFCC, and we are the leadership for our sector; and we are the friend of millions of consumers in need of the services we provide.

Thank you.