



April 16, 2020

The Honorable Steven Mnuchin  
Secretary  
United States Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Mnuchin:

On behalf of ACA International, the Association of Credit and Collection Professionals (ACA), I am writing to clarify misinformation about the debt collection industry concerning the recently issued stimulus payments that is harmful to consumers. ACA represents approximately 2,500 members, including credit grantors, third-party collection agencies, asset buyers, attorneys, and vendor affiliates in an industry that employs more than 230,000 people worldwide. ACA members include the smallest of businesses that operate within a limited geographic range of a single state, and the largest of publicly held, multinational corporations that operate in every state.

### **I. ACA Members are Not Targeting Stimulus Fund Checks**

Advocacy organizations have made several recent claims that, “debt collectors are eager to garnish these payments – threatening families’ access to food, shelter, and medicine, and endangering public health.” This narrative is inaccurate and shows a clear misunderstanding of the garnishment process and the work of the debt collection industry in general. Furthermore, it creates a harmful and unwarranted concern for consumers that financial institutions and the debt collection industry are specifically targeting these funds, which could reverse the positive trend of decreasing the number of unbanked consumers during this time of financial uncertainty for the country.<sup>1</sup> Creating unwarranted fears that licensed and legal entities complying with a myriad of consumer protection laws are targeting consumers could force consumers to turn to less regulated options. During a time when illegal fraudsters and scammers are targeting these funds, this false narrative is particularly harmful.

Alternative to the suggestion that the debt collection industry is eager to garnish stimulus funds, the reality is professional debt collectors would not know the character of funds contained in a consumer’s bank account or the source of these funds. They could not and would not be specifically targeting these funds, or even know the specific timing surrounding them. In fact,

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<sup>1</sup> Prang, Allison and Hayashi, Yuka, *The Wall Street Journal*, “U.S. ‘Unbanked’ Population Continues to Fall”. (The number of U.S. households without a bank account fell to 6.5% in 2017, according to a federal government survey, as the improved economy helped bring mainstream banking services to more people.) (Oct. 23, 2018).

only financial institutions would know the source and character of deposited funds, and non-electronic deposits may be more difficult to identify, even for financial institutions. Adding to why this is not a widespread practice, as a practical matter many courts throughout the country are currently closed and new judgments in this area are minimal at this time. Additionally, garnishment is only one very small tool for creditors to collect on legally owed debts, and it is often the last resort after many other methods of two-way communication are exhausted.

As such, the chance of funds from a stimulus check being subject to a new proceeding or being garnished as a result of a new action taken by the debt collection industry would be extremely rare. This is probably why Congress in its thoughtful determination of who should receive public money and under what circumstances in the Coronavirus Aid, Relief, and Economic Security (CARES Act), did not identify this issue as requiring additional legislative attention. Furthermore, any problems for consumers that arise could be more easily solved through a conversation, rather than in complex legislation. In the rare event that stimulus funds are garnished, consumers have ample opportunity to have those funds returned, particularly if they have been directly impacted by COVID-19.

It is also worth noting that garnishment and attachment proceedings are state law issues, that vary by state. Consumers have full transparency and opportunity to be heard throughout this process, which makes it even more unlikely that a surprise garnishment would take place.

## **II. Advocacy Group Concerns Underscore the Need for Early Intervention and Two-Way Communication for Those who Owe Debts**

The same advocacy organizations expressing inflated concerns about the debt collection industry allegedly targeting stimulus fund, are also seeking to limit industry communication with consumers, which is harmful to consumers. It is important that any policies provide consumers with more options that will allow them to continue to access credit and services and put financial decisions into their hands, which comes through communication. This is critical due to the uncertainty about the length and severity of the economic impact related to COVID-19. During this critical time, ACA members remain committed to assisting consumers. This commitment has been further demonstrated through industry-wide calls to action for compassion and empathy since the start of the COVID-19 pandemic. ACA members have training and hardship programs in place to help consumers make arrangements that best suit their unique financial situation, including implementing temporary suspension of collections for consumers directly impacted by the coronavirus.

Alternatively, unnecessarily stymieing communications at the state level has proven to lead to fewer choices for consumers and take the decision-making out of their hands.<sup>2</sup> This is not the time to abandon consumers and leave them in the dark about how they can address outstanding financial obligations. ACA members also remain committed to their clients, including small businesses, who are facing unprecedented challenges and disruptions to their operations.

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<sup>2</sup> Following the enactment of new debt collection regulations in 2015, in New York State, collections lawsuit filings rose 32% in 2018 and 61% in 2017 from pre-2015 levels.

Throughout their history, and particularly in times of financial distress, ACA members play a critical role in ensuring that consumers can continue to access credit and services. As an academic study about the impact of debt collection noted,

**“In a competitive market, losses from uncollected debts are passed on to other consumers in the form of higher prices and restricted access to credit; thus, excessive forbearance from collecting debts is economically inefficient. Again, as noted, collection activity influences both the supply and the demand of consumer credit. Although lax collection efforts will increase the demand for credit by consumers, the higher losses associated with lax collection efforts will increase the costs of lending and thus raise the price and reduce the supply of lending to all consumers, especially higher-risk borrowers.”<sup>3</sup>**

In short, consumer harm can result in several ways when unpaid debt is not addressed, and ACA members work to help consumers understand, address, and improve their financial situations. Financial institutions must maintain safety and soundness and other liquidity requirements. Accordingly, as this and other research find, they may stop lending to the riskiest borrowers that may include out-of-work, or low-income consumers if there is uncertainty about the ability to collect.

Consumers need the information that ACA members provide to maintain their financial health, and open communication can often lead to the most favorable outcome. We look forward to continuing our engagement with the U.S. Department of Treasury, the Administration, and Congress on behalf of the debt collection industry.

Sincerely,



Mark Neeb  
Chief Executive Officer

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<sup>3</sup> Zywicki, Todd, “The Law and Economics of Consumer Debt Collection and Its Regulation,” available at <https://www.mercatus.org/system/files/Zywicki-Debt-Collection.pdf>. (Sep. 2015).