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October 26, 2009

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

Re: Telemarketing Sales Rule—Debt Relief Amendments—R411001

I have been teaching consumer law at Washington University in St. Louis for more than 35 years, and I served as Reporter for the Uniform Law Commission's Uniform Debt Management Services Act. I am writing as an individual and provide this information solely for identification purposes. I am not speaking for Washington University or the Uniform Law Commission ULC).

In my work on the Uniform Act, I became well aware of the many abuses commonly found in connection with credit counseling and debt settlement. Many of the abuses are common to both kinds of services; others are common in one or the other. The drafting committee for the Uniform Act concluded that it is desirable for a comprehensive statute to encompass both forms of debt relief services, with distinct provisions focusing on one or the other as appropriate. The proposed revision of the Telemarketing Sales Rule (TSR) similarly applies to both forms of services (along with debt negotiation services), and I applaud that decision.

I also agree that the Rule should prohibit deceptive representations and abusive practices. In particular, I think the Commission has got it exactly right when it proposes to ban the collection of fees before services are rendered. This is especially necessary with respect to providers of debt settlement services. The Uniform Act approaches this area by permitting a modest up-front fee and additional modest fees while the consumer is accumulating the funds necessary for settlements, but the bulk of a debt settlement company's compensation comes at the time of each settlement. The Act adopts this approach in an effort to respond to the companies' asserted need for cash flow during the course of providing their services. But this has not satisfied most debt settlement companies. When the Uniform

Act has been introduced in state legislatures, debt settlement companies have urged that the legislation permit all the fees to be collected at the front end of the relationship with a consumer, and in a total amount larger than permitted by the Uniform Act. In effect, they seek authorization to collect a fee before any beneficial service is provided and retain that fee even if the consumer, for whatever reason, never realizes any tangible benefit. Unfortunately, they have sometimes been successful in having the legislation modified to accommodate their desire. In my opinion, this is an extremely undesirable outcome. Thus the ban in § 310.4(a)(5) on requesting or receiving compensation before providing the consumer with a settlement agreement is perhaps the most valuable proposal in the TSR. On this point more than any other, I commend you. Whatever changes you might make in the disclosure and prohibition provisions of the Rule, I urge you to include this ban on fees-before-services in the final Rule.

If it is within the permissible scope of the TSR, a matter I have not explored, I encourage you to extend the Rule to transactions that are formed entirely on the Internet. The information, deception, and abuses addressed in the Rule are as relevant when a transaction is formed on the Internet as when a transaction is formed with the use of a telephone. The same disclosures, bans on deception, and prohibitions of abusive practices should apply in Internet transactions.

Thank you for the opportunity to comment on the proposed amendments to the Telemarketing Sales Rule.

Sincerely yours,

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