

Sent: Friday, October 09, 2009 2:48 PM
To:
Subject: Telemarketing_Sales_Rule_Speaker_Request-Dr__Weinstein[1]

Dr. Bernard Weinstein
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October 8, 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 Rulemaking Forum – Request to Participate November 4, 2009, R411001

To Whom It May Concern:

Please allow this letter to serve as my request to participate in the November 4, 2009 public forum regarding the above-referenced rule (the “Request”) and Notice of Public Rulemaking regarding the same (“NPRM”). My written comments will follow, and my bio is included for your review.

As the Associate Director of the Maguire Energy Institute and an Adjunct Professor of Business Economics in the Cox School of Business at SMU in Dallas, I have recently published a study on the debt settlement industry, along with my colleague Terry Clower of the University of North Texas, entitled *Debt Settlement: Fulfilling the Need for an Economic Middle Ground*.

Our study is the first of its kind documenting the consumer benefits of debt settlement, a form of debt relief that offers financially struggling consumers an alternative to filing for bankruptcy. Additionally, a leading settlement industry association, the U.S. Organizations of Bankruptcy Alternatives, published this study, which is now available to the public and to policy makers. I will be including this study in my formal, written submission by October 26.

Although more study is needed, I’d like to point your attention specifically to the UK. Since 1986, the United Kingdom has had a standardized and regulated mechanism for assisting debtors who wish to avoid bankruptcy. Settlement companies are licensed by the government to ensure accountability and transparency throughout the debt settlement process. There are best practices across the pond that I am just beginning to model.

Therefore, I also would like to request an additional extension of the comment period for a mere 120 days.

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as well as a corresponding postponement of the November 4, 2009 public forum date.

Adding additional time for consideration of the important consumer issues at hand will benefit our economy in the long-run, and considering how timely these issues of debt relief are to consumers, the issue of ensuring consumers have options is of the utmost importance.

Key findings of our study include:

- The great advantage of debt settlement over the alternatives is consumers can satisfy outstanding obligations while paying less than the full amount of their unpaid balances.
- There are several downsides to using credit counseling agencies. Most important, the total amount of consumers' outstanding debt is not reduced.
- Credit counseling agencies receive payments from both consumer and credit card companies. This additional payment, or "kick-back," from creditors is a percentage of the payments creditors receive from consumers.
- Many credit card agencies have been hiking interest rates on outstanding balances, causing debtors to find themselves running faster and faster just to stay in place while the timeframe for paying off creditors is stretched out. Hence, some consumers will drop out of credit counseling and simply declare bankruptcy.
- As with credit counseling, debt consolidation does not reduce the total amount outstanding. A consolidation loan probably isn't a viable option for most households with high levels of difficult-to-service debt obligations because these consumers lack a decent credit rating for home equity loan access.
- Debt settlement can be viewed as part of the healing process to get distressed U.S. households back on a sound financial footing and thereby improve the odds for a sustainable economic recovery in the years ahead.

My Background & Bio -

Dr. Bernard L. Weinstein, Ph.D., is the Associate Director of the Maguire Energy Institute and an Adjunct Professor of Business Economics in the Cox School of Business at SMU in Dallas. From 1989 to 2009 he was Director of the Center for Economic Development and Research at the University of North Texas, a position now held by Dr. Terry Clower, Ph.D. The author or co-author of numerous books, monographs and articles on economic development, public policy and taxation, Dr. Weinstein's work has appeared in professional journals such as *Land Economics*, *Challenge*, *Society*, *Policy Review*, *Economic Development Quarterly*, *Policy Studies Journal*, and *Annals of Regional Science*. His work has also appeared in *The New York Times*, *The Wall St. Journal*, *The Los Angeles Times* and abundant regional newspapers and magazines. He is a former member of the editorial board of *Society Magazine* and currently serves on *The Dallas Morning News* Board of Economists.

Dr. Weinstein has also worked for several federal government agencies, including the Federal Trade Commission's Bureau of Economics from 1973 to 1975.

Thank you in advance for your consideration of my credentials and desire to participate in this important and much needed Forum. Your efforts within the Consumer Protection Bureau are right on target, and I would be honored to be of assistance going forward.

With Regards,

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Office of the Secretary

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

October 22, 2009

Dr. Bernard Weinstein
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Dear Dr. Weinstein:

Thank you for your submission to the Federal Trade Commission dated October 8, 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 commentators 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”).