

Debt Settlement Industry Standards

Fact Sheet

October 21, 2008

Overview

The FTC Workshop on the debt settlement industry served as a first step toward identifying key issues and establishing a roadmap for industry reform. Legitimate debt settlement programs can benefit consumers and creditors by providing an ethical and honorable alternative to bankruptcy. However, hundreds of debt settlement companies are operating in an under-regulated industry environment.

There was an overwhelming consensus among workshop participants that enforceable industry standards are critical to protecting consumers from fraudulent practices and ensuring that legitimate debt settlement remains a viable alternative for consumers facing financial hardship.

Below is an outline of the standards that are critical to protect consumers from the industry's fraudulent practices. These standards should be practiced without exception by legitimate debt settlement companies.

Guidelines

Legitimate debt settlement companies should meet the following guidelines:

- Have written policies and procedures about their debt settlement program.
- Be a member of the Better Business Bureau.
- Have a comprehensive "Debt Settlement Company Certification" similar to what creditors may require for their collection agencies and other vendors.
- Have an open door policy to regulatory agencies and vendor certification for creditors.
- Have a customer dispute resolution and review process.
- Have in-house legal counsel with significant experience in credit industry compliance.
- Every client is serviced in-house (from beginning to end) by the same company. Clients should never have to speak to a third party.
- Full disclosure is a minimum standard and is enforced through an active monitoring and compliance program. The debt settlement firm provides prospective clients with an in-depth review of their program multiple times before an agreement is entered into.

Disclosure

Legitimate debt settlement should always disclose the following to consumers prior to entering into any agreement or contract:

- All program fees and costs must be discussed with prospective clients prior to the start of a debt settlement program.
- Prospective clients must be committed to saving money to fund settlements.
- Negotiations occur on an ongoing basis and all offers of settlement will be presented to the customer for their exclusive approval.
- Results of the debt settlement program cannot be guaranteed.
- Client funds are not escrowed by the company.
- The Internal Revenue Service (IRS) classifies any amount of settled debt above \$600 and greater in value of the individual's assets as taxable income.
- Creditors may exercise the right of offset and its potential impact must be explained to the client.
- Payments are not made by the debt settlement company to the client's creditors.
- Clients should continue making payments to their creditors if they have the means to do so.
- Creditors may continue to call even after a Limited Power of Attorney (LPOA) has been signed between the client and the debt settlement company.
- Credit bureaus may still report "Settled for Less than Full Amount," or other similar language, even after paying settlements to creditors.
- A debt settlement program will probably have an adverse impact on the client's credit score.
- Clients should always review their budget to determine if they can afford to be in the program based on their expected income and expenses.
- The company only works for the clients, not any other third party from whom they might be receiving referrals or placements.

The above industry standards will protect consumers against the following common fraudulent practices in the debt settlement industry. These include:

- Lack of established policies and procedures
- Operating under ineffective client service models
- Failure to provide services as stated in the contract.
- Claiming that consumers can be debt free in unrealistically short time frame.
- Promising too low a settlement.
- Charging unreasonable fees – as high as 30% of the total outstanding balance.
- Escrowing funds for the consumer.

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