

**PREPARED STATEMENT OF  
THE FEDERAL TRADE COMMISSION**

**on**

**THE DEBT SETTLEMENT INDUSTRY: THE CONSUMER'S EXPERIENCE**

**Before the**

**SENATE COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION**

Presented by Julie Brill, Commissioner

**Washington, D.C.**

**April 22, 2010**

## **I. Introduction**

Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee, I am Julie Brill, a Commissioner of the Federal Trade Commission (“FTC” or “Commission”).<sup>1</sup> I appreciate the opportunity to appear before you today, and the Commission thanks this

---

<sup>1</sup> The views expressed in this statement represent the views of the Commission. My oral presentation and responses to any questions you may have are my own, however, and do not necessarily reflect the views of the Commission or any other Commissioner.

has brought 20 lawsuits in the last seven years against sham nonprofit credit counseling firms, debt settlement services, and debt negotiators, including six in the past year alone.<sup>2</sup> These cases have helped over 475,000 consumers who have been harmed by deceptive and abusive practices.<sup>3</sup> The Commission continues to actively investigate debt relief companies and will continue aggressive enforcement in this arena. As the Commission’s law enforcement experience has shown, victims of these schemes often end up *more* in debt than when they began. Especially in these difficult economic times, when so many consumers are struggling to keep their heads above water, this is unacceptable.

Below, this testimony provides an overview of the three common types of debt relief services, as well as the Commission’s law enforcement efforts with respect to each. The testimony then describes the Commission’s proposal to amend its Telemarketing Sales Rule (“TSR”)<sup>4</sup> to strengthen the agency’s ability to stop deception and abuse in the provision of debt relief services. Finally, the testimony addresses the FTC’s ongoing efforts to educate consumers about debt relief options and how to avoid scams.<sup>5</sup>

---

<sup>2</sup> A list of the Commission’s law enforcement actions against debt relief companies is attached as Appendix A.

<sup>3</sup> In addition to consumers who lost money from fraudulent debt relief companies, hundreds of thousands, if not millions, of consumers have been harassed by automated robocalls pitching services in violation of the Do Not Call provisions of the Telemarketing Sales Rule. The Commission has charged companies engaging in these robocalls with violations of the rule. *See, e.g., FTC v. Economic Relief Techs., LLC*, No. 09-CV-3347 (N.D. Ga., preliminary injunction issued Dec. 17, 2009); *FTC v. 2145183 Ontario, Inc.*, No. 09-CV-7423 (N.D. Ill., preliminary injunction issued Dec. 17, 2009); *FTC v. JPM Accelerated Servs. Inc.*, No. 09-CV-2021 (M.D. Fla., preliminary injunction issued Dec. 31, 2009).

<sup>4</sup> 16 C.F.R. § 310.1 et seq.

<sup>5</sup> With respect to its research and policy development in this area, in September 2008, the Commission held a public workshop entitled “Consumer Protection and the Debt Settlement Industry,” which brought together stakeholders to discuss consumer protection concerns associated with debt settlement services. Workshop participants also debated the merits of possible solutions to those

## II. The Commission's Authority

The Commission enforces Section 5 of the FTC Act, which prohibits unfair or deceptive acts or practices in or affecting commerce,<sup>6</sup> as well as the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”),<sup>7</sup> and the associated TSR that prohibit certain deceptive and abusive telemarketing practices.<sup>8</sup> The Commission has used this authority to challenge debt relief providers within its jurisdiction<sup>9</sup> who have engaged in deceptive or abusive practices. In addition, the Commission works to protect consumers from a wide range of other unfair, deceptive, and abusive practices in the marketplace, such as credit-related and government grant scams, mortgage loan modification scams, deceptive marketing of health care products, deceptive negative option marketing, and business opportunity and work-at-home schemes.<sup>10</sup> The FTC works closely with many state attorneys general and state banking

---

concerns. An agenda and transcript of the Workshop are available at [www.ftc.gov/bcp/workshops/debtsettlement/index.shtm](http://www.ftc.gov/bcp/workshops/debtsettlement/index.shtm). Public comments associated with the Workshop are available at [www.ftc.gov/os/comments/debtsettlementworkshop/index.shtm](http://www.ftc.gov/os/comments/debtsettlementworkshop/index.shtm).

<sup>6</sup> 15 U.S.C. § 45.

<sup>7</sup> 15 U.S.C. §§ 6101-6108. Pursuant to the Telemarketing Act’s directive, the Commission promulgated the original TSR in 1995 and subsequently amended it in 2003 and in 2008.

<sup>8</sup> The Commission also has law enforcement authority and, in some cases, regulatory powers under a number of other consumer protection statutes specifically related to financial services, including the Truth in Lending Act, 15 U.S.C. §§ 1601-1666j; the Consumer Leasing Act, 15 U.S.C. §§ 1667-1667f; the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692o; the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x; the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f; the Credit Repair Organizations Act, 15 U.S.C. §§ 1679-1679j; the Electronic Funds Transfer Act, 15 U.S.C. §§ 1693-1693r; the privacy provisions of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809; and the Omnibus Appropriations Act of 2009, Pub. L. No. 111-8, § 626, 123 Stat. 524 (Mar. 11, 2009).

<sup>9</sup> The FTC Act exempts banks and other depository institutions and bona fide nonprofits, among others, from the Commission’s jurisdiction. 15 U.S.C. §§ 44 and 45(a)(2). These exemptions apply to the Telemarketing Act and the TSR as well.

<sup>10</sup> Since the beginning of 2009, the FTC has brought 40 cases against defendants engaged in deceptive practices targeting financially-distressed consumers.

departments to leverage resources in consumer protection.

### **III. Overview of Debt Relief Services and FTC Law Enforcement Efforts**

Debt relief services have proliferated over the past few years as greater numbers of consumers are struggling with debts they cannot pay. A range of nonprofit and for-profit entities – including credit counselors, debt settlement companies, and debt negotiation companies – offer to help consumers facing debt problems. As detailed below, consumers have complained of deceptive and abusive practices in all of these services, resulting in the FTC and state enforcement and regulatory bodies bringing numerous cases.<sup>11</sup>

#### **A. Credit Counseling Agencies**

Credit counseling agencies (“CCAs”) historically were nonprofit organizations that worked as liaisons between consumers and creditors to negotiate “debt management plans” (“DMPs”). DMPs are monthly payment plans for the repayment of credit card and other unsecured debt that enable consumers to repay the full amount owed to their creditors but under renegotiated terms that make repayment less onerous.<sup>12</sup> Credit counselors typically also provide educational counseling to assist consumers in developing a manageable budget and avoiding

---

<sup>11</sup> The Commission has addressed similar problems with respect to companies offering to resolve consumers’ mortgage debts. The Commission has engaged in an aggressive, coordinated enforcement initiative to shut down companies falsely claiming the ability to obtain mortgage loan modifications or other relief for consumers facing foreclosure. In the past year, the FTC has brought 17 cases (against more than 90 defendants) targeting foreclosure rescue and mortgage modification frauds, with other matters under active investigation. In addition, state enforcement agencies have brought more than 200 cases against such firms. Further, as directed by Congress under the Omnibus Appropriations Act of 2009, Pub. L. No. 111-8, the Commission has initiated a rulemaking proceeding addressing the for-profit companies in this industry. Under the proposed rule, companies could not receive payment until they have obtained for the consumer a documented offer from a mortgage lender or servicer that comports with any promises previously made. *Mortgage Assistance Relief Services*, 75 Fed. Reg. 10707 (Mar. 9, 2010).

<sup>12</sup> To be eligible for a DMP, a consumer generally must have sufficient income to repay the full amount of his or her debts, provided that the terms are adjusted to make such repayment possible.

debt problems in the future. Beginning in the late 1990s, however, some CCAs registered as nonprofit organizations with the Internal Revenue Service, but in reality operated as for-profit companies and engaged in aggressive and illegal marketing practices. Other CCAs incorporated and openly operated as for-profit companies.

Since 2003, the Commission has filed six cases against for-profit credit counseling providers for deceptive and abusive practices.<sup>13</sup> In one of these cases, the FTC sued AmeriDebt, Inc., at the time one of the largest CCAs in the United States.<sup>14</sup> On the eve of trial, the FTC obtained a \$35 million settlement, and thus far has distributed \$12.7 million in redress to 287,000 consumers.<sup>15</sup> In the various cases, the FTC charged that the credit counseling agencies engaged in several common patterns of deceptive conduct in violation of Section 5 of the FTC Act and the TSR, including:

- misrepresentations about the benefits and likelihood of success consumers could expect from the services, including the savings they would realize;<sup>16</sup>
- misrepresentations regarding CCA fees, including false claims that they did not

---

<sup>13</sup> See Appendix A (items 10, 12, 13, 16, 18, and 20).

<sup>14</sup> *FTC v. AmeriDebt, Inc.*, No. PJM 03-3317 (D. Md., final order May 17, 2006).

<sup>15</sup> See FTC Press Release, *FTC's AmeriDebt Lawsuit Resolved: Almost \$13 Million Returned to 287,000 Consumers Harmed by Debt Management Scam* (Sept. 10, 2008), [www.ftc.gov/opa/2008/09/ameridebt.shtm](http://www.ftc.gov/opa/2008/09/ameridebt.shtm). A court-appointed receiver is continuing to track down the defendant's assets, and the FTC expects to make another distribution this year.

<sup>16</sup> See *United States v. Credit Found. of Am.*, No. CV 06-3654 ABC(VBKx) (C.D. Cal., final order June 16, 2006); *FTC v. Integrated Credit Solutions, Inc.*, No. 06-806-SCB-TGW (M.D. Fla., final order Oct. 16, 2006); *FTC v. Debt Mgmt. Found. Servs., Inc.*, No. 04-1674-T-17-MSS (M.D. Fla., final order Mar. 30, 2005).

---

<sup>17</sup> See *FTC v. Express Consolidation*, No. 06-cv-61851-WJZ (S.D. Fla., final order May 5, 2008); *FTC v. AmeriDebt, Inc.*, No. PJM 03-3317 (D. Md. 2006).

<sup>18</sup> See *FTC v. Integrated Credit Solutions, Inc.*, No. 06-806-SCB-TGW (M.D. Fla. 2006); *FTC v. Express Consolidation*, No. 06-cv-61851-WJZ (S.D. Fla. 2008); *United States v. Credit Found. of Am.*, No. CV 06-3654 ABC(VBKx) (C.D. Cal. 2006); *FTC v. Debt Mgmt. Found. Servs., Inc.*, No. 04-1674-T-17-MSS (M.D. Fla. 2005); *FTC v. AmeriDebt, Inc.*, No. PJM 03-3317 (D. Md. 2006). Although

---

nonprofit credit counseling agencies must comply with state laws in 49 states, most of which specify particular fee limits.

<sup>21</sup> See, e.g., *FTC v. Debt-Set, Inc.*, No. 1:07-cv-00558-RPM (D. Colo., final order Apr. 11, 2008); *FTC v. Edge Solutions, Inc.*,



---

- the consumer will be able to obtain a refund if the provider is unsuccessful.

---

<sup>27</sup> See, e.g., *FTC v. Innovative Sys. Tech., Inc.*, No. CV04-0728 GAF JTLx (C.D. Cal. 2005).

<sup>28</sup> See, e.g., *FTC v. Connelly*, No. SA CV 06-701 DOC (RNBx) (C.D. Cal. 2008); *FTC v. Jubilee Fin. Servs., Inc.*, No. 02-6468 ABC (Ex) (C.D. Cal. 2004).

<sup>29</sup> See, e.g., *Minnesota v. American Debt Settlement Solutions, Inc.*, No. 70-CV-10-4478 (Minn., 4<sup>th</sup> Dist., filed Feb. 18, 2010); *Illinois v. Clear Your Debt, LLC*, No. 2010-CH-00167 (Ill. 7<sup>th</sup> Cir., filed Feb. 10, 2010); Colorado Attorney General Press Release, *Eleven Companies Settle with the State Under New Debt-Management and Credit Counseling Regulations* (Mar. 12, 2009), available at [www.ago.state.co.us/press\\_detail.cfm?pressID=957.html](http://www.ago.state.co.us/press_detail.cfm?pressID=957); *Texas v. CSA-Credit Solutions of Am., Inc.*, No. 09-000417 (Dist. Travis Cty, filed Mar. 26, 2009); *Florida v. Boyd*, No. 2008-CA-002909 (Cir. Ct. 4<sup>th</sup> Cir. Duval Cty, filed Mar. 5, 2008).

<sup>30</sup> See *FTC v. Economic Relief Techs., LLC*, No. 09-CV-3347 (N.D. Ga. 2009); *FTC v. 2145183 Ontario, Inc.*, No. 09-CV-7423 (N.D. Ill. 2009); *FTC v. JPM Accelerated Servs. Inc.*, No. 09-CV-2021 (M.D. Fla. 2009); *FTC v. Group One Networks, Inc.*, No. 8:09-cv-352-T-26-MAP (M.D. Fla.

some cases, the telemarketers of debt negotiation services refer to themselves as “card services” or a “customer service department” during calls with consumers in order to mislead them into

---

2009); *FTC v. Select Pers. Mgmt.*, No. 07- 0529 (N.D. Ill., final order May 15, 2009); *FTC v. Debt Solutions, Inc.*, No. 06-0298 JLR (W.D. Wash., final order June 18, 2007).

<sup>31</sup> See cases cited *supra*, note 30.

<sup>32</sup> See Appendix A (items 2, 3, 4, 5, 6, and 14).

<sup>33</sup> See *FTC v. Economic Relief Techs., LLC*, No. 09-cv-3347 (N.D. Ga. 2009); *FTC v. 2145183 Ontario, Inc.*, No. 09-cv-7423 (N.D. Ill. 2009); *FTC v. Group One Networks, Inc.*, No. 8:09-cv-352-T-26- MAP (M.D. Fla. 2009); *FTC v. Select Pers. Mgmt.*, No. 07- 0529 (N.D. Ill. 2009); *FTC v. Debt Solutions, Inc.*, No. 06-0298 JLR (W.D. Wash. 2007).

<sup>34</sup> See *FTC v. Economic Relief Techs., LLC*, No. 09-CV-3347 (N.D. Ga. 2009); *FTC v. 2145183 Ontario, Inc.*, No. 09-CV-7423 (N.D. Ill. 2009); *FTC v. JPM Accelerated Services Inc.*, No. 09-CV-2021 (M.D. Fla. 2009).

<sup>35</sup> *TSR Proposed Rule*, 74 Fed. Reg. 41988 (Aug. 19, 2009).



---

<sup>40</sup> The letters are posted at [www.ftc.gov/os/comments/tsrdebtrelief/index.shtm](http://www.ftc.gov/os/comments/tsrdebtrelief/index.shtm).

<sup>41</sup> The brochure is available at [www.ftc.gov/bcp/edu/pubs/consumer/credit/cre02.shtm](http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre02.shtm).

<sup>42</sup> *Fiscal Fitness: Choosing a Credit Counselor* (2005), available at [www.ftc.gov/bcp/edu/pubs/consumer/credit/cre26.shtm](http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre26.shtm);

including the release of a suite of mortgage-related resources for homeowners.<sup>44</sup> Moreover, the agency has focused outreach efforts on a number of other issues faced by people in economic distress, including stimulus scams, rental scams, church “opportunity” scams, offers for bogus auto warranties, and solicitations for phony charities that exploit the public’s concern for the welfare of our troops and public safety personnel in a time of crisis.

The Commission encourages wide circulation of all of its educational resources and makes bulk orders available free of charge, including shipping. We provide FTC materials to state attorneys general and other local law enforcement entities, consumer groups, and nonprofit organizations, who in turn distribute them directly to consumers. In addition, media outlets – online, print, and broadcast – routinely cite our materials and point to our guidance when covering debt-related news stories.

## **VI. Conclusion**

The FTC appreciates the opportunity to describe to this Committee its work to protect vulnerable consumers from deceptive and abusive conduct in the marketing of debt relief services. Stopping the purveyors of empty promises who prey on consumers facing financial hardship is among the FTC’s highest priorities, and we will continue our aggressive law enforcement and educational programs in this area.

---

<sup>44</sup> NeighborWorks America, the Homeowners Preservation Foundation (a nonprofit member of the HOPE NOW Alliance of mortgage industry members and U.S. Department of Housing and Urban Development-certified counseling agencies), and other groups are distributing FTC materials directly to homeowners at borrower events across the country, on their websites, in their statements, and even on the phone. The nation’s major mortgage servicers now provide to consumers, while they are on hold, information derived from FTC materials about the tell-tale signs of a mortgage foreclosure scam.

**APPENDIX A**

**FTC Law Enforcement Actions Against Debt Relief Companies**

1.

15. *FTC v. Jubilee Fin. Servs., Inc.*, No. 02-6468 ABC(Ex) (C.D. Cal., final order Dec. 12, 2004) (debt settlement)
16. *FTC v. Nat'l Consumer Council, Inc.*, No. ACV04-0474CJC (JWJX) (C.D. Cal., final order Apr. 1, 2005) (credit counseling and debt settlement)
17. *FTC v. Better Budget Fin. Servs., Inc.*, No. 04-12326 (WG4) (D. Mass., final order Mar. 28, 2005) (debt settlement)
18. *FTC v. Debt Mgmt. Found. Servs., Inc.*, No. 8:04-CV-1674-T-17MSS (M.D. Fla., final order Mar. 30, 2005) (credit counseling)
19. *FTC v. Innovative Sys. Tech., Inc.*, No. CV04-0728 (C.D. Cal., final order July 13, 2005) (debt settlement)
20. *FTC v. AmeriDebt, Inc.*, No. PJM 03-3317 (D. Md., final order May 17, 2006) (credit counseling)