

# **Press Release: NCLC and NACBA Laud CFPB for Stopping Illegal Practices by Student Loan Servicers and U.S. Dept. of Education Debt Collectors**

**FOR IMMEDIATE RELEASE:** March 8, 2016

**Contacts: National Consumer Law Center:** Jan Kruse [jkruse@nclc.org](mailto:jkruse@nclc.org); 617.542.8010

**NACBA:** Maureen Thompson [mthompson@hastingsgroup.com](mailto:mthompson@hastingsgroup.com); 703-276-3251

## **National Consumer Law Center and NACBA Laud CFPB for Stopping Illegal Practices by Student Loan Servicers and U.S. Dept. of Education Debt Collectors**

**(BOSTON)** Advocates at the National Consumer Law Center (NCLC) and the National Association of Consumer Bankruptcy Attorneys (NACBA) applauded the Consumer Financial Protection Bureau (CFPB) for taking action against debt collectors and servicers who took advantage of student loan borrowers by making illegal garnishment threats and using illegal automatic default provisions in loan contracts.

First, CFPB examiners found that one or more debt collectors threatened wage garnishment against federal student loan borrowers who were not eligible for garnishment. NCLC documented abuses by private collection agencies that the Department of Education hires to collect federal student loans in its 2014 report, *Pounding Student Loan Borrowers: The Heavy Costs Of The Government's Partnership With Debt Collection Agencies*. "Unfortunately, we found that the contract between the Department of Education and its private collection agencies prioritizes profit over borrower rights," says report co-author and National Consumer Law Center's Student Loan Borrower Assistance Project Director Persis Yu.

In February 2015, the Department of Education terminated the contracts of five private collection agencies after finding abuses. It had promised it would provide enhanced monitoring and guidance for all private collection agencies that work with the Department to ensure that companies are consistently providing borrowers with accurate information regarding their loans. "This finding by the CFPB shows that more needs to be done," says Yu.

Second, CFPB examiners found that one or more servicers of private student loans were unfairly invoking "auto-default" clauses to treat both the borrower and the co-signer in default if either of them died or filed bankruptcy. As the CFPB highlighted last year, some private student loan promissory notes contain "auto default" clauses that lenders trigger to demand immediate payment on the entire loan balance if a co-borrower files for bankruptcy or dies. Auto-default clauses allow the servicer to demand payment of the entire loan balance even if all payments on the loan are up to date.

"We are pleased that the CFPB is closing the door on this trap for student loan borrowers," says John Rao, staff attorney at the National Consumer Law Center. "Far too many student borrowers have already been harmed by this abusive practice. It makes no sense to call a loan into default and penalize student borrowers who are current with payments, simply because a parent or other

cosigner has died or filed bankruptcy.”

NACBA President Ed Boltz said: “This positive step by CFPB puts an end to an outrageous guilty-until-proven-innocent situation where individuals faithfully paying off student loans are thrown into default because of the status of their co-signer. The fact that a co-signer on a student loan has filed for bankruptcy to deal with other debts is in no way a basis for putting into default a student loan that is being paid on time. It is time that the federal government stands up for student loan borrowers who are doing everything right but nonetheless could see their credit ruined as the result of an unrelated action of a co-signer.”

###

Since 1969, the nonprofit **National Consumer Law Center®** (NCLC®) has worked for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. NCLC’s **Student Loan Borrower Assistance Project** provides information about student loan rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens, and make loan repayment more manageable. [www.nclc.org](http://www.nclc.org) and [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org)

The **National Association of Consumer Bankruptcy Attorneys** is the only national organization dedicated to serving the needs of consumer bankruptcy attorneys and protecting the rights of consumer debtors in bankruptcy. Formed in 1992, NACBA now has more than 2,500 members located in all 50 states and Puerto Rico. [www.nacba.org](http://www.nacba.org)