

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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August 27, 2015

Mr. Michael Borkowski
Chief Executive Officer
Access Funding
6900 Wisconsin Ave #700
Chevy Chase, MD 20815

Dear Mr. Borkowski:

I am investigating the structured settlement purchase industry to examine how companies purchase payment streams from settlement recipients for a lump-sum payment upfront, as well as the adequacy of existing legal protections for settlement recipients.

A front-page article in the August 26, 2015, *Washington Post* discusses transactions between your firm and Baltimore City residents who received settlements from lead-paint litigation in the form of future payment streams.¹ The article profiled a transaction your firm entered into with a 20-year-old woman who had severe exposure to lead paint. The article reports that the woman assigned the monthly settlement checks she received from lead-paint litigation—with a net present value of roughly \$338,000—to your firm for a lump sum payment of \$62,637. The article also indicates that your firm purchased \$146,000 worth of the lead-paint structured settlement awarded to Freddie Gray for “around \$18,300.”

The article explains that your firm has filed nearly 200 settlement purchase agreements in Maryland courts. The article states that these agreements are “primarily funnel[ed] through one judge’s courtroom” in Prince George’s County, a location that would be difficult for Baltimore City residents who rely on public transportation to access. The article also explains that, while the law requires payment stream recipients to receive independent financial counseling, the counseling provided to the individuals whose payment streams you purchased often appeared to be cursory, and was usually conducted by advisers working “deal after deal” for the Access Funding. This assertion raises troubling questions about informed consent, particularly when considering the effect of lead exposure on cognitive function.

The article states that you have urged that additional oversight be exercised over the structured settlement purchase industry. You are also quoted as saying there are “fundamental

¹ *How Companies Make Millions Off Lead-Poisoned, Poor Blacks*, *Washington Post* (Aug. 26, 2015).

things we are going to be doing differently now” so as to “secure ourselves in the future from any potential questions like this again.”

Accordingly, I am writing to request a meeting with you next week to discuss the following issues:

- (a) the process by which your firm identifies and solicits structured settlement recipients;
- (b) the process by which your firm enters into structured settlements with payment stream recipients;
- (c) the process by which your firm determines the lump sum payments to offer structured settlement recipients;
- (d) the independent counseling received by structured settlement recipients before they finalize the sale of their payment stream to your firm, including how payment recipients identify counselors;
- (e) the process by which your firm determines the forum in which it will file petitions; and
- (f) the legal protections provided to structured settlement recipients.

I also request that you provide the following information at our meeting:

- (g) the number of transactions your firm has entered into with structured settlement recipients in Maryland, by county of residence;
- (h) the aggregate value and net present value of each structured settlement your firm has purchased from a resident of Maryland and the purchase price your firm paid for each structured settlement, by county of residence;
- (i) the total payments made from your firm to the Maryland residents whose structured settlements your firm has purchased, by county of residence; and
- (j) the total earnings your firm expects to generate from each structured settlement it has purchased from a resident of Maryland, by county of residence; and
- (k) the same information requested in questions (g) through (j) for any structured settlement your firm has purchased in any state other than Maryland.

Mr. Michael Borkowski
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Please contact Lucinda Lessley at (202) 225-5051 to set up a meeting or if you have any questions regarding this request. Thank you for your cooperation with this matter.

Sincerely,



Elijah E. Cummings
Ranking Member

cc: Congressman Jason Chaffetz, Chairman, Committee on Oversight and Government Reform