DEBT SETTLEMENT WATCH

Contents

Debt Settlement Watch is a publication of the Maryland Consumer Rights Coalition. Debt Settlement Watch reports upon issues and events concerning the debt settlement industry. MCRC advocates for strong regulation and reform of the industry.

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Maryland News

On September 30, Maryland's Commissioner of Financial Regulation posted new guidelines for debt settlement firms wishing to operate in the state.

Debt settlement firms that contract with Maryland consumers must register with the Office of the Commissioner of Financial Regulation, pay a $1000 registration fee, provide a surety bond (if applicable), and give the state any other names the firm may operate under.

Additionally, on or before March 15, 2012, each debt settlement firm must report to the Office of the Commissioner of Financial Regulation on its performance in Maryland during the preceding calendar year.

These new requirements are a result of legislation passed by the General Assembly in April 2011. The legislation also extends the national advance fee ban, which only covered debt settlement services contracts offered by telephone, to include internet transactions, face-to-face meetings, and intrastate contracts. The legislation also clarified that the regulations would apply to lawyers who settle clients debts. On or before December 1, 2014, the Commissioner of Financial Regulation will recommend whether a cap on fees for the industry is appropriate and, if so, suggest an appropriate level to cap fees.

Although, consumer advocates welcomed the extension of the advance fee ban (continued, page 2)

as well as the requirement that firms register and report upon their activities, many felt that a strong fee cap would be the best way to protect vulnerable consumers.

Since 2007, the number of complaints the Attorney General's office received about debt settlement firms has increased 144 percent. Between April 2010-December 2010, the Attorney General's office received 88 complaints from Marylanders who had lost more than $112,000. Of the consumers that complaine, sixty-four percent were women and many were retired or nearing retirement age.

Stories from the Field

MCRC's new film, "Stealing Trust" recounts the stories of three Marylanders who lost money and increased their debts by working with debt settlement firms. The consumers worked with firms before the advance fee ban was in effect. To see the film or purchase a copy for a home-screening, contact Franz Schneiderman at franz@marylandconsumers.org

National News

The FTC in Action

SEPTEMBER

On September 24, the Federal Trade Commission filed a claim in U.S. District Court charging Christopher Mallett with multiple violations of the Federal Trade Commission Act. The FTC charged that Mallet deceived consumers in financial distress by using multiple websites to impersonate federal consumer help agencies or pretend to be affiliated with them. Mallet did business as Department of Consumer Services Protection Commission, U.S. Debt Care, World Law Debt, U.S. Mortgage Relief Counsel, gov-usdebtreform.net, worldlawdebt.org, usdebtcare.net, and FHA-homeloaninfo. Mallett's websites associated his business with a fictitious government agency – the "Department of Consumer Services Protection Commission" – that appears to combine two real government agencies, the Federal Trade Commission and the Consumer Financial Protection Bureau. The websites also depicted the FTC's official seal, copied language about the fictitious agency's supposed consumer protection mission almost verbatim from the FTC's site, and claimed that the fictitious agency "monitors and researches" member companies that provide financial assistance to American consumers, the complaint alleges (http://www.ftc.gov/opa/2011/09/usdebtcare.shtm)

AUGUST

Last August, the FTC settled charges against Debt Relief, USA, Inc. The settlement bans the company from further business and bars two of its principals, James Wojcik and Valerie Leath from marketing any financial products and services. As of this writing, litigation continues against the other two principals, Kevin Reilly and Alvin Bell.

The FTC charged that Debt Relief, USA and its principals claimed that consumers could eliminate 40-60 percent of their credit card debt in 24-48 months. Few consumers received these results.

Debt Relief, USA has declared bankruptcy. Through a separate settlement action brought against the company by the Attorney General of Texas, consumers have received $3.7

million in refunds from the company's bankruptcy estate. www. ftc.gov/opa/2011/08/debtrelieft.shtm).

FEBRUARY

In February 2011, the FTC took action against three lead-generation companies that promoted debt settlement services. Media Innovation, Hermosa Group, and Financial Future Network advertised debt settlement services in English and Spanish on national television and radio. The ads contained questionable claims about how consumers could reduce their debt. When individuals called the toll-free number, they were routed to other companies that paid $50-$65 per name and phone number. The FTC action resulted in $500,000 fee.

TASC Name Change & Conference

The debt settlement industry's association, The Association of Settlement Companies (TASC), has changed its name to the American Fair Credit Counsel (AFCC). The name change reflects the association's commitment "to advocate for consumers in the fight for better treatment by the credit card companies." AFCC is holding a Debt Resolution Leadership conference, which is open to the public, from Nov. 6-8, 2011 in Las Vegas, Nevada. Maryland lobbyist "American Joe" Miedusiewski who led industry efforts to remove a proposed fee cap in Maryland, will be one of the keynote speakers. Topics include lobbying efforts, working with creditors and debt management companies, and an update from the FTC. Since the FTC banned advance fees, the association's membership has fallen from 220 firms to 35 firms. For more information about AFCC go to: http://www.americanfaircreditcouncil.org/

Debt Settlement in the News

Bloomberg News reports upon the ways in which debt settlement firms are attempting to circumvent the ban on upfront fees. The article cites debt settlement firms run by lawyers or affiliating with lawyers (rent-a-lawyer) as one emerging practice designed to get around the advance fee ban. www.bloomberg.com/news/2011-09-30/debt-firms-play-whack-a-mole-to-skirt-fee-ban.html.

A retired school-teacher who sought debt relief and ended up in bankruptcy was the focus of a story by the Center for Public Integrity. Mary Linville, of Alkol, West Virginia contracted with Morgan Drexen to help her reduce her credit card debt. Instead, the firm took $7000 in fees and never settled her debts. She has filed for bankruptcy.

Did You Know?

The Scott Law Group in Washington State that won the $1.5 million settlement against Debt Settlement USA, is pursuing litigation against a number of debt settlement providers including Ascend One Corporation; CareOne Services, Inc.,Consumer Law Associates; Debt Shield, Inc.,Global Client Solutions; Legal Helpers Debt Resolution; and, Persels and Associates

(www.getoutofdebt.org/29088/target-list-of-debt-settlement-companies-in-Washington

States' Round-Up

Illinois-

On October 19th, Illinois Attorney General Lisa Madigan filed suit against Debt Care Financial Group Inc., in Chicago, and its president Malgorzata Baran. Madigan charges that Debt Care and Baran advertised debt settlement services in the Chicago area's Polish community, promising to reduce consumers' debt by 50 to 70 percent. Baran charged consumers at least $66,000 for work she never performed and repeatedly ignored consumers' requests for refunds. In some cases, Baran also harassed or intimidated these consumers

Chicago-based Legal Helpers was sued by Illinois Attorney General Lisa Madigan for allegedly violating the state consumer protection law. Consumers sign up believing they are hiring a law firm, but instead, most cases are contracted out to a third party staffed by non-lawyers. Separately, Legal Helpers was fined $314,000 by the Illinois Department of Financial Regulation for operating without a license and failing to provide legal representation to clients. At least 314 clients were improperly signed up.

maine-The state attorney general's office reached a consent agreement with Texas-based Credit Solutions of America for collecting fees in advance of service in violation of Maine's Unfair and Deceptive Practices Act. The company enrolled 561 Maine consumers, promising to eliminate 40-60 percent of their debt. Only six of those consumers had as much as 40 percent of their debt relieved. The firm must pay $150,000 for the costs of investigation and litigation.

New York-August 9. New York's Department of Consumer Affairs announced it would issue subpoenas to 15 debt settlement companies based in New York or the subject of a complaint by consumers. Subpoenaed companies include: America Debt Free, CF Capital Financial Group, Cooperative Credit Union Management, Credit 911, Debt Remedy Advice,Debt Rx USA, LLC, Diamond Financial Group, Global Debt Management, iCorpFunding Life Coach, Inc.,New Path Financial, Right Start Financial, Square One Debt Settlement,United Debt Resolution Group, The Resolution GroupAmerica Debt Free, CF Capital Financial Group, Credit 911, Debt Remedy Advice, Global Debt Management.

LITIGATION
Washington State -

-On May 12, 2011, the Washington State Supreme Court issued a unanimous opinion that Washington's Debt Adjusting statute safeguards Washington consumers from predatory practices that many debt settlement firms have been charged with using.

-On July 15, 2011, a Washington trial court awarded more than $1.5 million against three owners and directors of Debt Relief USA, Inc. The Court's award included punitive damages, attorneys fees, and litigation costs. The class action included 365 Washington families who signed up with Debt Relief USA.