



October 22, 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

Dear Commissioners,

GreenPath, Inc. is a 501(c)(3) non-profit credit counseling company that has been in business since 1961. We are a national provider of credit counseling, housing counseling, financial education, debt management programs, and bankruptcy counseling and education.

GreenPath applauds the Federal Trade Commission (FTC) for taking steps to address abuses by "bad actors" providing debt relief services. In general, we think telemarketing practices are too aggressive and inappropriate for marketing debt relief services altogether.

Disclosure

Many consumers come to GreenPath after they have already spent a considerable amount of money with a debt settlement company. One of the most common stories we hear is that the consumers paid thousands of dollars over several months and were not aware that the money was going toward up front fees. They thought it was being sent to their creditors. And when they found out what was going on, often after being sued by one of their creditors, they could not get their money back. This underscores the need for the disclosures specified in 310.3(a)(1) to ensure that consumers fully understand the program terms.

Advertising

Consumers are too often misled to believe that getting out of debt is easy and quick. Open most Yellow Pages directories today and you will find misleading ads that promise to provide impressive benefits for consumers. They make claims like "reduce what you owe by up to 70%," or "be completely debt free in as little as 12 months," or "we can get you out of debt in months instead of years." Certainly the vast majority of clients will not achieve these results. Television

and radio ads make similar promises, and one even goes so far as to portray its program as a government program endorsed by President Obama. One thing missing from section 310.3(a)(2)(iii) seems to be wording that would ensure that the rules cover advertising on the Internet as well. Other than that, the section seems to adequately protect against misrepresentations as long as the term “sales offer” also extends to promotions and advertisements.

We are pleased to see that Proposed Section 310.3(b) holds lead generators accountable for their activities.

Fees

Proposed Section 310.4(a)(5) provides that payment may not be requested or received until a seller provides a customer with documentation in the form of a settlement agreement or DMP. It is appropriate that the seller of a DMP be required to provide the consumer with a deposit schedule, fee schedule, list of debts and estimated amounts to be paid, and an estimated liquidation schedule before obtaining a fee. However, requiring “proof” that a consumer’s debt has been altered before requesting payment is not feasible for a DMP. Creditors usually require three months of payments before granting DMP concessions.

We believe that a distinction needs to be made between charging fees for debt settlement vs. fees for a debt management program (DMP). With a DMP, the consumer is receiving ongoing benefits each month in the form of waived fees, lower interest rates and lower balances. In debt settlement, the consumer does not receive any benefits until a settlement is actually made, if it occurs at all.

Most non-profit credit counseling companies charge a minimal up front fee if a consumer begins a DMP. There is typically a one-time set up fee of no more than \$50. In some states, the consumer may also choose to pay a one time fee up to \$50 for a voluntary education program, but most agencies provide a significant amount of educational material free of charge to all consumers. There is a monthly fee, typically capped at \$50, to administer the program. Monthly administration includes disbursing money to each of the client’s creditors on the program, verifying account balances, monitoring creditor concessions, providing ongoing counseling and education, and resolving issues as necessary.

Most states currently regulate fees that can be charged by the credit counseling industry. Most credit counseling companies have complied and operate successfully in those states. Some states also regulate debt settlement fees, which is included in the Uniform Debt Management Act (UDMA). However, the debt settlement fees permitted under the UDMA are still too high. The UDMA allows debt settlement companies to charge as much as \$400 up front before performing any services at all. It enables debt settlement companies to charge fees totaling 18 percent of the principal debt amount, and allows those fees to be collected over half the

estimated length of the plan. The UDMA does not specify services that must be offered before the fee can be collected.

The UDMA does not do enough to protect consumers in debt settlement. And many states still do not regulate debt settlement fees. So GreenPath would strongly encourage the FTC to adopt additional fee restrictions for debt settlement services.

In summary, debt settlement may be a valid solution for some people. However, instead of considering debt settlement as one of several potential solutions, too many debt settlement companies promote it as the only solution. Too many consumers never receive the benefits, and many don't even understand how the program works until it's too late. Too many are charged excessively high fees. The proposed FTC rules will significantly improve the situation for consumers by ensuring that they understand what they are getting into, they don't pay unless they receive services, and the fees they pay are reasonable.

Thank you for your consideration.

Sincerely,

Richard A. Bialobrzeski
Director of Government/External Relations and Communications