

**California Common Ground Conference
September 19, 2012**

Remarks by Commissioner Julie Brill

Thank you, Attorney General Harris, for that kind introduction. I am delighted to be here today as we focus on our common mission of protecting consumers. As General Harris mentioned, my background—and my heart—are rooted in my many years working on consumer protection and competition issues at the state level. I have been proud to work closely with many of my friends from California for more years than I care to count.

And now, under General Harris California's strong tradition of leadership on consumer protection and competition matters has grown. General Harris was instrumental in obtaining the national mortgage settlement that will return millions of dollars to homeowners, and help many families avoid foreclosure.¹ General Harris negotiated cutting-edge, global agreements with mobile app platforms providers to improve privacy protections for consumers.² Just last week, the Wall Street Journal profiled General Harris' efforts to keep health care costs in check through her examinations of hospital and physician group consolidation.³

And it is great to see a good cross-section of the broad community of consumer advocates here today: federal and state law enforcement; state regulatory agencies; legal services providers; and community groups.

You are on-the-ground, in the trenches, on the front line— pick your favorite metaphor—the advocates who make real differences in consumers' lives. Before I began my term as a Commissioner, I was in the trenches too: bringing and supervising cases, trying to resolve disputes between consumers and business, taking the random phone call from a consumer in need, or the entrepreneur trying to do the right thing. So I know how hard you all work and the challenges you face. And I deeply appreciate everything that you do on behalf of consumers every single day. Thank you.

What I'd like to do this morning is to talk about a few hot topics—"last dollar" frauds, debt collection, and our newest partner in law enforcement—the Consumer Financial Protection Bureau. And then I'll be happy to take your questions.

¹ *National Mortgage Settlement*, STATE OF CALIFORNIA DEPARTMENT OF JUSTICE: OFFICE OF THE ATTORNEY GENERAL, <http://oag.ca.gov/nationalmortgagesettlement> (last visited Sep. 16, 2012).

² *See press release*, State of California Department of Justice: Office of the Attorney General, Attorney General Kamala D. Harris Secures Global Agreement to Strengthen Privacy Protections for Users of Mobile Applications (Feb. 22, 2012), available at <http://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-secures-global-agreement-strengthen-privacy>.

³ Anna Wilde Mathews, *Doctor, Hospital Deals Probed*, WALL STREET JOURNAL (Sep. 13, 2012, 7:33 PM), <http://online.wsj.com/article/SB1000087239639044433504577649523985288422.html>.

Four years ago, this Nation suffered an economic downturn more severe than we had seen in generations. All of us in this room have focused on protecting those who have suffered, to assist them in climbing out of the abyss. We knew that there would be those who would take advantage of consumers suffering from the economic downturn, promising to alleviate their pain, but in reality taking their money without providing relief, and throwing them deeper into debt. So we at the Federal Trade Commission, along with our enforcement partners at the state and local levels, have worked hard to stop those who would magically relieve consumers of the burdens of their underwater mortgages or their overpowering debt, those who would offer to provide consumers jobs for which they have no training, or that they can do from the “comfort of their home;” those who falsely promise health insurance to consumers who lost their coverage along with their jobs—these are the scam artists who take the last dollar from consumers already in financial difficulty, and don’t think twice about it.

Our collective efforts have forced them to think twice.

Here in California, you know only too well how consumers whose homes are threatened with foreclosure, or who are drowning in debt, will latch onto promises of help. The Commission and our state partners have filed hundreds of cases against companies falsely promising to help consumers who were facing the loss of their home to foreclosure, or promising consumers relief from their credit card debt, charging large up front fees and then failing to deliver on their promises, leaving consumers in a larger hole than when they began.⁴

Two years ago we passed rules prohibiting those who offer foreclosure or debt relief from collecting fees until after they deliver on their promises.⁵ Since then, we have continued filing actions to stop these pernicious scams.⁶

Our “last dollar” efforts also have targeted phony employment opportunities. Like consumers overwhelmed with debt, consumers who are desperately seeking work can easily fall prey to scammers; those who offer false hope of a job or business opportunity. Over the past two and a half years, we joined other law enforcement agencies in “sweeping out” companies preying on the unemployed. Twenty-eight states joined the Federal Trade Commission, the US

⁴ Telemarketing Sales Rule, Statement of Basis and Purpose, 16 C.F.R. Pt. 310 (2010); Mortgage Assistance and Relief Services Rule, Statement of Basis and Purpose, 16 C.F.R. Pt. 322 (2010)

⁵ Telemarketing Sales Rule, Final Rule Amendments, 16 C.F.R. Pt. 310 (2010); Mortgage Assistance and Relief Services Rule, Final Rule, 16 C.F.R. Pt. 322 (2010)

⁶ *See, e.g., press releases*, FTC Halts Two Operations That Deceived Consumers Looking for Help with Their Debts (July 3, 2012), available at <http://www.ftc.gov/opa/2012/07/premier.shtm>; FTC Action Halts Alleged "Forensic Audit" Scam that Targeted Consumers in Danger of Losing Their Homes (June 13, 2012), available at <http://www.ftc.gov/opa/2012/06/consumeradvocate.shtm>; FTC Action Halts Dominican Mortgage Assistance Scam That Allegedly Defrauded Spanish-Speaking U.S. Homeowners of more than \$2 Million (July 30, 2012), available at <http://www.ftc.gov/opa/2012/07/freedom.shtm>; FTC Legal Action Halts Alleged Mortgage Relief Scammers Who Lured Homeowners with Bogus Claims (March 22, 2012), available at <http://www.ftc.gov/opa/2012/03/household.shtm>; FTC Halts Two Operations That Deceived Consumers Looking for Help with Their Debts (July 3, 2012), available at <http://www.ftc.gov/opa/2012/07/premier.shtm>; FTC Action Halts Debt Relief Marketing Operation (Sept. 18, 2012), available at http://www.ftc.gov/opa/2012/09/nelson_gamble.shtm.

Department of Justice, and the Postal Inspector to file over 150 civil and criminal actions against these phony employment opportunity scams.⁷

Our nationwide actions targeted firms falsely posing as recruiters for national companies, or falsely hawking business opportunities that were in reality only opportunities for the scam artists to “earn” some quick cash. We even sued a firm that ripped off consumers who had previously paid to participate in a phony business opportunity scam, by falsely promising to get them a refund.⁸

One of these cases stands out. In August, the FTC’s Los Angeles and San Francisco offices obtained the largest judgment in FTC history—\$478 million—against “John Beck’s Free and Clear Real Estate System,” a nationwide get rich quick scheme centered here in California.⁹ Mr. Beck’s infomercials promoted a program to purchase real estate at government tax sales, but nearly all consumers lost money. I am sure this case will send a loud and clear message to other purveyors of phony business opportunities.

Of course, it’s not just government who has helped wage this fight against “last dollar” frauds. I am keenly aware that consumer advocates and legal aid lawyers are often the first to identify problems and the first line of defense for consumers. And our partners in criminal enforcement take on the worst of the worst, those for whom a civil injunction and penalty may simply be the cost of doing business. So hats off to all of you in this room who have worked so diligently to assist financially distressed consumers who have been victimized by fraud, and to bring the perpetrators to justice.

The Federal Trade Commission has focused on another area of significant concern: debt collection. In January of this year we settled our ground-breaking case against Asset Acceptance, one of the largest debt collectors in the nation. We challenged a host of Asset Acceptance’s debt collection and credit reporting practices, including practices involving “past-stat” debt—debt that is so old the courts won’t allow a suit to collect on it. To settle the case, the Commission required Asset Acceptance to disclose to consumers that the company cannot sue to collect on past-stat debt. The company also agreed that once the past-stat disclosure is given, it would not sue on the debt even if the consumer made a partial payment that could otherwise revive the debt. The Commission also required Asset Acceptance to pay a civil penalty of \$2.5 million.¹⁰

⁷ See *press releases*, FTC Cracks Down on Con Artists Who Target Jobless Americans (Feb. 17, 2010), available at <http://www.ftc.gov/opa/2010/02/bottomdollar.shtm>; FTC Steps Up Efforts Against Scams that Target Financially-Strapped Consumers (Mar. 2, 2011), available at http://www.ftc.gov/opa/2011/03/empty_promises.shtm.

⁸ See *press release*, FTC-Initiated Case Results in Contempt Order Against ‘Scam Recovery’ Kit Promoters (Nov. 9, 2011), available at <http://www.ftc.gov/opa/2011/11/businessrecovery.shtm>.

⁹ See *press release*, At FTC's Request, U.S. Court Hands Down Record \$478 Million Judgment Against Marketers of Massive Get-Rich-Quick Infomercial Scams (Aug. 23, 2012), available at <http://www.ftc.gov/opa/2012/08/johnbeck.shtm>.

¹⁰ See *press release*, Under FTC Settlement, Debt Buyer Agrees to Pay \$2.5 Million for Alleged Consumer Deception (Jan. 30, 2012), available at <http://www.ftc.gov/opa/2012/01/asset.shtm>.

We are also focusing on a new, particularly troublesome debt collection practice that we call “phantom debt.”¹¹ Here’s the way it works: consumers receive collection calls, usually from call centers in India. The callers have personal information about the consumers—social security numbers, employers, account numbers. The callers assert that the consumers owe a debt, and then proceed to threaten them in ways that would be illegal even if the debt were real: consumers are told that their employers will be called, their wages will be garnished, or they will be arrested. One consumer was told her children would be taken away from her. Another was told there were 55 outstanding warrants for her arrest and that officials were on their way to arrest her if she did not pay.¹²

The harm is significant. In one of the cases, the Commission alleges that 2.7 million calls were made to at least 600,000 different phone numbers and that, in less than two years, defendants collected more than \$5.2 million from consumers.¹³

Of course, a key question about “phantom debt” is how the callers got the personal information they use to convince consumers that they owe the phantom debt. In our cases, the common factor appears to be that consumers have applied for or received online payday loans, and the phantom debt collectors somehow have obtained the consumers’ personal financial information contained in the application.

These practices—like the “last dollar” scams—target consumers already in economic stress, consumers who search for and obtain online payday loans. And given the enormity of the problem, civil enforcement may not always be enough. Our partners in the U.S. Attorney’s Office for the Eastern District of California have been pursuing parallel proceedings against one group of phantom debt collectors, and recently obtained a 21-count indictment against one of the ring leaders of the operation.¹⁴

Partnerships like that one are what this conference is all about. Leveraging our scarce resources. Learning about creative solutions from each other. Using our tools most effectively to ensure that consumers are protected, and that businesses that play by the rules aren’t disadvantaged by those that don’t. And that is where our newest partner on the consumer protection beat—the Consumer Financial Protection Bureau—comes in.

¹¹ See *press releases*, Court Halts Alleged Fake Debt Collector Calls from India, Grants FTC Request to Stop Defendants Who Often Posed as Law Enforcement (Feb. 21, 2012), available at <http://www.ftc.gov/opa/2012/02/acc.shtm>; Court Halts Alleged Fake Debt Collector Calls from India, Grants FTC Request to Stop Defendants Who Posed as Law Enforcers (Apr. 11, 2012), available at <http://www.ftc.gov/opa/2012/04/broadway.shtm>.

¹² See *press release*, Apr. 11, 2012, *supra* note 11.

¹³ *Id.*

¹⁴ See *press release*, California Man Previously Sued by FTC is Indicted on Criminal Charges for Phony Debt Collection Scam (Aug. 27, 2012), available at <http://www.ftc.gov/opa/2012/08/bgm.shtm>.

One of Congress' responses to the economic crisis was to create the Consumer Financial Protection Bureau,¹⁵ to ensure that protecting consumers remains just as much a priority as—and indeed, goes hand-in-hand with—ensuring the safety and soundness of our financial system. The new Bureau adds a number of tools to our collective consumer protection arsenal. The CFPB has rulemaking authority with regard to unfair, deceptive, or abusive practices by banks and other firms providing consumer financial products or services. The CFPB also has the right to examine the books of entities subject to its jurisdiction, and to enforce the consumer protections laws against them if they are found to be in violation.

Some observers questioned whether the FTC would become irrelevant in the area of financial fraud, once the new Bureau was up and running. My view is that unfortunately, we are still operating in an environment rich with appropriate law enforcement targets, and that there is plenty of work to keep us all very busy.

And I believe the creation of the CFPB will expand the ability of the Commission to do its job to protect consumers. It is true that some of the FTC's authority for rulemaking was transferred to the CFPB. But Congress has given the CFPB more effective rule-making authority than the FTC ever had, and Congress also gave the FTC authority to enforce the CFPB's rules with respect to those entities within the FTC's jurisdiction. In my view, the Commission's enforcement reach has been enhanced—not diminished—by the creation of the CFPB.

Some commenters in Washington have expressed concerns about the overlapping enforcement jurisdiction of the FTC and the CFPB. They worry that the two powerful federal agencies will “double-team” potential enforcement targets, making it very difficult for those targets to defend themselves adequately. While I understand where these concerns are coming from, I believe the two agencies have worked hard to ensure that these concerns will not materialize. The Commission and the CFPB have established joint working groups to coordinate our efforts in several critical areas, including:

- Online Payday Lending;
- Mortgage Servicing;
- Mortgage Advertising and Origination;
- Debt collection; and
- Credit reporting.

These working groups will help ensure that the FTC and the CFPB do not step on each other's toes or double team a potential target, and at the same time that we are appropriately addressing problems in these areas of critical need.

The FTC gets this. We know how to play well in the sandbox with our sister agencies. We have long shared jurisdiction with other federal agencies—as well as with the states. We all seek to accomplish the same mission—protecting consumers and assisting businesses that play by the rules—and we must work together in a coordinated fashion if we are to be effective in this shared mission.

¹⁵ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

I hope that the states and our other enforcement partners—those of you in the room today—will be part of this team. I look forward to working with each of you on our shared mission long into the future.

Thank you again for the important work that you all do each and every day to protect consumers, and for the countless ways you've helped the FTC fulfill its consumer protection mission over the years.

And thank you for the opportunity to join you today.