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Debt Services Operations Settle FTC Charges

Three operations that scammed consumers out of more than one hundred million dollars by falsely promising easy debt relief have settled Federal Trade Commission charges that their business practices were illegal. According to the FTC, in some cases, consumers' debt, interest rates, and penalties increased and some consumers were forced into bankruptcy. The companies and their principals will pay more than \$6 million combined in consumer redress and are permanently barred from making deceptive claims about debt-related services. Two of the operations and their principals also are barred from engaging in abusive telemarketing practices, following FTC charges that they repeatedly called consumers on the National Do Not Call Registry.

"Consumers who want to get out of debt are looking for services to help relieve their financial troubles, not make them worse," said Lydia Parnes, Acting Director of the FTC's Bureau of Consumer Protection. "The FTC is committed to ridding the debt services industry of companies who shatter consumer confidence and hurt legitimate businesses' ability to help consumers."

National Consumer Council

In May 2004, the FTC filed a complaint against a group of companies and individual defendants, fronted by "National Consumer Council" (NCC), a purported nonprofit organization, that solicited customers through an aggressive telemarketing and direct mail advertising campaign that falsely promised free debt counseling. In fact, NCC's role in the scheme was simply to generate leads for the other defendants, who then charged consumers thousands of dollars in fees to enroll in their debt negotiation programs. The defendants deceptively claimed these programs were an effective way to stop creditors' collection efforts and eliminate their debts. The FTC alleged that the defendants failed to disclose important information to consumers before they enrolled, including the fact that very few people were able to reduce their debts through the debt negotiation programs; consumers would suffer late fees, penalties, and other charges; and that participation in the program might hurt their credit rating. A court-appointed receiver determined that less than two percent of the consumers who enrolled in the defendants' debt negotiation programs – 638 out of 44,844 consumers – actually completed them.

The FTC's complaint also alleged that the defendants violated the Telemarketing Sales Rule (TSR), including the National Do Not Call Registry provisions, by calling consumers who had placed their phone numbers on the Registry and claiming that NCC was a nonprofit organization exempt from the Do Not Call requirements. The complaint further alleged that some of the defendants violated the Gramm-Leach-Bliley (GLB) Act by failing to inform consumers how their personal financial information would be used.

At the FTC's request, a federal district court appointed a receiver over defendants National Consumer Council, an Arizona corporation; National Consumer Council, a California corporation; National Consumer Council, a Nevada corporation, London Financial Group; National Consumer Debt Council, LLC; Solidium, LLC; J.P. Landis, LLC; Financial Rescue Services, Inc. (FRS); Signature Equities, LLC; M&L Springfield Trust; PC Hailey Trust; Via Lido Trust; and United Consumers Law Group. The receiver has returned approximately \$24 million in consumer funds held in defendants' trust accounts. The receiver also is winding down the corporations' business operations.

The FTC entered into separate settlements with the receivership defendants and each of the individual defendants. The stipulated settlement orders bar the defendants from making false claims for debt negotiation services or any other product or service. The orders require that, prior to enrolling any consumer in a debt negotiation plan, the defendants must clearly disclose that: (1) late fees, penalties, and interest will continue to accrue on the consumer's debt until the consumer's creditors accept and receive a settlement; (2) a consumer's creditors may still sue to collect on the debts and garnish the consumer's wages; (3) interest rates applicable to the consumer's debt may increase; (4) any money a consumer saves in negotiating a settlement with a creditor must be treated as income for tax purposes; and (5) a debt settled for less than the full amount owed may result in a negative notation on the consumer's credit report. The orders also prohibit the defendants from engaging in abusive telemarketing practices, including violations of the National Do Not Call Registry, and require them to comply with the GLB Act.

In addition, settlements with the corporate receivership defendants require them to pay \$1 million in consumer redress. The stipulated orders against defendants Walter Haines, Paul Kardos, and Walter Ledda require them to pay \$605,000, \$1,860,000, and \$1,356,000, respectively. The orders against each of these defendants include a suspended judgment of \$84.3 million, the amount of fees these defendants received from consumers. If any of these defendants fail to make their payments within the time allotted in the order, or if it is found that they misrepresented their financial status, they will be held liable for the entire \$84.3 million. The stipulated orders against defendants Mary Beth Harper and Martha Levitsky include a suspended monetary judgment of \$17.8 million for the fees their company, defendant FRS, received from consumers; they will be liable for the entire \$17.8 million if it is found that they misrepresented their financial condition to the FTC. The stipulated order against defendant Harvey Warren includes a suspended monetary judgment of \$84.3 million for the fees received from consumers; Warren will be liable for the entire \$84.3 million if it is found that he misrepresented his financial condition to the FTC.

Debt Management Foundation Services

In July 2004, the FTC charged Debt Management Foundation Services (DMFS), four related corporations, and the three individuals that control them with falsely representing that DMFS and its predecessors provided debt management services and that DMFS is a nonprofit corporation. The FTC alleged that DMFS and its affiliates falsely represented that they could reduce consumers' debts by 50 percent, reduce or eliminate interest on the debts, and provide assistance before consumers' next credit card billing cycle. The FTC charged that the defendants deceived consumers into paying up-front fees as high as \$1,000 and monthly fees of \$20 to \$49. The FTC also alleged that the defendants violated the TSR by calling consumers whose phone numbers were registered on the National Do Not Call Registry.

The stipulated final order provides that the court-appointed receiver who took over DMFS and the four related corporations last summer will liquidate the companies. The order also provides that the individuals who operated DMFS must surrender their interest in these companies, and that two of the individuals must make additional payments. Defendant Dale Buird, Sr., must pay \$200,000, and defendant Dale Buird, Jr., must transfer assets in several accounts, totaling an estimated \$58,000, to the court-appointed receiver.

The order permanently prohibits the defendants from making false claims about debt management services, including representing that they can reduce consumers' debt or interest rates, that they provide services before consumers' next billing cycle, or that they are a nonprofit organization; billing customers without fully disclosing material terms; and failing to provide required privacy notices under the GLB Act. The order also permanently prohibits the defendants from charging advance fees and failing to provide the written contracts and notices of the right to cancel required by the Credit Repair Organizations Act. In addition, the order bars the defendants from selling consumer data and from calling consumers in violation of the National Do Not Call Registry. If the individual defendants ever own or manage a business that uses telemarketing, the order requires that they monitor their telemarketers to ensure that they are not making illegal calls.

The stipulated final order includes a suspended monetary judgment of \$11,035,065 in funds that were taken from consumers. If the defendants fail to make the payments required by the order, or if it is found that they misrepresented their finances, the court may enter an order making the entire balance immediately due.

The complaint and stipulated final order name DMFS, One Star Marketing, Inc., Debt Specialist of America, Inc. (a/k/a Debt Management Foundation, Inc.), Ameridebt Group, Inc., Credit Counseling Specialists of America, Inc., Dale Buird, Jr., Dale Buird, Sr., and Shawn Buird as defendants.

Better Budget Financial Services

In November 2004, the FTC charged BBFS and its principals with falsely claiming they could reduce consumer debt by 50 to 70 percent and shorten the time period necessary to pay off the debt, in exchange for a monthly fee of \$29.95 to \$39.95 plus 25 percent of any money a consumer saved in a settlement with a creditor. The stipulated final order requires Better Budget Financial Services, Inc., John Colon, Jr., and Julie Fabrizio-Colon to turn over assets totaling approximately \$1.3 million to a court-appointed receiver. They are barred from misrepresenting that they can reduce consumers' debts; settle with consumers' creditors once consumers accumulate a certain percentage of the total debt; and stop creditors from attempting to collect on overdue payments. Each of the individual defendants also is barred from marketing debt management services without first obtaining a \$2 million performance bond, and from selling customer data. If it is found that the defendants misrepresented their financial situation, they will be held liable for \$11,978,249, the estimated amount they took from consumers.

According to the FTC's complaint, the defendants advised consumers to stop paying their creditors and save their money in an ordinary bank account from which the defendants withdrew their monthly fee. The defendants promised to settle consumers' debts with their creditors once the consumers accrued a certain amount, such as one-half the debt, in their BBFS account. The defendants further claimed that they would contact consumers' creditors and get them to stop collection attempts. The FTC charged that few consumers had all of their debts settled by the defendants. In fact, consumers' debts increased due to the imposition of late fees and penalties onto their accounts. Many consumers were sued by their creditors and many were forced to file for bankruptcy. Despite the defendants' promises, collection efforts continued for consumers who followed BBFS's instructions and stopped communicating with their creditors.

All the stipulated final orders announced today also contain standard recordkeeping and reporting requirements to assist the FTC in monitoring the defendants' compliance.

The FTC also recently announced a settlement with AmeriDebt, Inc., a Maryland-based credit counseling firm that collected nearly \$200 million in hidden fees from consumers across the country. AmeriDebt will shut down its operation and transfer all existing accounts to a reputable third party. For more information on the AmeriDebt case, see the press release dated March 21, 2005.

The Commission vote to authorize staff to file the settlement agreements was 5-0. All of the settlement agreements for NCC were filed in the U.S. District Court for the Central District of California on March 29, 2005. The order for DMFS was filed in the U.S. District Court for the Middle District of Florida, Tampa Division, on March 29, 2005. The order for BBFS was filed in the U.S. District Court for the District of Massachusetts on March 10, 2005.

Consumer Education

The FTC offers numerous consumer education materials to help consumers in debt learn about their options and help them decide which option is right for them, including information on developing a budget, dealing with creditors and debt collectors, and choosing the right debt counselor or debt management plan (DMP). When choosing a credit counselor or DMP, the FTC recommends that consumers:

- Look for an organization that offers a range of services, including budget counseling, and savings and debt management classes. Avoid organizations that push a DMP as your only option before they spend a significant amount of time analyzing your financial situation.
- Get a written agreement and read it carefully. Make sure it includes a price quote, the services to be performed, how long it will take for you to complete the plan, and the organization's business name and address.

- Beware of high fees or “voluntary contributions” that can cause you to fall deeper into debt.
- Make sure your creditors will work with the credit counseling organization you choose.
- Confirm that your creditors have accepted the plan before making payments to the credit counseling organization.

To make a DMP effective, the FTC recommends that consumers:

- Pay your bills until your creditors approve the plan.
- Call your creditors to make sure your credit counseling organization is paying them on time.
- Read your monthly statements when they arrive. Report errors to your creditors immediately.

The FTC cautions consumers to steer clear of any “debt negotiation” organizations that:

- Guarantee they will remove your unsecured debt;
- Insist you pay high monthly service fees;
- Want you to pay them every month, not your creditors; or
- Say they can get accurate negative information taken off your credit report.

Note: Stipulated final orders are for settlement purposes only and do not constitute an admission by the defendant of a law violation. A stipulated final order requires approval by the court and has the force of law when signed by the judge.

Copies of the orders are available from the FTC’s Web site at <http://www.ftc.gov> and also from the FTC’s Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint in English or Spanish (bilingual counselors are available to take complaints), or to get free information on any of 150 consumer topics, call toll-free, 1-877-FTC-HELP (1-877-382-4357), or use the complaint form at <http://www.ftc.gov>. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

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