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July 2, 2010

Mr. David Vladeck
Director, Consumer Protection Bureau
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Proposed FTC Rules - Debt Settlement Practices

Dear Mr. Vladeck:

On behalf of the Better Business Bureau of the Southland, I am writing to offer my strong support of the proposed FTC rules relating to debt settlement/debt negotiation companies. I believe it is especially important that the proposed rule prohibiting advance payments for these services be enacted as this would go a long way toward addressing the widespread abuse in this industry.

The debt negotiation industry began in Los Angeles approximately 15 years ago. Since then, thousands of debt negotiation companies in all forms have sprung up across the country. In part, their success has been driven by the heavy credit card debt held by individuals and, in the past two years, it's accelerated because of the deep and lingering recession. Of course it doesn't hurt that they have an appealing message, which is that they can reduce an individual's debt by more than half without filing bankruptcy. Unfortunately for the clients of these firms, the promise of debt elimination with minimal pain is illusory.

Debt settlement companies take many forms. Mainly these are for profit businesses, but we've also seen nonprofit organizations and law firms engaged in this business. The advertising message, which as I stated has great appeal, in many cases now includes the additional message implying that a government program exists for which individuals may be qualified to participate. All of this messaging adds to the air of legitimacy of these offers.

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At the Los Angeles Better Business Bureau, we've literally received thousands of complaints against these companies (please see attachment). Almost all of the complaints are extremely serious, and almost all of them contain similar allegations. I'll provide specifics later.

Fundamentally, debt settlement businesses rely on a business model that is inherently flawed and morally and legally wrong. Here's how every one of these companies works:

To get creditors to settle debts, it's necessary that the consumer be in some stage of default. **Clients are therefore instructed to stop making payments on their credit card or other unsecured debt.** (No creditor will entertain a settlement when the customer is current in their payments, even if they have a large balance. To the lender, this is a good customer paying a lot of interest and generating good profit for them.) The settlement company's objective is to induce the lenders to settle by pushing the account into delinquency and leading the lender to conclude that the only alternative is to charge off the account as a non-recoverable debt.

Next, **customers are told to pay an upfront fee to the settlement company, which will be followed by a monthly fee for servicing the account.** The fees vary, but almost all include another fee that represents either a percentage of the actual or projected savings. Typically, these fees are deducted monthly from the customer's checking account. From here, the plans take different paths. With some models, the settlement company also collects monthly payments to be used with settlement offers. These firms usually use a third party to hold the payments—this third party is almost always Note World. In other cases, the customer is instructed to begin accumulating funds for settlement offers. (Lenders, if they accept a settlement, won't accept payments. They expect a lump sum payment, thus a customer may have to have a lump sum of several thousand dollars before the company will make a settlement offer to a single creditor.)

Once the customer has accumulated enough money, net of fees (this can be a large sum), then the company will begin the negotiation process and if a deal is reached, they'll send the creditor a lump sum payment.

After the first obligation is settled, the process begins anew for the second debt.

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Needless to say, few people ever complete these programs. In practice, it's virtually impossible for someone to stop paying creditors for the two or three years these programs last without being sued, usually several times. The victims of these scams don't have the money to hire lawyers to defend the suits, having been fleeced by the settlement companies.

The "solution" offered by these companies, and the accompanying misery it causes, plays out over and over in complaints from their customers: Creditors file lawsuits and turn companies over to collection agencies when the payments stop. Interest, fees and other charges accumulate on accounts, causing the balances to swell dramatically from the original amount.

Following are complaints from Beacon Debt Solutions in Westminster, California which illustrate my points:

"They enticed us at a horrible time in our lives when I had lost a job and had numerous credit cards because I made over twice what I do now. They promised us they would pay off our debt and settle for less and help us out. After months and months of my following up and calling Liz at the company and even calling when I had received a summons for the amounts of money, I was assured that everything was fine and that those summons were 'scare tactics'. We were given scripts to read to our creditors telling them to contact their company and not us. I was also told on several occasions that we had more than enough in our account to pay these people if they could get them to settle. Then, Richard Lenard left the company and I am not sure if he is in jail or found out the illegal practices going on--I really don't care. They all need [to be] locked up as far as I am concerned. Then I was assigned to one of the nastiest people--Lisa. She called me and informed me that I had to come up with over \$5,000 to settle one of our accounts and when I told her Liz said we had more than enough, she responded that she didn't know where she got that.

[What] we have paid has gone to their FEE!!!!!! We have paid well over \$8,000; sounds like a scam to me. I just want my money back so I can pay off my creditors, plain and simple. I am an honest person trying to make ends meet and this just sets us back years. THANKS BEACON!! Lisa, learn some manners on the phone."

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Here's another unhappy Beacon client:

"I have been paying Beacon Debt Solution \$4,870 since February 2009 to help take care of my credit card debt. Now the credit cards are taking me to court for non-payment. When I contacted Beacon on the situation, they said everything was handled. But when I ask them for all the paperwork of Beacon contacting the credit cards, the only time was in October. This is after the credit cards have summoned us to court. Beacon has not ever contacted them at any other time in the ten months that they were handling our case.

My wife then became very ill this spring and I was desperate for help to get out of debt with my credit cards. That is why I contacted Beacon Debt Solutions. I did not think they would make my credit worse and take my money to do nothing for me other than go to court now for the credit cards that I could have been giving them the \$4,870 toward my bill."

Here's another recent complaint from a person who engaged Morgan Drexen to settle her debts:

"I am being set up to pay another \$7,470 for another 18 months. When I signed with them I was asked how long I wanted to be paying. I told him 1 year & a 1/2, or 18 months only. He told me my total debt was \$11,137, he will save me \$3,667 and I would be paying about \$7470 and only for 18 months, now I'm being told I am to keep paying \$415 a month until they settle with one card company, because I am being sued by the other one in court on 5/19/10 in Texas. So, they should have cut my price on this. In no way am I going to keep paying them because they lie to me, look at all the papers, you'll see how I am being over charged on this. They said I only had \$1,300 in my escrow account, so this means they put \$3,670 in their pockets. They got one settlement for \$2,500, but by phone I was told it was for \$1,500. Please help me on this. I need information for Lawyer-Bar Association, if BBB cannot help me."

Here's another Morgan Drexen complaint:

Consumer alleges she paid Morgan Drexen for services; they were to pay off a Sears credit card. She has been sending money to Morgan Drexen, and they have not sent Sears anything. She owed \$1,500, they wrote a letter saying that they will settle for \$2,000. The company said they were one of the government programs to settle debt. She asked for her money back and was told that they will send \$165 back in a month. She is requesting the full amount paid be returned.

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And another Morgan Drexen complaint:

"This program has not produced any results nor made my debt reduction any better. Instead it made my credit worse and my debts are increasing instead of decreasing. My monthly payments are going more toward their establishment fees and they seem not to be concerned with eliminating my debts. I'm at risk for being sued by the creditors and filing bankruptcy and I'm getting increasingly suspicious that this company is a fraud."

I would like to point out that the president of Morgan Drexen is Walter Ledda, who was formerly a principal of National Consumer Council, a large debt settlement company in Orange County, California that was shut down by the FTC a few years ago. Morgan Drexen has been in business since 2007.

As you can see in Attachment A, thousands of consumers contact the BBB to find out about the reliability of businesses. The BBB uses an algorithm that calculates the rating and one of the elements of that algorithm assesses the weight that should be placed on a particular type of business based on the BBB's experience with that industry. Because our experience with the debt settlement industry has been overwhelmingly negative, we consider this industry to be problematic which negatively affects the rating.

While we have a mechanism for these companies to demonstrate that they should be rated higher, it requires that they not instruct their clients to stop paying their debts. I have yet to see any settlement company that can meet this minimum threshold. (Almost all of the companies claim that they only accept people who are not making their monthly payments, but actual complaints and our own shopping of these firms belie these claims.)

As previously mentioned, many settlement companies rely on Note World to "hold" settlement funds that have been paid by customers. The clients are told that the monies are held in trust, thus reassuring them that if they drop out of the program, their monies will be refunded. Note World, though, is an instrumentality of the settlement companies. Thus, to their surprise, clients find that almost all of the money that they thought would be used for settlements is actually funneled to the settlement companies in the form of various fees. For this reason, it's important that third parties, including those claiming to be escrow companies, are included in any prohibition on payment of advance fees.

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In the case of most settlement companies, their agreements disclose their fees and also advise people that they may be sued by creditors. People don't read these agreements, relying instead on the verbal representations of the company's employees, most of whom are sales personnel.

If clients did the math, here's what they'd find: Assuming the program worked as represented, they'd likely pay the settlement company approximately 40% of the savings on the debts settled. When one takes into account that the balances of the debts swell with interest and other fees, the amount of the savings dwindles from the original projection. Adding in the company's fees, the actual savings are even more negligible. Finally, in many cases, the amount forgiven is taxable income, thus subjecting the client to yet another surprise which further lessens the savings. Consider the damage done to the credit rating and the potential for lawsuits, etc., and there really is no benefit.

The debt settlement business is insidious. In reality, very few people have debts that are settled and most wind up in much worse financial shape than when they entered the program. We repeatedly see cases where people are forced to file bankruptcy to rid themselves of the lawsuits and their debt.

We encourage your efforts to protect the public from unscrupulous debt settlement companies and heartily support the proposed FTC rules.

Sincerely,

William G. Mitchell
President/CEO

cc: Anna Laitin at anna.laitin@mail.house.gov
(Office of The Honorable Henry A. Waxman)

Allison Brown, Esq. at aibrown@ftc.gov
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**ATTACHMENT A
COMPLAINT AND INQUIRY STATISTICS FOR DEBT NEGOTIATION COMPANIES**

Debt Negotiation	2007	2008	2009	YTD 2010	Totals
Complaints	387	654	1,155	764	764
Inquiries	47,020	91,490	150,359	91,428	91,428

