

Common Ground Conference
Western Regional Office and Arizona Attorney General's Office
January 9, 2012
Commissioner Julie Brill

Good afternoon. It is so nice to be here. For most of my career I have worked in the trenches, at the state level – first in Vermont, and then in North Carolina – on consumer protection and competition issues. I always appreciate getting out of Washington and reconnecting with the dedicated folks I have worked with for so many years.

We have just finished enjoying the holiday season. I hope you all had a wonderful time with family and friends. The New Year is a traditional time to take stock of our accomplishments and make our resolutions about what still needs to be done. In keeping with that tradition, today I'd like to look back at some of our consumer protection accomplishments, and then look forward to the year to come.

So, let's begin by looking back. These past few years have been indelibly marked by the Great Recession and the continuing difficult economic environment faced by so many. As consumers continue to work hard to get on their feet, all of us in this room have focused, like a laser beam, on protecting those who have suffered from the economic downturn. Because we have long toiled to protect consumers, well before the start of this most recent downturn, we knew that there would be those who would take advantage of consumers who were already suffering financially, promising to alleviate their pain, but in reality simply re-victimizing them. Recognizing that reality, we at the Federal Trade Commission along with our enforcement partners at the state and local levels, have focused on these "Last Dollar Scams." 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 would take the last dollar from consumers already in financial difficulty, and not think twice about it.

Our collective efforts have forced them to think twice.

Here in Arizona, you know only too well how consumers whose homes are threatened with foreclosure will turn to anyone who promises to help them. These consumers pay large upfront fees for promised relief that the vast majority of them will never receive. In 2009 and 2010, the Commission and our state partners filed more than 200 actions against companies falsely promising to help consumers who were facing the loss of their home to foreclosure.

Consumers dealing with large credit card and other debt are often vulnerable to similar scams: they are willing to pay large up-front fees to alleviate their debt, only to find that at the end of the day, they are in a bigger hole than when they began. We in this

room have become all too familiar with this scam: in the last decade the Commission and the states have filed over 250 cases against companies falsely promising relief from credit card and other debt.

We have also targeted phony employment opportunities. As with mortgage and debt relief, consumers who are desperately seeking work can easily fall prey to those who offer false hope of a job or business opportunity. Over the past two years, we joined other law enforcement agencies in “sweeping out” companies preying on the unemployed. Our nationwide actions targeted firms falsely claiming to be recruiters for national companies, or falsely hawking business opportunities that were in reality only opportunities for the scam artists. 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.

Twenty-eight states joined the Commission, the US Department of Justice, and the Postal Inspector to file over 150 civil and criminal actions against these phony employment opportunity scams. Arizona was a key part of these sweeps, joining the Commission as co-plaintiff in a case against a company called “Government Careers” and its principals. In another action, the Department of Justice, working with the Postal Inspection Service and the IRS, brought criminal charges against two Arizona residents who grossly misrepresented the benefits of buying distributorships they offered. The case resulted in a golden opportunity for one of the defendants: a 70-month all-expenses paid stay to a federal penitentiary.

We have also pursued those who offer consumers phony health insurance. Health insurance is often tied to employment, and so the loss of a job can lead to the loss of good, affordable health coverage, leaving consumers vulnerable to further economic difficulties if they suffer an illness or accident. In 2010, we joined with the states to file 54 lawsuits and regulatory actions targeting phony discount healthcare plans and other health insurance schemes.

Our efforts on behalf of financially distressed consumers did not stop with enforcement actions. Our experience in bringing mortgage and debt relief cases led us to adopt tough new rules that protect consumers from operators who promise much but deliver little. We issued the Mortgage Assistance Relief Services Rule in November of 2010. The most important part of this rule is our ban on advance fees, prohibiting those who offer foreclosure relief from collecting fees until after they deliver on their promises.

And we amended the Telemarketing Sales Rule at about the same time, to cover similar practices in the debt relief services industry. In addition to an advance fee ban, the TSR amendments require debt relief providers to use more secure “dedicated accounts” to hold consumers’ payments. Such accounts must now be placed in an insured financial institution, and must be owned and controlled by the consumer.

Our partners in state and local law enforcement across the country provided valuable information that helped us put these new rules in place. The Arizona Attorney

General was particularly active in providing evidence in support of these rules. Indeed, much of our information about the prevalence of inappropriate practices in the mortgage and debt relief areas came from our joint enforcement efforts, and the consumer complaints state and local law enforcement officials share with us.

So as we take stock in all that we've accomplished, it is important to note that we have done this together. The states, the Department of Justice, the Postal Inspection Service and criminal authorities have worked as one to address these immense problems. And, of course, it's not just government who has helped wage this good fight. I am keenly aware that consumer advocates and legal aid lawyers are often the first line of defense for consumers, and are often the first to identify problems and as well as creative ways to resolve these problems. 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.

Now let's look forward to what is in store for consumer protection in the coming year. For even though we have done much, there is still much to do. The coming year will certainly bring increased activity from one of our new law enforcement partners, the new Consumer Financial Protection Bureau. As part of the Dodd-Frank Financial Reform Act, Congress created the CFPB as an agency that would have broad authority over banks and other lenders such as credit card issuers and private student loan providers.

I am looking forward to working with the newest "cop on the beat" to help consumers who are victimized by financial scams and other inappropriate financial practices. Indeed, the FTC has a long history of working well with other agencies – of course, our partners in the states, but also other federal agencies like the Food and Drug Administration, the Environmental Protection Agency, and Health and Human Services. And we have already begun our efforts to cooperate with the Bureau and coordinate our activities.

For those of you not steeped in the intricacies of Washington, it might be helpful if I briefly describe the changes that Dodd-Frank has brought to the world of consumer protection enforcement over financial practices.

The Bureau was designed to protect consumers from financial practices in a way that the FTC was never authorized to do. In addition to its broad jurisdiction over debt collectors, loan modification companies and loan brokers, the new Bureau will have jurisdiction over both bank and non-bank lenders such as credit card issuers, payday lenders, and private college loan providers. The Bureau is charged with examining and simplifying language in financial contracts. It has already issued a prototype for a two-page credit card contract and will be reviewing mortgage contracts as well. And the Bureau has expanded enforcement and investigatory powers, including supervisory authority to send examiners into companies like debt collectors and credit reporting agencies to see if they are complying with regulatory requirements. Dodd-Frank required

existing banking agencies to transfer large numbers of examiners to the Bureau to carry out the supervisory function.

Recognizing the important role that the FTC plays in protecting consumers, Congress treated the FTC differently. Dodd-Frank did not require the transfer of any of our employees to the new Bureau. Some of our rule making authority was transferred to the new Bureau. But in reality, the FTC had little or no rulemaking authority under those statutes to begin with.

Most importantly from my perspective, the FTC will maintain all of its authority to enforce consumer financial protection statutes, like the FCRA, and we will of course continue to enforce the myriad of other statutes and rules under our jurisdiction, including our broad “unfair and deceptive acts and practices” authority under the FTC Act, as well as the Telemarketing Sales Act, the Telemarketing Sales rule, the GLB Safeguards Rule, the Children’s Online Privacy Protection Act and the CAN-SPAM Act, to name just a few. And the Commission and the states will gain some enforcement authority because we are empowered to enforce any rule adopted by the new Bureau with respect to entities under our jurisdiction. So we will all have new tools to use against scam artists and others who would cheat consumers, now that the CFPB is up and fully operational.

To be sure, the FTC and the Bureau will need to closely communicate and coordinate, so that our new joint authority is efficient, effective, and not overly burdensome. The Dodd-Frank Act itself requires the Bureau and the Commission to share consumer complaint information; negotiate an agreement to consult about rulemaking; and negotiate an agreement for coordinating enforcement actions.

I am pleased that these provisions regarding cooperation are in the Dodd-Frank Act. But even without those provisions, our cooperation and coordination with the Bureau would be strong. For we have a great model to work from—our joint efforts with state and local law enforcement. I’ll endeavor to make our partnership with the CFPB equally successful.

Another area where I anticipate increased Commission activity in the coming year is debt collection. We will build on our strong enforcement record over the past year, which includes our litigation against West Asset Management, one of the country’s largest debt collectors. In our suit, the Commission claimed that West Asset Management engaged in abusive collection practices, such as repeated calls, threats of arrest, disclosure of debts to third parties, and unauthorized withdrawal of funds from bank accounts. To settle our charges, West Asset Management agreed to pay a record civil penalty of \$2.8 million.

I expect that the New Year will bring increased enforcement activity in the area of abusive collection practices. I am personally concerned about collection practices surrounding time-barred debt, where debt collectors and debt buyers convince consumers to make a partial payment on debt that is time barred and for which the consumer can no longer be sued, without informing them that such payments may revive the stale debt. Another area of interest involves attempts to collect debt owed by the deceased from their loved ones. The Commission has recently issued a policy statement on this subject. I

would like to hear from you if debt collectors are contacting people they should not, or implying obligations that do not exist, with respect to debts of the deceased.

I would like to spend a brief moment on the topic of information sharing. As most of you know, the FTC runs the Consumer Sentinel database network, which contains consumer complaints sent directly to the FTC, but also consumers' complaints from state Attorneys General offices, other law enforcement agencies and private groups such as the BBB. The database is a great resource. Law enforcement agencies throughout the country, at the federal, state and local levels, make productive use of the information in Consumer Sentinel. I know that state AGs make tremendous use of Sentinel, which has long served as one of the states' best investigative and litigation tool.

But Consumer Sentinel is only as good as we make it. And to make data sharing as easy as possible, our staff at the Commission works very hard to provide enormous technical assistance so that copying state data into Consumer Sentinel becomes seamless. I urge all of you to consider joining those who share their consumer complaint information with Sentinel, to help improve our collective efforts to protect consumers.

So, as we plant ourselves firmly in the New Year, let's savor a moment of reflection about all we have done over the past year to help those in need. And while there is much more to do, I hope you can join me in looking forward to the challenges and opportunities of the coming year.

Thank you for inviting me to speak today. It has been my pleasure to be with you.