A.R. Trust
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October 25, 2009

Re: Telemarketing Sales Rule – Debt Relief Amendments, R411001

To Whom It May Concern:

First we would like to thank the Federal Trade Commission ("FTC") with proposing rules that could assist consumers with increased protections and providing a defined guide for legitimate debt settlement companies to follow. Secondly we would like to thank the FTC with the opportunity to comment on the proposed Telemarketing Sales Rule amendments ("TSR"). Since many of our views and comments encompass a number of the Questions for Comment in Section VIII we felt it would be best to provide a general comment.

It is important to note that debt settlement consists of much more than just the settling of an unsecured debt. The entire process from advertising/marketing, pre-qualification, presentation, enrollment, processing, servicing, negotiating all of which occurs prior to and lead up to the finalization of the unsecured debt being settled. The comprehensive policies and procedures required to properly administer the above is labor intensive.

While our business model does not use the "front loaded fee model" we do have a variance of such a model which we believe has not been covered by the fee models described by the TSR and has shown favor by our clients especially those that have come from front loaded fee models.

First is a set up fee which is collected to make the availability of services known to consumers through various advertising and marketing mediums, pre-qualification of the consumer to determine eligibility of the program, proper presentation of the program including both positive and negative effects, assistance with the enrollment process, preparation of documentation, collection of documentation, data entry of file into database, submission of documentation to creditors, orientation phone call, issuance of orientation package, etc. The estimated cost to acquire and process a client prior to the second payment being made into the program ranges from $715.00-$1,365.00 dependent upon the advertising/marketing medium used. The set up fee is the equivalent of the first 3 payments into the program.

Second is a monthly fee which is collected to cover the staff requirements needed to properly service a debt settlement client on an ongoing basis. This can range from basic client inquiries, data entry changes to client file, assistance with creditor harassment issues, calls to client to assist them to stay on track with program, calls involving emotionally distraught clients, access to attorney network to assist with violations of Fair Debt Collection Practices Act, etc. The typical monthly fee collected is $50 per month.

Third is a settlement fee which is an incentive based fee collected at the time of settlement and a percentage of the actual savings obtained at the time of settlement. This fee is for the negotiation process with the creditor which can sometimes take as many as 50 phone calls to achieve. It also provides the client with the benefit of having the settlement properly administered and keeping the necessary records to increase the likelihood of a successful settlement. The percentage collected is based on the amount of the set up fee collected. The lower the set up fee, the higher the settlement fee percentage. A proprietary formula is used to determine the amount of the settlement fee percentage at the time of enrollment. If the FTC deems it necessary we would be more than willing to share this formula to assist with the implementation of this fee model.

We are a small business that has been servicing debt settlement clients since 2004 and have tested a number of fee models including the front loaded fee model. It was determined that the fee model described above was one that was appropriate to our business model. It allows for the debt settlement company to recover a substantial amount of the "pre-settlement" costs (outlined in the set up fee explanation) involved with the program as well assist with revenues to provide a higher standard of support to the client thus increasing the likelihood of completion. Under this fee model the majority of the clients deposit amount starts to accumulate as of the forth month and allows the client to usually see results faster than other fee models. It also gives the debt settlement company a vested interest in the clients' success since the bulk of the fees come from the settlement fee collected at the time of settlement.

In the proposed amendments to the TSR it specifically states that the collection of fees can not occur until a settlement paid in full letter is received from the creditor. This poses a significant issue. When a settlement is achieved it is good business practice for a debt settlement company to obtain a written confirmation from the creditor specifying the agreed upon terms. Many times in an effort to assist the client in achieving expedited results the settlement is structured to be paid in monthly payments over the course of an agreed upon time ("Term Settlement"). Sometimes this can be over a year or more. The proposed amendment requiring a settlement in full letter in order to collect a fee coupled with the advance fee ban would make it nearly impossible for a debt settlement company to structure such a term settlement for a client since the debt settlement company would not be able to generate revenues until the settlement in full letter is received. Often times a settlement in full letter is not provided by the creditor however if it is it can take several months after the last payment is made for the creditor to release such this letter. This can create the potential to harm the client by reducing the effectiveness of the results of the program by not allowing for these terms settlement to occur which have assisted in increasing client confidence in the program. This leads to increased determination by the client to complete the program. It would also create the need for a debt settlement company to discriminate against consumers that only have a few creditors since revenues will not be generated for years after enrollment into the program. This can be considered a form of harm being placed on a consumer since

they will not have access to the debt settlement program leaving them with no other option except for bankruptcy or having to deal with the debt on their own which most have unsuccessfully tried to do. The FTC should consider revising this language to allow for fees to be collected when the settlement confirmation letter is received as opposed to the settlement paid in full letter.

A number of states have enacted laws which allow for profit debt settlement companies to service residents in their states. Most of these laws call for a number of criteria, most notably for the purposes of this letter, fee caps. They allow for set up fees ranging in the few hundred dollar range, monthly fees along with a settlement fee or a flat fee to be collected monthly. The TSR should consider adopting similar language in an effort not to circumvent the efforts of the states that have enacted these laws as well as the reasons previously stated in regards to the advance fee ban.

We would like to commend the FTC for including in its proposal the requirement for certain very important disclosures to be made to the consumer. This brings us to another reason that the FTC should consider changing the language to the advance fee ban. As stated in the proposal many of the enforcement actions have been based on misrepresentations made by companies to consumers. These misrepresentations would be eliminated if the proper disclosures are made. If the consumer is properly disclosed the program than they would be better prepared to make an educated decision. If the consumer can make an educated decision based on these disclosures being provided then the consumer would reasonably be able to avoid injury and the unfair analysis would no longer be valid. If the administration of fees and the services being rendered for those fees are properly disclosed along with the disclosures in the proposed amendments then it would be possible for the consumer to know that the offered services are illusory allowing for the consumer to make their own private purchasing decision without regulatory intervention rendering the use of the Unfairness Policy obsolete.

For those debt settlement companies that may be able to continue to operate if the proposed TSR amendments are passed in its current form they will likely have to seek avenues to cut costs. Since most costs associated with operating a debt settlement company come in the form of labor, it would be obvious that is where debt settlement companies would have to start. And in order to cut the labor costs certain policies and procedures may have to be eliminated creating less service to the consumer and less employment opportunity in the debt settlement companies local market.

In conclusion it appears that the FTC and legitimate debt settlement companies have a common interest, the consumer. The suggested changes to the proposed TSR amendments outlined in this letter would benefit both consumers and debt settlement companies alike. The consumer can enjoy increased consumer protection and sustain the high quality of service offered by debt settlement companies like ours by allowing the fees to be collected throughout the program for the various services which are rendered. The debt settlement companies can

benefit by having a defined guide to follow, fair competition in the market place and the ability to continue providing services needed by millions of American consumers.