

**16 C.F.R. Part 310: Telemarketing Sales Rule
Notice of Proposed Rulemaking to Amend the Rule
To Address the Sale of Debt Relief Services,
and Announcement of Public Forum
Summary of Communications Pursuant to Commission Rule 1.26(b)(5)**

Donald S. Clark
Secretary
July 14, 2010

MEMORANDUM

To: Donald Clark
Secretary

From: Richard McKewen
Attorney Advisor to Commissioner Brill

Re: Telemarketing Sales Rule – Debt Relief Amendments, Comments to be Placed on
the Public Record

Date: July 14, 2010

On July 13, 2010, Commissioner Brill met with representatives of NCO Group, Inc. (“NCO”), to discuss various issues relating to debt collection, including the Commission’s report issued on July 12 regarding debt collection litigation and arbitration.¹ During the course of the meeting, the NCO representatives spoke to the Commissioner briefly about the debt settlement industry and the Commission’s proposed amendments to the Telemarketing Sales Rule.

The NCO representatives stated that many of their largest creditor clients will not deal with debt settlement companies. The representatives said that when a consumer signs up with a debt settlement provider and tells the collector to communicate with the provider, that they are under instructions from many creditor clients to refer the matter directly to counsel to pursue litigation, rather than deal with the debt settlement company.

The NCO representatives stated that it is typically only debt buyers who will negotiate with a debt settlement company; original creditors rarely do. Some debt buyers will also agree to structured settlements or installment plans, but those are usually for low settlements. They also said that if the provider is able to garner a fee at the beginning, then the provider has little incentive to see that the consumer makes the remaining payments. They said that providers often tell consumers “don’t talk to collectors.” However, according to NCO, direct communication with consumers is the best way for collection problems to be resolved, not going through a debt settlement provider. In their view, NCO employees do a better of counseling consumers on credit issues than debt settlement providers do.

Finally, the NCO representatives stated their view that the debt settlement industry needs to be regulated. They stated that there are low costs of entry, and as a result there are many small players and bad actors who are engaging in questionable behavior and who are difficult for the debt collection industry to deal with.

¹ Participating in the meeting were Albert Zezulinski, Executive Vice President, and Steven Leckerman, Executive Vice President and Chief Operating Officer of NCO; Bernard Nash of Dickstein Shapiro LLP, counsel to NCO; and Robert Swan, Jennifer Souers, and myself from Commissioner Brill’s office.