SPLC Southern Poverty Law Center

Fighting Hate
Teaching Tolerance
Seeking Justice

Southern Poverty Law Center
400 Washington Avenue
Montgomery, AL 36104
334.956.8200
splcenter.org

March 11, 2013

Richard Cordray
Director, Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

For decades, Alabama's most vulnerable citizens have been targeted and abused by the payday and car title loan industries in the state. These poorly regulated industries strip hundreds of millions of dollars each year from hard-working communities. As you recognized when you visited Birmingham for a field hearing in January last year, Alabama has one of the highest concentrations of payday lenders in the United States. We also have more car title lenders, per capita, than any other state.

Recently, the Southern Poverty Law Center released a report, *Easy Money, Impossible Debt: How Predatory Lending Traps Alabama's Poor*, to document the incredible harm that these industries inflict on communities throughout the state. The report, a copy of which is enclosed, is the product of numerous listening sessions and interviews across the state, and is one of few that tell the stories of actual borrowers as well as those who work in the industry. Through our focus on how these loans affect the lives of consumers in Alabama, we hope that state lawmakers and regulators at the CFPB will better understand the gravity of the problem in states where lenders are allowed to operate unchecked.

As you have recognized, some loans—those whose "success is based on a substantial percentage of users rolling over their debts on a recurring basis"—are "debt traps." These products "trigger a cycle of debt whose substantial costs over time can disrupt the precarious balance of people's financial lives."[1] Our conversations with consumers across Alabama made it clear to us that both payday and title loans are the very embodiment of the evils you described.

The stories highlighted in the report include those of senior citizens trying to help young family members in need, a recent nursing school graduate trying to make ends meet, a military veteran's family facing a tough time, and other hard-working families and individuals that were ensnared by these loans. Many have paid hundreds, or even thousands, of dollars in interest payments for initial loans of just a few hundred dollars. For example, Alicia, a nurse, repaid $2,945 in total for borrowing $1500 for a period of just a few months. Latara, a hairdresser, is still paying $100 per month to pay off her $400 title loan almost two years after it was issued. Unfortunately, Alicia and Latara's experiences are all too typical of those who are induced to take out predatory loans.

---

1 Prepared remarks by Richard Cordray at a Consumer Advisory Board meeting (Feb. 20, 2013).

The report also includes candid interviews from those who own and run payday and title lending stores. These interviews confirm that the business model of these industries is to encourage high loan amounts and multiple renewals. A former employee of a payday and title lender explained that she was paid on commission based on loan amounts outstanding, not including any loans in collections or past due. Indeed, she explained that employees were discouraged from allowing borrowers to pay off the loan amount: "When a borrower pays in full and doesn't renew, you lose a check. They don't want you to ever drop checks, and if you do, they want to know why." As one owner of a local payday loan store acknowledged, "To be honest, it's an entrapment—it's to trap you."

We are heartened that the CFPB has spoken out about these debt traps and instituted a comprehensive examination of small-dollar payday loans. We urge you to conduct an examination of car title loans as well. As we, along with other groups, explained at the community roundtable discussion CFPB held in Atlanta in January, and as the report explains in more detail, these loans have had the same disastrous effects as payday loans on the lives and financial stability of Alabama's most vulnerable communities.

We also call on the CFPB to use its rulemaking authority to declare the most egregiously predatory practices of these industries as unlawful, unfair, deceptive, or abusive. In particular, the report identifies the following unfair business practices that should be the subject of reform:

- **Repayment periods too short to allow for a meaningful opportunity for on time repayment.** Borrowers must be allowed at least 90 days to save the money required to pay back the loan, and possibly even longer for more expensive title loans.

- **Unlimited renewals**. There must be a limit on the number of loans per borrower per year to ensure that lenders cannot collect interest on the same loan for months upon end without extending any new principal.

- **Failure to meaningfully assess borrowers' ability to repay**. Lenders must be required to take income into account and to stop the practice of lending beyond what a consumer can afford to pay.

- **Failure to utilize a centralized database and report data to the public**. These industries must be forced to report data about the loans extended and outstanding in order to ensure compliance with current laws. States also must be required to produce data to the public to show how these loans are utilized.

- **Payment of employees on a commission basis**. Lenders must be prohibited from paying employees based on the outstanding principal value on all current loans, which encourages abusive practices such as offering higher loan amounts than consumers can afford, persuading borrowers to renew their loans multiple times, and threatening consumers in order to obtain a payment.

- **Deceptive explanations of contracts, especially with title loans**. Many title lenders currently explain the loan terms as requiring a "minimum monthly payment," equal to the interest on the loan, so borrowers do not pay down the principal. Lenders must not be permitted to engage in such deceptive explanations.

- **Direct access to the bank accounts of payday loan borrowers.** The abusive practice of requiring a check or access to a financial account as security must be prohibited, as it is in the Military Lending Act. It allows lenders to evade protections on social security funds and allows banks to rack up overdraft fees for borrowers who have insufficient funds in their accounts.

- **Lender buyouts of unpaid title loans.** Many lenders will buy a title loan from another lender at the borrower's request when he reports being unable to pay his first loan. The second lender then compounds the previously-owed principal, interest, and any late fees into principal on the new loan. Lenders should not be able to obtain higher interest payments from consumers in this abusive way.

- **Retention of the surplus from the sale of repossessed vehicles**. Lenders must not obtain an unfair windfall by retaining any surplus they obtain in the sale of the car that exceeds the current amount due on the loan.

Again, we hope that your rulemaking will extend to cover both payday and title loans in order to effectively protect vulnerable communities seeking small loans. The experience of states such as Arizona and Virginia has shown that when the payday loan industry encounters increased restrictions, lenders will simply switch to offering predatory car title loans instead.[2] We also hope that you will encourage programs that provide incentives for savings and small loan products and that require financial education and credit counseling options to be made available to the communities targeted by these industries.

We look forward to seeing your continued progress in this area as you work to ensure that the small loan market is helping, not hurting, consumers. Please do not hesitate to contact us if we can provide any additional information.

Sincerely yours,

J. Richard Cohen
President, Southern Poverty Law Center

---

2 *See, e.g.,* Maureen West, Payday Lenders Morphing Into Auto Title Lenders, AARP Bulletin (Dec. 1, 2010), www.aarp.org/money/scams-fraud/info-12-2010/payday_lenders_morphing_into_auto_title_lenders.html; Bureau of Financial Institutions, State Corporation Commission, Commonwealth of Virginia, The 2011 Annual Report of the Bureau of Financial Institutions: Payday Lender Licensees, Check Cashers, Motor Vehicle Title Lender Licensees, p. 84, www.scc.virginia.gov/bfi/annual/ar04-11.pdf (showing that the number of title loans increased five-fold between 2010 and 2011 after restrictions on payday lending took effect in 2009).