STATEMENT OF MINNESOTA ATTORNEY GENERAL MIKE HATCH
BEFORE THE SENATE FINANCE COMMITTEE

APRIL 5, 2005

I. INTRODUCTION

Mr. Chairman, members of the committee, it is a privilege to appear before you to discuss the regulation of nonprofit and charitable organizations. I applaud the Senate Finance Committee for conducting these hearings and considering improvements to foster increased accountability of such organizations. I also applaud the many excellent suggestions for reform contained in the Senate Finance Committee staff discussion draft and the report prepared by the staff of the Joint Committee on Taxation.

Charitable organizations receive very generous local, state, and federal tax exemptions in exchange for performing their charitable missions. Nonprofit and charitable organizations play an important role in our communities and in bettering the lives of our fellow citizens. Most are dedicated to fulfilling their charitable missions and perform a genuine public service worthy of the tax exemptions they receive. Unfortunately, a surprising number of charitable organizations encounter governance problems that threaten the proper stewardship of charitable assets. There are also bad actors within the sector who personally profit at the expense of the charitable organization and its mission.

The board of directors is responsible for the proper governance of a nonprofit organization. Unlike private corporations, nonprofit organizations do not have shareholders to serve as a check to ensure that the board of directors exercises proper stewardship. Nonprofit boards are essentially self-perpetuating. Strong state and federal government regulatory

oversight of the nonprofit sector is imperative to protect charitable assets, preserve the public's trust, and ensure that tax-exemptions are well-deserved.

II. NONPROFIT HEALTH SYSTEM COMPLIANCE REVIEWS

A. Introduction.

In Minnesota, there are over 25,000 nonprofit organizations, 2,500 charitable trusts, 6,500 charitable soliciting organizations, and 250 professional fundraisers. The Minnesota Attorney General is responsible for regulating these organizations. This is a role attorneys general have played at common law dating back to seventeen century England, where it was recognized that the community has an interest in the enforcement of charitable organizations and the attorney general was responsible to represent this community interest. Today, our office exercises its regulatory oversight pursuant to both statutory and common law. Unfortunately, we only have a staff of eight engaged in such activity. We have no financial auditors. We have no compliance auditors. As with most states, we rely on the Internal Revenue Service ("IRS") to determine if a 501(c)(3) organization is engaging in charitable activity that meets the standards of the Internal Revenue Code.

We are frequently required to take action involving nonprofit and charitable organizations when the boards of directors make or allow the improvident use of charitable assets in a manner inconsistent with the mission of the organization and the tax exemptions those organizations enjoy. Today I would like to focus specifically on our findings involving nonprofit health care organizations, which amply make the case why self-regulation is not the right approach and why strong government regulation of this sector is needed.

B. The Allina Compliance Review.

In Minnesota, like the rest of the country, our health care system is in crisis. Health care premiums have increased at double-digit levels year-after-year. Employers are getting squeezed by these costs, making it increasingly difficult for them to offer health insurance to their employees. Health care also is prohibitively expense for many self-employed, retired, and uninsured citizens. In this climate, nonprofit health care organizations owe a heightened duty to show proper stewardship over nonprofit assets.

In 2000, the Office of the Inspector General ("OIG") for the Health Care Financing Administration completed a review of the spending practices of nine managed care organizations around the country that performed services for the Medicare program. The OIG concluded that a number of these organizations had incurred expenses for a variety of luxury items, such as Waterford crystal, season sporting tickets, and travel.

Medica Health Plans ("Medica") was one of the nine managed care organizations whose expenditures were reviewed by the OIG. Medica is a large, Minnesota-based nonprofit health maintenance organization. The Medica president publicly announced that none of the expenditures uncovered by the OIG were billed to the Medicare program, but instead were purchased with "private," nonprofit, assets. Accordingly, members of the Minnesota state senate asked our office to commence an investigation to determine the extent to which nonprofit assets were wasted on such expenditures.

In 2000, we began a compliance review of Medica and its parent organization, Allina Health Systems ("Allina"). Allina is registered with our office as a charitable organization with tax-exempt status under section 501(c)(3) of the Internal Revenue Code. It solicits funds from donors and operates numerous hospitals and clinics in Minnesota. The purpose of the

compliance review was to determine whether Allina was exercising proper stewardship over its charitable assets.

The Allina compliance review required the commitment of a tremendous amount of resources of the Attorney General's Office over a one and one-half year period. Allina was a $2.6 billion organization which controlled over 50 separate legal entities. These entities included nonprofit tax-exempt organizations, taxable nonprofit organizations, for-profit organizations, joint ventures, trusts, partnerships, limited liability companies, and numerous operating units and divisions, both with and without separate boards of directors. Allina refused to cooperate with the compliance review, and we were forced to obtain a court order requiring it to produce records. The records it ultimately produced documented a serious breach of accountability on the part of both Allina executives and the board of directors.

Allina paid for employee travel to destinations such as Aruba, London, Paris, Venice, Grand Cayman, Athens, Cancun, Pago Pago, and Los Cabos. It paid for its president and his wife to travel to Grand Cayman Island, including four nights at a five-star oceanfront resort costing over $600 per night. It paid for over 30 trips to the Hawaiian Islands.

Allina paid $89,000 for its board members and executives, and their spouses, to travel to the Phoenician Inn in Arizona. The Phoenician Inn boasts a $25 million art collection, marble from the same Italian quarry that Michelangelo used for the Pieta, chocolate for "tuck in" service flown in from Belgium three times per week, and a 22,000 square foot spa. Allina spent over $14,000 on food and alcohol and over $4,500 on golf, tennis, and spas. One dinner alone cost over $5,000. Executives charged the organization for $100 floral arrangements to decorate their $855 per night suites. When we asked Allina to explain its "business purpose" for the trip, it stated that the trip was designed to inspire discussions about "health care reform."

Allina similarly paid $42,500 to send executives and their spouses to the LaQuinta Resort in California, which promotes itself as "one of the most coveted golf resort destinations anywhere in the world." They spent over $16,000 on golf, including over $2,000 in golf lessons, $1,700 in spa charges, and $2,400 for a jeep tour.

On another occasion, Allina paid for its executives and spouses to take a three-day wine tour of Napa Valley, complete with private limousines and hot air balloon rides. On yet another occasion, it sent executives to Monterey, California, where they traveled in limousines and expensed thousands of dollars in meals at the area's most exclusive restaurant. Allina stated that the trip was designed to teach executives how to run a health care system with a "moral center." The hospital administrator ordered an accounts payable clerk who questioned the propriety of the expenses to pay the bills, noting that he doubted there was a "high exposure" of the media learning about the junket.

Allina paid for private memberships for ten of its top executives in the Twin Cities' most prestigious golf clubs. It reimbursed one executive $1,400 to analyze his handicap, polish his golf clubs, and otherwise tend to similar needs.

Allina also spent thousands of dollars on executives' season and playoff tickets to the Minnesota Timberwolves, Minnesota Vikings, and Minnesota Twins.

Executives were reimbursed for lavish gifts to other executives and board members, including $3,000 bronze sculptures, $1,300 golf clubs, and $600 Waterford crystal.

Executives were handsomely-paid. Allina offered executives approximately ten different incentive and bonus plans to augment six-figure executive salaries by up to 150 percent. For instance, it compensated its executives with management incentive plans, defined benefit plans,

401(k) plans, long-term incentive plans, supplemental retirement plans, and mutual fund acquisition plans. The CEO in 1998 received compensation of over $900,000 per year.

Allina manipulated its bonus plans to guarantee that executives would qualify for bonuses. For instance, Allina's management incentive plan required that it reach 80 percent of its budgeted annual net income for bonuses to be paid. When it became clear that Allina would not meet that target as the end of the year approached, Allina simply lowered the figure to 60 percent and paid $2.6 million in bonuses for which executives were ineligible.

Allina paid long-time executives over $1 million as "retention bonuses" for simply remaining employees of Allina. The president, for instance, was promised a "signing bonus" of $100,000 when he moved from one Allina affiliate to another and an additional $200,000 if he remained an executive of Allina two years later. Allina then paid the executive the $200,000 one year early.

Allina also spent tens of millions of dollars on consultants who failed to document their time or expenses.

Allina paid nearly $1 million per year for a part-time consultant to act as its chief operating officer. Allina also paid for her $855 per month luxury sports utility vehicle, luxury lakefront condominium, and first class air travel. It paid for her incidentals of daily living, such as her cable TV bill, utility bills, valet parking, maid service, and even her shower curtains.

Allina paid $1.9 million to another consultant (who promoted herself as an "advisor" to movie stars) to serve as the personal confidant of the COO. The confidant billed $300,000 in expenses with no documentation. Another consultant was paid over $150,000 to help groom the image of top executives. Allina paid $15,000 for a sleepover retreat for senior executives in which they watched the movie "12 O'clock High." It paid $37,000 to a consultant to organize

the retreat. At these sleepover retreats, which occurred on a regular basis, executives were forced to sit in each other's laps to "build trust" and play "ring toss" to find their "inner selves."

Allina's "independent" auditor was paid over $35 million, mostly for acting as a consultant. No detail was provided on to justify the accounting firm's professional fees, nor was supporting detail provided for over $4 million in expenses. The auditor repeatedly issued unqualified audits.

The organization was rife with conflicts of interest.

The Allina board of directors not only failed to prevent the above abuses, but actively participated in them.

C. The HealthPartners Compliance Review.

After completing the compliance review of Allina in 2001, we commenced a compliance review of HealthPartners, another large nonprofit HMO and hospital system in Minnesota. HealthPartners was registered with our office as a charitable trust. It has over $1 billion in revenue and operates over nineteen nonprofit and for-profit subsidiaries. The HealthPartners compliance review also took about a year and a half to complete. As with Allina, the compliance review documented a lack of accountability and proper stewardship.

HealthPartners paid for over 100 flights to over 30 international destinations, including every continent but Antarctica. It paid over $17,000 for its CEO's "trade mission retreats" to Brazil, Chile, and Ireland, though the organization only operates in Minnesota and western Wisconsin. It paid $9,000 for its CEO to travel to Australia to find out: "Are we pricing consumers out of health care?"

HealthPartners paid over $30,000 per year for its CEO and board members to travel to four-star Florida resorts, where they golfed, dined, and entertained themselves at the nonprofit's

expense. HealthPartners paid almost $250,000 for its executives' membership in and use of country and golf clubs. It paid over $50,000 for its CEO's season tickets to the Minnesota Vikings.

HealthPartners paid for executives and board members to give each other expensive gifts, including golf clubs, kayaks, crystal, and spa services. It paid for its CEO's living expenses, which it attempted to conceal in expense reports. For instance, a Garrison Keillor satire and book on Harley Davidson motorcycles were billed as "business strategies research." Items such as the CEO's lean cuisine dinners were billed as "supplies."

Executives received generous savings and retirement plans, such as "split dollar" life insurance plans, retention bonuses, mutual fund option purchase plans, capital accumulation plans, and supplemental executive retirement plans. HealthPartners took steps to conceal the payments by mislabeling them, and it improperly omitted executives' deferred compensation from the IRS Form 990.

After HealthPartners began to pay for massages at board meeting, masseuses were implored to "bring more oil" to the next meeting. Ironically, the HMO refused to cover massage therapy for victims of Parkinson's Disease.

Once again, the HealthPartners board of directors not only failed to prevent these abuses, but actively participated in them.

III. NONPROFIT HOSPITAL CHARITY CARE AND DEBT COLLECTION PRACTICES

Another important area I would like to address is our experience concerning the billing, debt collection, and charity care practices of nonprofit hospitals. These issues relate to whether nonprofit hospitals are appropriately fulfilling their missions in a manner that justifies their tax-exempt status.

We should not in this country have a health care system that bankrupts patients because they get sick. The very poor typically have access to government programs such as Medicaid to help them with their medical bills. The middle class and working poor do not. With skyrocketing premiums, many employers are unable to offer health insurance coverage for their employees, and many individuals are unable to afford to pay for coverage. The reality is that even a short hospital stay can bankrupt a middle-class or low-income family who is uninsured or under-insured. Indeed, Harvard University recently reported that approximately 50 percent of all bankruptcies are caused in part by medical bills.

Medical providers are among the creditors most likely to refer debt to collection agencies. Patients subjected to aggressive medical debt collection practices are more likely to resort to financially unsound methods, such as credit cards and home equity loans, to pay off the debt. This sinks them even deeper into debt.

Medical debt also has serious health consequences. Over 50 percent of patients with medical debt reported in one study that they delayed getting necessary treatment because of their unpaid medical bills. These patients were uncomfortable seeking additional treatment because they owed money, they were asked to pay cash up front, or they were denied care because of the unpaid bills. Patients who postpone medical care often resort to seeking more expensive and less effective care later on, such as in the emergency room.

Many hospitals today are under pressure to absorb the cost of treating the uninsured. For instance, in my state, an additional 40,000 Minnesotans were recently cut from MinnesotaCare to balance the state's budget. Since 1992, MinnesotaCare had offered modest health coverage benefits for the working poor in exchange for affordable premium payments. These cuts place increasing financial pressure on hospitals.

Nevertheless, until the health care system is changed, nonprofit hospitals must do their part not to bankrupt the uninsured. Nonprofit hospitals benefit from generous tax exemptions at the local, state, and federal levels. As a result of these exemptions and their nonprofit status, they owe the community a duty to treat the uninsured in a fair and humane fashion. To do this, hospitals must take several actions.

First, hospitals must end brutal and inhumane debt collection practices. Some nonprofit hospitals hire debt collectors to sue impoverished patients, to garnish their meager bank accounts, hound them with harassing calls, or even to threaten them with arrest. One disabled woman in rural Minnesota was so hounded by a hospital's debt collectors after incurring $75,000 in cancer treatment that she wrote to us that she felt she had no options to satisfy her debt "short of killing myself." We have discovered debt collection lawyers who lie about serving summonses, who sue patients because hospitals bill insurers over a year late and are therefore barred from collecting from the insurers, and at least one female patient who received treatment for a fractured elbow and was billed for two penile implants. These types of debt collection practices are not consistent with a nonprofit mission and subject the hospital to litigation.

Second, hospitals and clinics charge substantially more to uninsured patients than they charge to HMOs, insurance companies, or the government *for the exact same treatment*. Third party payors and the government use their market power to extract steep discounts from the retail, or "sticker" price, of hospital and clinic bills. As hospitals and clinics seek to generate more revenue, they raise their retail price for services, prompting insurers to demand even steeper discounts the next time both sides negotiate. The result is that uninsured patients are billed an artificial retail price that may be 50 percent or more than the cost an insurance company

or the government pays for the same services. In other words, nobody pays the retail price but the hapless uninsured, who are usually poor.

The practice through which hospitals and clinics charge an inflated rate--which nobody else pays--to the uninsured must end. These pricing inequities are inconsistent with a nonprofit mission. They also constitute consumer fraud.

Last Friday, Fairview Health Services ("Fairview"), one of the largest hospital systems in Minnesota, took steps to give discounts of 40 to 100 percent to uninsured Minnesotans with household income of up to 450 percent of the federal poverty level (i.e. a single person with household income of $43,065 or a family of four with household income of $87,075). Persons with those incomes will also have their total liability capped at $5,981 and $12,095, respectively. Fairview also entered into an agreement with our office to improve the manner in which medical debt is collected from patients.

Fairview's leadership is a step in the right direction. One hospital, however, cannot act alone for long, lest it become a dumping ground for the uninsured by other hospitals. All hospitals must reform their retail prices so as not to gouge the uninsured with phony, artificially-high rates that nobody else pays. For those Minnesota hospitals that do not, we intend to examine their charity care and billing practices and, where necessary, file lawsuits to correct them.

Third, hospitals must deliver a fair level of charity care. Many nonprofit hospitals deliver charity care at paltry levels, far less than the need of their patients or their revenue, assets, or fundraising would allow. Hospitals also sometimes try to inflate their supposed charity care through numerous devices. They may label as "charity care" the fact that they treat Medicare and Medicaid patients at the discounted rates the government reimburses for treatment rendered

to those patients. They may label as "charity care" bad debt they write off. Or they may label as "charity care" various "educational" expenses that appear designed less to deliver health care to the patient than to increase the hospital's market share.

Finally, many nonprofit hospitals tout their benevolent good works to donors when they solicit tax-deductible donations. A hospital that does this, while at the same time billing the uninsured a phony retail price, not providing fair levels of charity care, and hounding patients through unfair debt collection practices, engages in the fraudulent solicitation of charitable donations.

I call on Congress to exercise leadership in helping to reform nonprofit hospital billing, collection, and charity care practices. I also call on the IRS to crack down on nonprofit hospitals that do not reform their practices.

IV. NONPROFIT ORGANIZATIONS MUST BE REGULATED TO ACHIEVE ACCOUNTABILITY

Nonprofit organizations should establish internal standards for proper conduct and strive to hold themselves accountable. Self-regulation, however, is no replacement for strong government regulation. Nonprofit directors and executives sometimes suffer from a "halo effect" in which they believe that because their mission is pure, their actions are above reproach. Indeed, during our health care compliance reviews, executives expressed surprise that we would dare to question whether their trips or country club memberships constituted proper stewardship of nonprofit assets, when "everyone else in the industry was doing it too." When the board and executives assume such an attitude, there are no shareholders to question their conduct; there is only the government to fulfill a role it has played for centuries.

Self-regulation alone also is not the answer because boards or trustees often actively participate in the abuses. We found this to be true in our health care compliance reviews. It

happens in other areas as well. We recently discovered that the assets of an elderly woman's charitable trust had been depleted by her trustee, who was also her financial advisor. Through the purchase of annuities and life insurance that named him as the beneficiary, the trustee transferred millions of dollars to himself and his family, creating an estate tax liability that siphoned off the remainder of the trust's funds, leaving no money for the intended charitable beneficiaries.

I would like to offer several additional observations gleaned from our experiences with nonprofit health care organizations, as well as our experiences gained from regulatory oversight of other types of charities.

First, the board of directors of a nonprofit organization is responsible to set the tone and culture for the organization and ensure proper stewardship. Yet, we frequently encounter directors of nonprofits who take a subordinate role to the paid executives of the organization. Nonprofit boards are sometimes composed of good people who are well-meaning but, for one reason or another, may not fill their role in ensuring stewardship by the organization. This may occur because board members are volunteers who are not appropriately engaged in the governance of the organization or are on the board primarily to lend credibility or fundraising prowess. Our office is called upon on a regular basis to reform nonprofits which fail to follow sound governance principles. We would support legislative efforts, such as those contained in the Committee staff paper, to prompt boards to follow prudent, basic governance standards--such as to establish, review and approve basic organizational policies and procedures.

Second, in some cases, nonprofit boards are too heavily comprised of directors who are compensated by the organization. This leads to a "tail wagging the dog" effect, where the board is led by the staff, rather than the other way around. In other cases, the CEO hand-picks

directors who are then awarded lucrative legal, insurance, supplier, or other contracts by the organization. For example, we recently investigated a mental health organization with an important mission of serving certain hard-to-reach communities. Several "interested" board members were also employed by the organization, and they deadlocked with the independent directors on the board. During the ensuing power struggle, the organization's finances became imperiled. Congress should limit the number of board members who may be compensated by the organization and require conflict of interest policies to be adopted.

Third, far too many nonprofit organizations operate in this country for regulators to catch all abuses. Congress should pass legislation to help increase the likelihood that the most glaring abuses will be detected, including steps to ensure that bad actors cannot carry out their wrongdoing through inertia. These reforms should require independent auditing firms to be replaced on a regular basis and require nonprofit organizations to justify their tax exempt status to the IRS on a periodic basis. I also understand that Congress is considering a proposal to target federal dollars to states for their charitable regulatory enforcement efforts. Any efforts by Congress to provide funds to state agencies would be welcome, particularly in an era of strained state resources.

Fourth, the selection criteria for undertaking an investigation may differ widely among regulators. A case that is "too small" for the federal government may be taken by a state regulator because of its local impact. A case that is too spread out for any one state to take a parochial interest in may catch the attention of the federal government. A state may lack the resources to take a particular case. Other cases may simply escape detection by various regulators for unknown reasons. For instance, Minnesota was recently the first state in the country to take action against the National School Fitness Foundation ("NSFF"), a Utah

nonprofit which operated on a national level and had tax-exempt status under section 501(c)(3) of the Internal Revenue Code. NSFF purported to offer free physical education equipment to school districts nationwide. It did this by getting school districts to pay its for-profit affiliate for equipment on the promise that districts would later be repaid by NSFF with charitable donations it received. Instead, NSFF simply operated one of the largest ponzi schemes in history, in which school districts had their "free" equipment paid for by newer districts entering the program. Over 600 cash-strapped school districts entered into these arrangements at a cost of over $77 million. In July 2004, the president of NSFF's affiliated for-profit company pled guilty to federal criminal charges.

Congress should vest more regulators with more authority. The IRS should be permitted to share data with state attorneys general. State attorneys general are hampered in their enforcement efforts because the IRS cannot share data with them. In the case involving the NSFF ponzi scheme, for example, while we were able to provide information to the IRS, federal law prohibited it from sharing information with us. Further, state attorneys general should be allowed in their charities oversight role to enforce federal tax laws. This is an approach that has worked well between the Federal Trade Commission and state attorneys general, where attorneys general are permitted to enforce federal laws such as the Telemarketing Sales Rule and Fair Credit Reporting Act. Similarly, the IRS and tax courts should have the authority that state attorneys general have to seek the removal of board members, officers, or employees who have engaged in improper conduct.

Fifth, executives and directors of nonprofits have no financial skin in the game. They do not place their own money at risk, nor is their own money being spent. We have frequently seen nonprofits spend money--particularly on travel and entertainment expenses--in a manner more

copious than many private corporations. We certainly saw this in our health care compliance reviews. For example, we uncovered dozens of private country club memberships paid for by nonprofit health care organizations. Many for-profit corporations we interviewed noted that such expenses are not deductible under IRS regulations and stated that they would not pay for them in any event. Nonprofit organizations sometimes attempt to rationalize such expenses on the basis that the executives earn less than they would in the private sector. My response is that while this may be the case, those executives are free go work in the private sector. Congress should limit the amount that nonprofits may spend for travel, meals, and accommodations to the rate the U.S. government would pay for those items. There is absolutely no reason that a nonprofit that receives tax breaks from the government needs to spend more than the government for travel and entertainment.

Sixth, particular reforms are also needed in the area of executive compensation. The compensation of executives in some nonprofits, particularly the health care organizations discussed above, is grossly excessive. The IRS intermediate sanction regulations created procedures (i.e. board review, market comparability studies, etc.) designed to ensure a substantively appropriate result. The regulations further provided that, if these procedures were followed, there would be a rebuttable presumption that the compensation was reasonable. The thought was that if the proper procedural steps were followed, the proper result would be reached. This has not occurred. Indeed, the sanctions have had an opposite effect with Minnesota health care organizations. These organizations feel empowered to pay excessive salaries because they believe it will be difficult for regulators to question the substance of the transaction if the required procedural steps were taken. The problem is that it is far too easy to manipulate the procedural steps to obtain the desired result.

At the outset, executives of the health care companies we examined retained the compensation consultant hired to provide the market comparison figures. The consultant is then beholden to the executive who hired him and, wanting to please that executive so as to be retained again in the future, will help justify the executive's salary. Next, the market comparisons relied on to justify health care executives' compensation are those of other overly-paid health care executives. Then, because no board of directors wants to hire a "below average" executive, boards typically pay their executives a compensation package that is "above average" in the market to reflect the board's good judgment in hiring an above-average executive. This leads to a "Lake Wobegon" effect, in which all health care executives are above average. The problem is magnified during succeeding review periods.

For these reasons, I concur with the suggestion in the report by the staff of the Joint Committee on Taxation to repeal of the "rebuttable presumption of reasonableness" under the intermediate sanctions test. Under that standard, a salary is presumed reasonable as long as the right procedural steps are followed. In this way, regulators would become more liberated to question the substance of the transaction for reasonableness, not just the procedures employed. Congress should also embrace the staff suggestion that compensation consultants be retained and supervised by the board so as to ensure a proper level of independence.

Seventh, we regularly advise donors to use the Form 990 as a tool to make informed decisions. Yet, Form 990s often are not particularly useful, especially where they are incomplete, inaccurate, or late. I agree with the recommendations in the Senate Finance Committee staff discussion paper that Form 990s should be signed by the CEO, that penalties be increased for failure to file a Form 990, and that the Form 990 more fully disclose the filing organization's relationships with affiliated tax-exempt and nonexempt organizations. The

nonprofit health care organizations we have examined are enormously complex entities, and it is far too easy for them to masquerade their finances by steering money to other affiliates in the organization, including for-profit affiliates. Greater transparency is needed.

Eighth, Congress should tighten-up the standards for nonprofit credit counseling organizations, particularly in the face of the mandatory credit counseling provisions of the federal bankruptcy bill. I was one of the state attorneys general who filed a lawsuit against AmeriDebt, Inc., together with the Federal Trade Commission. AmeriDebt aggressively marketed Minnesotans, touting its status as a 501(c)(3) to bait vulnerable consumers into credit counseling. Instead of assisting consumers to pay down their debts, AmeriDebt exacerbated their situation, charging large monthly and up-front fees which it then siphoned off to for-profit companies. For example, one rural Minnesota consumer named in our complaint turned to AmeriDebt for help paying her bills in the face of health problems. She believed that AmeriDebt, as a nonprofit, would provide her free services. In fact, AmeriDebt took a $200 origination fee and $25 from each monthly payment that she thought would go to creditors. Because the creditors were not paid, they started assessing the consumer late charges. This woman, along with thousands of others, was in a far-worse financial position after turning to AmeriDebt for help.

IV. CONCLUSION

A solemn trust with the public is created when an organization receives tax-exempt status. That trust includes a duty to make provident use of the organization's assets to further the mission of the organization and better the community. When one organization engages in the types of abuses described above, confidence in the entire sector is degraded. Congress should

take decisive action to promote the more effective regulation of charitable organizations at both the state and federal levels.

I thank you for the opportunity to appear before you today.

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