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Response of FCS Family of Companies To FTC Staff Information Request In Connection with Debt Relief Services Amendments To Telemarketing Sales Rule

February 5, 2010

1. Company Background

(a) We understand from the comment that "FCS family of companies" includes consumers enrolled in programs under the trade name Debt Negotiation. Does it include any other companies or programs?

> ***Response:*** It includes both Nationwide Asset Services and Financial Consulting Services. NAS is no longer marketing its services, but it is administering settlements for [redacted] active customers, who have over [redacted] credit accounts awaiting settlement. FCS has two program types, a blended fee approach and a settlement fee-only approach. The Debt Negotiation Company is a registered trade name of Financial Consulting Services. It offers only The Simple Plan, the settlement fee-only program.

(b) How long have the FCS family of companies been enrolling consumers in debt settlement programs?

> ***Response:*** December 2002 to date.

(c) Have the FCS family of companies made significant changes in their programs since they began offering settlement programs?

> ***Response:*** Yes. NAS began in 2002 with a fee model that was more typical in the debt settlement industry. It collected an initial set-up fee and the consumer's entire first three monthly payments as an enrollment fee. After the first three months, it collected a $49 per month administration fee. These fees covered its marketing and administration costs. NAS's innovation was to shift the majority of its fees to the settlement fee – which is earned only when the consumer received a discounted settlement offer and paid the creditor. The settlement fee pays the NAS negotiator and provides the company's profits. The settlement fee was based on a percentage of the savings experienced by the customer off the original balance of the account on the customer's enrollment date in the NAS program. This structure provided an incentive to the company to obtain the best settlement amount for the customer.
>
> FCS further refined this fee model. One obstacle to retaining consumers in the program was the delay in building the savings account to the point at which settlements could occur. FCS spread the enrollment fee over the first six payments (one-half of each payment) so the consumer began immediately building a savings balance to fund settlements. As with NAS, the majority of the FCS fee is structured as a settlement fee, based on the savings to the consumer from the amount of the debt at enrollment. By using the amount of the debt at enrollment, rather than at settlement, NAS and FCS ensure that the companies do not benefit from the accretion of the debt during the program period and that consumers do not pay any percentage of that accretion as part of their settlement fee.

FCS launched a new fee structure in the summer of 2009, which eliminated all fees except the settlement fee. This program, called The Simple Plan, is marketed by The Debt Negotiation Company, a registered trade name of FCS. The Simple Plan was developed originally to respond to a state law that prohibited advance fees. It fit with FCS's business model, however, which has always earned most of its fees from settlements.

The Simple Plan has been immensely popular with consumers. Because there are no front-end fees, their savings accounts build much faster and settlements can occur more quickly. Quicker and favorable settlements build consumers' confidence with the company and commitment to the program; FCS expects better customer retention and completion rates under The Simple Plan.

It is worth noting that a certain level of cancellations will always occur, regardless of the fee structure. Some consumers will inevitably find that increasing financial problems prevent them from continuing to fund their savings account. In some cases, cancellations will occur before the first settlement. Under The Simple Plan, these consumers will have paid no fees, and their financial difficulties will not have been compounded by paying fees to a settlement company without having received the benefits of a settlement. Some consumers may be forced to drop out after achieving one or more settlements, but before completing the program. They will have paid a fee only for the accounts settled, and they will enjoy the benefits of zero balances on those accounts, even though they will have remaining unsettled debts.

2. Number of Accounts and Consumers

For each question, state the specific time period.

(a) How many total accounts have consumers enrolled with the FCS family of companies?

Response: Consumers have enrolled [redacted] credit accounts with FCS companies.

(b) The comment states that the original account balances for consumers enrolled with the FCS family of companies total almost $300 million (page 1). What is the exact time period covered?

Response: December 2002 to date. We note, however, that our reference to $300 million related to <u>settled</u> accounts. It does not include enrolled accounts for consumers who have active accounts still awaiting settlement or debts withdrawn from the program after enrollment. Since our comment letter, the amount of our settled debts has increased and now reaches almost $340 million.

(c) How many total consumers have enrolled with the FCS family of companies? "Enrolled" is defined as consumers who have made at least one payment.

> ***Response:*** About [redacted] consumers signed contracts and have made at least one deposit into a special purpose savings account for use toward debt settlements.

3. Debt Reductions

(a) The comment states that the average percentage reduction of settled debt that consumers in your program received, using the amount owed at enrollment, is 51 percent. (page 1) On how many accounts is this average based?

> ***Response:*** First, we offer a small correction. Our letter stated that the average payment to creditors was 51% of the enrolled debt. This translates to a reduction of 49%. That number was based on [redacted] settled accounts.

(b) Does the 51 percent average take into account all consumers or only consumers who completed the program?

> ***Response:*** The 51% average payment to creditors (49% reduction) takes into account all consumers. The percentage for consumers who complete the program is about the same.

(c) What is the average percentage reduction of settled debt that consumers who completed your program received, using the amount owed at settlement?

> ***Response:*** FCS does not track the amount of debt at the time of settlement because fees are based on the original amount of debt at the time of enrollment; the accretion in the amounts consumers owe during their enrollment has no business purpose for us. FCS only calculates settlement savings based on the amount of enrolled debt. We firmly believe that to do otherwise has a strong potential to mislead consumers and the public.

4. Accretion

> What is the average rate of increase in amounts that consumers owe to creditors between enrollment and settlement?
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> ***Response:*** As we describe above, we do not record this information.

5. Fee Structure

(a) The comment states that FCS has operated under two fee structures. (page 2) The comment states that, under the first approach, you collect a fee spread over the client's first few months of enrollment. What is the total fee you charge to consumers for your services under this approach?

(b) Under the first approach, over how many months is the fee collected?

Response: The set-up fee, collected at the time of enrollment, has varied from \$299 or \$399, depending on the time period and the cost of leads. The enrollment fee has been collected over the first six months of enrollment and is equal to one-half of the amount consumers deposited into their special purpose savings account. This amount is based on a monthly payment mutually arrived at after the consumer and a debt specialist complete a budget. Beginning with the 7th month, the administrative fee is \$49. The fee structure for NAS is the same as the FCS blended fee model, except NAS collected the entire payment for the first three months as the enrollment fee and began the \$49 administrative fee at the fourth month.

The following chart summarized the fee information for the FCS Blended Fee program and The Simple Plan.

	FCS Blended Fee Program	**FCS -- The Simple Plan**
Setup Fee	\$299 or \$399	\$0
Enrollment Fee	50% of first 6 payments	\$0
Administrative Fee	\$49/month after 6th payment	\$0
Settlement Fee	29% of savings from enrolled amount	50% of savings from enrolled amount

(c) Under the first approach, how many consumers have enrolled with the FCS family of companies?

Response: About [redacted] consumers have enrolled in programs under the blended fee model.

(d) Has FCS's fee structure changed over time?

Response: Yes. FCS began marketing The Simple Plan under the trade name The Debt negotiation Company on a limited basis in July 2009. Over the past six months, FCS has gradually expanded its marketing of The Simple Plan.

(e) The comment states that under the Simple Plan, you collect a fee only after FCS has negotiated a settlement and the funds are sent to the creditor. You also state that the fee amount is based on the amount of the consumer's savings. When did the FCS family of companies begin offering the Simple Plan?

> ***Response:*** FCS began to market The Simple Plan on a limited basis in July 2009.

(f) What is the fee amount, as a percentage of savings, you charge to consumers for your services under the Simple Plan?

> ***Response:*** Under The Simple Plan, consumers pay one-half the savings, based on the size of the debt at the time of enrollment.

(g) Has the fee amount you charge consumers changed over time?

> ***Response:*** No. The Simple Plan's fees have not changed since the program was launched.

(h) How many consumers have enrolled with the FCS family of companies under the Simple Plan? For clarification, "enrolled" is defined as consumers who have made at least one payment toward fees or settlement of debts.

> ***Response:*** The Simple Plan is still in a limited roll-out phase. Between [redacted] and [redacted] consumers have enrolled with The Simple Plan.

(i) Under the Simple Plan, does FCS require consumers to save enough money to cover the settlement amount and the fee to FCS before FCS negotiates a settlement and sends funds to the creditor?

> ***Response:*** No.

(j) What is the total amount of fees paid by consumers who have completed the program?

(i) What is the total amount of fees paid by consumers who have completed the program under the first approach?

> ***Response:*** FCS does not define completion using the definition you provide, so that information is not readily available.

(ii) What is the total amount of fees paid by consumers who have completed the program under the Simple Plan?

> ***Response:*** Due to its recent launch, no consumers have yet completed The Simple Plan.

(k) For consumers who have dropped out of the program before completion, what is the total amount of fees paid by them?

(i) What is the total amount of fees paid by consumers who have dropped out of the program under the first approach?

Response: FCS does not define completion using the definition you provide, so that information is not readily available.

(ii) What is the total amount of fees paid by consumers who have dropped out of the program under the Simple Plan?

Response: Consumers who drop out of The Simple Plan before achieving a settlement will never pay a fee.

6. Completion Rate

(a) Of consumers who enrolled in the program at least 36 months ago, what percentage have completed it?

Response: FCS does not define completion using the definition you provide, so that information is not readily available.

(b) Of consumers who enrolled in the program at least 36 months ago, what percentage are still active?

Response: FCS has fewer than [redacted] customers still active from among those that enrolled at least 36 months ago.

(c) If you can provide answers to these questions separately for the first fee approach and the Simple Plan, please do so.

Response: Because The Simple Plan has not been in operation for 36 months, the information in response to Question 6(b) applies to FCS customers under the Blended Fee model.

7. Number of Settlements

(a) What percentage of consumers who enrolled in your program settled at least one debt in the first year after enrolling?

(b) What percentage of consumers who enrolled in your program settled at least one debt in the first two years after enrolling?

Response: Please see our responses separately for FCS and NAS below.

Percent of Customers with Debt Settled in First Year and in First 2 Years		
	FCS	NAS
First Year	[redacted]	[redacted]
First 2 Years	[redacted]	[redacted]

(c) How many consumers who have enrolled in your program have dropped out before settling any debts?

(d) If you can provide answers to these questions separately for the first fee approach and the Simple Plan, please do so.

Cancellation Before Settlement		
FCS – Blended Fee	FCS – The Simple Plan	NAS – Blended Fee
[redacted]	[redacted]	[redacted]