



February 22, 2010

The Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing & Urban Affairs
448 Russell Office Building
United States Senate
Washington, D.C. 20510

Re: **Comments regarding new Consumer Financial Protection Agency
as it Pertains to Attorneys**

Dear Chairman Dodd:

The Commercial Law League of America (“CLLA”), founded in 1895, is the nation’s oldest organization of attorneys and other experts in credit and finance actively engaged in the field of commercial law, bankruptcy and reorganization. Its membership consists of nearly 2,500 individuals. The Bankruptcy Section of the CLLA is made up of approximately 500 bankruptcy lawyers and bankruptcy judges from virtually every state in the United States. Its members include practitioners with both small and large practices, who represent divergent interests in bankruptcy cases.

The CLLA has long been associated with the representation of creditor interests, while at the same time seeking fair, equitable and efficient administration of state-law collection and bankruptcy cases for all parties-in-interest. Members of the CLLA have testified on numerous occasions before Congress as experts in the collection, bankruptcy and reorganization fields.

We are writing to you regarding the Restoring American Financial Stability Act (the “Act”) and the new proposed Consumer Financial Protection Agency (“CFPA”) established under the Act.¹

¹ Stephen Z. Starr with Starr & Starr, PLLC in New York, New York City contributed to the drafting of this Comment.

The CLLA has a long institutional memory of other financial storms -- the Depression, two World Wars, and numerous recessions. CLLA has always stood for strengthening professionalism in the field of commercial law and bankruptcy, but does not believe federal regulation is the method to accomplish this goal. To further this aim, the CLLA was a founding sponsor of the American Board of Certification (“ABC”), which is a non-profit organization dedicated to serving the public and improving the quality of the bankruptcy and creditors' rights law bars. The ABC has certified nearly 3,000 attorneys in consumer and business bankruptcy and creditors rights law nationwide.

It is the view of the CLLA and its members that the proposed establishment of a new regulatory agency -- the CFPB -- that would have an ability to regulate attorneys is ill advised. While the current draft under consideration contains an exception in section 1036 as to attorneys (“This section does not authorize the CFPB to prescribe rules applicable to an attorney licensed to practice law . . . but only to the extent that the consumer financial product or service is within the attorney-client relationship with the consumer.”), it is troubling that the determination of what is within the attorney-client relationship will apparently be made by the CFPB.

Attorneys have historically been subject to supervision and discipline by state bar associations and state courts and not subject to regulation by federal agencies such as the proposed CFPB. The CLLA believes that the ability of state courts to discipline and supervise lawyers should remain unimpaired. Therefore, we strongly urge your Committee to remove this section from the CFPB on order to maintain and preserve the attorney-client relationship.

If you have any questions concerning the CLLA's position, please contact us at your convenience. We would be happy to consult with you.

Respectfully submitted,

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