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October 9, 2009

Federal Trade Commission
Office of the Secretary
Room H-135 [Annex T]
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: Telemarketing Sales Rule – Debt Relief Amendments, R411001

Dear Secretary Clark,

I am writing this preliminary comment regarding the FTC's Proposed Rules regarding Debt Relief services under the Telemarketing Sales Rule on behalf of my clients American Debt Exchange, Inc. and Debt Settlement America, Inc. Per your notice that the deadline for filing written comments is extended until October 26, 2009, I will be filing a lengthier comment closer to the deadline.

Request to be a speaker at the November 4, 2009 Public Forum

I submit this preliminary comment and request that I be considered as an industry representative to speak at the Public Forum on behalf of my clients who have been at the forefront of leading the debt settlement industry's efforts at self regulation and in promoting state regulation. I regularly meet with many legislators and regulators across the country regarding regulation of the debt settlement industry and discuss with them issues regarding the current law and any new proposals and legislative bills. I also have been involved in supporting laws that were passed and signed into law regulating the debt settlement industry specifically including Colorado, Delaware, Idaho, Iowa, Montana, Nevada, Tennessee and Utah. Further, I am recognized as an authority in the industry as having been requested to speak at conferences sponsored by the American Bar Association, the Federal Reserve of Philadelphia, Source Media/Collections and Credit Risk, and the National Conference of State Legislators. Again, I respectfully request that I be given the opportunity to speak at the Forum.

Request for comment period and Public Forum to be postponed

While appreciative of the two week extension to file written comments, I respectfully request the comment period and Public Forum scheduled for November 4, 2009 be postponed for a longer period of time. The proposal to ban any "advance fees" in the FTC's Notice of Proposed Rulemaking is a very drastic measure that would likely force almost all debt settlement companies to close affecting tens of thousands of consumers enrolled with those companies. Given the potential consequences, it is important to allow a full opportunity to respond to the FTC's preliminary findings. Information that I fear will be incompletely gathered to respond includes industry data

and statistics, independent review and analysis of such data and statistics, comparison of the different debt relief options, and consumer feedback regarding their experience with the various debt relief industries. It will take substantial time and effort to gather such data and the 2-3 months provided by this comment period is disproportionate to the work needed to compile this information. Further, the Public Forum will be much more useful once a complete record is obtained. I also have concern that there will not be sufficient time for everyone to review the submitted comments prior to the Forum due to the short time the Forum is held after the current comment period. As such, I request that the comment period and the Public Forum be postponed a number of months to allow for a more complete record and analysis of the industry.

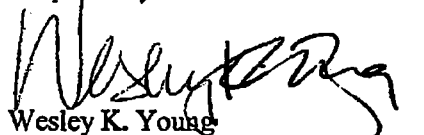
Preliminary Comment

The FTC's unfairness analysis relies heavily on the conclusion that providers "take consumers' money for services that the seller has no intention of providing and in fact does not provide." This is absolutely untrue. My clients, our colleagues at other companies and members of our trade associations provide good faith services and expend significant costs to provide those services. We provide significant services prior to starting negotiations and prior to successfully making a settlement. We also settle significant amounts of debt. However, there are many things outside of our control that affect the success of a consumer in the program including the consumer's discipline to save, the consumer's own personal circumstances and the consumer's decision regarding accepting or rejecting settlement offers.

Secondly, the FTC finds that harm to a consumer cannot be avoided in that the consumer is uninformed or improperly informed about the program and services of a debt settlement company. My clients, colleagues and fellow members of trade associations do many things to ensure a consumer is fully informed including mandatory disclosures regarding the risks of the plan, clear explanations of the debt settlement plan and how it works, and clear disclosure of fees including the amount and fee schedule. We have further supported state laws that require licensing and many other consumer protections consistent with our current practice and trade association mandates.

While I will submit a more detailed comment, I respectfully, but strongly, disagree with the FTC's conclusions in its unfairness analysis and proposal prohibiting any fees until the seller has provided the customer with documentation of a settlement agreement.

Respectfully submitted



Wesley K. Young

Counsel to American Debt Exchange, Inc. and Debt Settlement America, Inc.



Office of the Secretary

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

October 22, 2009

Wesley K. Young, General Counsel
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Dear Mr. Young:

Thank you for your submission to the Federal Trade Commission dated October 9, 2009, regarding the proposed amendments to the Telemarketing Sales Rule covering debt relief services. You request that the Commission extend the period for public comment on the proposed rule by 120 days to provide commentors with additional time to consider and prepare responses regarding the legal and factual issues discussed in the Notice of Proposed Rulemaking ("NPRM") the Commission announced on July 30, 2009.¹ You also state that industry members require more time to collect and analyze data about the debt relief industry.

The proposed rule involves important issues, and the Commission has thus far received more than 150 comments, including some comments from industry members. As you know, in response to earlier requests, the Commission has already extended the public comment period by 15 days, until Monday, October 26, 2009, thereby allowing additional time for the public to submit their comments without causing undue delay in the rulemaking proceeding.² In making that determination, the Commission expressly determined that a 120-day extension was "unnecessary to ensure that interested parties have an adequate opportunity to prepare and

¹ See *FTC Seeks Public Comment on Proposed Rules to Protect Consumers of Debt Relief Services* (July 30, 2009), available at <http://www.ftc.gov/opa/2009/07/tsr.shtm>; *Federal Trade Commission: Telemarketing Sales Rule: Notice of Proposed Rulemaking and Announcement of Public Forum*, 74 Fed. Reg. 41988 (August 19, 2009).

² *Federal Trade Commission: Telemarketing Sales Rule: Extension of Comment Period in the Notice of Proposed Rulemaking*, 74 Fed. Reg. 52914 (October 15, 2009).

submit comments and would cause undue delay. . . .,” and noted that the November 4, 2009 public forum would provide “another opportunity to provide information to the Commission.”³ With respect to the data issue you have raised, I would also note that the Commission has been studying and publicly requesting information about the debt relief industry since June 2008.⁴

Sincerely,



Donald S. Clark
Secretary of the Commission

³ *Id.*

⁴ See, e.g., FTC Press Release, *FTC to Hold Public Workshop to Examine Debt Settlement Industry; Agency Seeks Comments, Original Papers, and Participation* (June 2008) (requesting comments for public workshop on debt relief including “any original research, surveys, and academic papers”).