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September xx, 2009

Federal Trade Commission
Office of the Secretary, Room H-135
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: 16 CFR Part 310 Telemarketing Sales Rule- Debt Relief Amendments

Dear Federal Trade Commission:

Southeastern Ohio Legal Services hereby submits the following comments in response to the request by the Federal Trade Commission for public comment on proposed amendments to the Telemarketing Sales Rule, which prohibit specific unfair acts or practices of debt relief agencies, as published in the Federal Register (August 19, 2009 at Vol. 74, No. 159, pages 41988 – 42024).

We fully support the proposed regulations to increase disclosures made by debt relief agencies, and the prohibition of upfront fees. However, in order to fully combat the predatory and deceptive nature of many debt relief companies, additional regulations are required to protect consumers.

Southeastern Ohio Legal Services (SEOLS) provides free legal assistance to thirty counties in Southeastern Ohio. Our service area, roughly a third of the state, is largely rural and is historically the poorest area in the state. We see many low income clients who are struggling with consumer debt, and have contacted debt relief agencies to help reduce that debt. Many of these clients have paid thousands of dollars to debt relief agencies without seeing any significant benefit. Often they are more in debt with their original creditors at the end of the debt relief program than before they contracted with a debt relief agency. Substantive regulation of debt relief agencies is essential, because consumers need to be fully informed about the products and services they use in order to make educated decisions affecting their financial well-being.

The amount of consumer credit card debt in America has risen sharply in the last several decades. A recent study by the Center for Responsible Lending found that middle to low income American families each have an average of \$8,650 worth of credit card

debt.¹ As a result, many Americans are responding to advertisements from companies claiming that they can help reduce and manage consumer debt. There are many different kinds of debt relief programs available to consumers, but most require large fees paid to the company upfront, money that the consumer could have been using to directly pay their creditors.

Our clients have had many experiences with unfair and deceptive debt relief agency programs. One client recently came to our office because she was being sued to collect on a credit card debt. She had contracted with a debt relief agency two years ago to help her pay off this same credit card debt. She had paid several thousand dollars to the company, some in fees and some to be put aside to pay on her debt. The debt relief agency never negotiated with the credit card company as to payments or fees. Since the credit card company had not been receiving payments from our client, and our client had been instructed by the debt relief agency to cease contact with the credit card company, they sued her for the full amount of the debt. The debt relief agency is currently in bankruptcy, and it is unlikely that our client will be reimbursed any of the money that she paid to the agency.

Another client contracted with a debt relief agency to have his credit card payments automatically withdrawn from his bank account and paid to the credit card company. After three months, the client realized that the debt relief agency was not paying the credit card companies as promised. He canceled the debt relief program, but by this time was months behind on his credit card bills and had incurred numerous additional fees and interest rate increases.

The Federal Trade Commission has addressed some of these deceptive acts and practices with its new proposed rules. However, additional regulations would provide even more help to even the playing field between consumers and debt relief agencies.

Fee Restrictions

The proposed rules are a good start to imposing limits on up-front fees charged by debt relief agencies. Currently, many consumers pay the entire cost of the debt relief program up front, and never see any benefit from the program. In addition to limiting up front fees, the amount of such fees should be restricted. While some states have enacted laws which address the amount and type of fees that can be charged, enforcement is sporadic and the amount of fees that can be charged varies widely between states. Many debt relief agencies charge an enrollment fee plus a monthly fee or a percentage of the total amount of debt for their services. The amount of these fees should be restricted, and ideally, the consumer should not have to pay a monthly fee until the debt relief agency can show an agreement or settlement with the creditor.

¹ *The Plastic Safety Net: The Reality Behind Debt in America*, Demos, and the Center for Responsible Lending, at <http://www.responsiblelending.org/pdfs/DEMOS-101205.pdf> (October 2005).

Disclosures

Consumers need clear and concise disclosures from the debt relief agencies. The proposed rules offer up many helpful disclosures that telemarketers need to advise potential clients of over the phone. However, disclosures need to be made during other parts of the debt relief process as well.

Many consumers contact debt relief agencies after they have seen a commercial or printed advertisement for their services. These advertisements should be required to have specific disclosures in them. Such disclosures should include the approximate total cost of the program, the average time needed to achieve results, and a disclosure that collection efforts by the creditor may continue even after the consumer as signed up for the debt relief agency's services.

Additionally, consumers should be given a copy of a written contract for services. If the transaction is conducted by telephone, the consumers should receive a written contract by mail. The written contract should fully disclose all services to be provided, and any fees to be charged for services. The written contract should also include all of the same disclosures proposed by the Federal Trade Commission in amending the Telemarketing Sales Rule.

All potential fees and interest rates that could apply to debt relief plan should be disclosed in an easy to read chart. If consumers are able to see all potential fees laid out in one location, instead of individually buried in fine print contracts, this would promote real understanding of the services provided by the debt relief agencies.

Non-Profits

Currently the proposed restrictions on debt relief agencies do not include non-profit companies. The majority of debt relief agencies operate as non-profits, which would shield them from complying with any of the proposed regulations. The proposed regulations should be changed to include all companies who engage in debt relief activities as defined by the Federal Trade Commission, regardless of their tax status.

Conclusion

SEOLS supports all of the proposed rules regulating debt relief agency practices. Many consumers are being taken advantage of by the predatory practices of debt relief companies, who are currently allowed to charge arbitrary fees and fail to disclose many of the consequences of contracting with a debt relief agency. We would favor even more stringent regulation of the debt management industry to make sure that consumers are well informed and treated fairly by these companies.

Respectfully submitted,

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Southeastern Ohio Legal Services