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

The Commissioner of Financial Regulation has informed stakeholders that the reporting forms debt settlement firms are required to complete will be available after April 30, 2012.

As of Jan. 1, 2012, 12 debt settlement firms had registered in Maryland. The firms are:

Accredited Debt Relief
San Diego, CA

CareOne Services, Inc.
Columbia, MD

Century Negotiations, Inc.
N. Huntingdon, PA

ClearOne Advantage, LLC.
Baltimore, MD

DebtAmerica LLC
Santa Ana, CA

Debt Management Associates, Inc.
Glen Arm, MD

Debt Relief Center, Inc.
Owings Mills, MD

Debt Settlement Group, Inc.
Germantown, MD

Freedom Debt Relief
San Mateo, CA

Renaissance Debt Solutions, Inc.
Hunt Valley, MD

Rescue 1 Financial, LLC.
Irvine, CA

Superior Debt Services
Fort Collins, CO

Maryland Better Business Bureau

The Better Business Bureau (BBB) will now accept a debt settlement company for accreditation as long as it voluntarily complies with a secondary audit/review by BBB staff that includes on-site visits to substantiate that the business is in compliance with FTC regulations. Those firms that are not in compliance with FTC regulation will be given an "F" rating.

BBB MD now accredits one Debt Settlement Company – CareOne, which is based in Columbia. Other debt settlement firms have been denied accreditation because they will not participate in a voluntary secondary review or because their owners/principals are engaged in foreclosure rescue, credit repair, or other industries that carry inherent risks for consumers.

In October, 2011, Mike Croxson, President of CareOne Services, Inc. and CEO of Ascend One Corp. joined the board of directors of BBB Maryland.

Maryland BBB Complaints

42 Maryland residents filed complaints with debt settlement/relief companies known not to be in compliance with FTC regulations in 2010/2011 -- 32 in 2010, 10 in 2011.

Another 91 Maryland residents filed complaints in 2010/2011 against debt settlement/relief companies that are in compliance with FTC regulations or whose compliance status is unknown – 42 in 2010 and 49 in 2011.

National News

Debt Settlement Firms Confer

In November, the American Fair Credit Council's (formerly The Association of Settlement Companies) "Debt Resolution Leadership Conference" had more than 200 paid attendees. The organization is expanding to include debt collectors and debt buyers and seeks to increase its membership by 40% by the end of 2012.

Much of the conference focused on AFCC's work self-policing its members to make sure they comply with FTC rules. AFCC sees this as a way to increase membership and eliminate competition from noncompliant settlement firms.

At the conference, AFCC leaders talked about their ability to aggressively pursue industry-friendly state legislation. They touted their success in getting fee caps eliminated in Texas and Colorado as a result of their self-policing efforts. AFCC plans to expand the number of states whose laws track – but do not go beyond – the FTC rule that bans advance fees for debt settlement firms. The AFCC considers recent legislation in California a success and is focused on Ohio, Connecticut, South Carolina, and Illinois as "goals." The group's stated goal is to "stop as many fee caps as possible in the next year." It is also working to reduce the bonds some states require debt settlement firms to post --

from as high as $100,000 to $10,000 to $20,000.

Conferees also discussed ways to generate new business, and made clear that the industry sees credit repair as a wonderful growth opportunity. Many debt settlement firms are now selling “credit repair” as a new add-on. The model is to charge per correction successfully done -- the typical revenue from a consumer is $800 to $1,500. The industry also sees credit repair as a lead source for new debt settlement clients. Its average payout to lead generators is $1,600 to $1,700.

Speakers at the conference also explained that debt settlement customers now receive their first settlement in three months, on average -- an improvement from the six to nine months consumers previously had to wait to get one debt settled. Today, 60% of clients get at least one settlement in the first 90 days. Most of the industry’s revenue still goes to marketers (the front end of the industry) not to the actual debt settlement company (the back end). But front-end companies’ revenue has decreased from 80% of industry revenue to 45% to 65%.

COURT RULINGS

New York

In New York, a challenge to the state’s ban on law firms accepting equity investments from non-lawyers has been dismissed by a federal judge. The law firm Jacoby and Meyers had challenged part of New York’s Rule 5.4 which states that “(a) A lawyer or law firm shall not share legal fees with a nonlawyer” and “(d) A lawyer shall not practice with or in the form of an entity authorized to practice law for profit, if (1) a nonlawyer has any interest therein.”

This ruling is a significant problem for the debt settlement industry because many debt settlement firms use lawyers as a front (or partner with lawyers) to skirt FTC and other rules. The FTC’s Mortgage Assistance Relief Services rule, for instance, exempted lawyers provided they do not share fees with non-lawyers.

Texas

A federal court judge rejected the Federal Trade Commission’s (FTC) complaint against three Dallas-based debt settlement companies.

U.S. District Judge David C. Godbey of the Northern District of Texas ruled in favor of Financial Freedom Processing, Inc., Debt Consultants of America, and Debt Professionals of America.

The FTC alleged that the firms advertising claims violated the Federal Trade Commission Act, which was amended in July 2010 to include the debt settlement industry. The FTC sought more than $58 million in restitution.

The judge found that the claims the firms "were true for a majority of the customers of the Companies who completed the program."

Consumer advocates and others note that debt settlement programs have at most a 30% success rate. A more accurate measure of the firms’ claims than the one the court used would take into account the number of consumers who entered a debt settlement program and dropped out without reducing their debt.

States' Round-Up

Connecticut

The Connecticut Department of Banking issued a number of cease-and-desist orders against debt settlement firms in 2011 and continues to issue new orders in 2012.

In 2011, enforcement actions were issued against American Debt Solutions (a.k.a. Legal Settlement Solutions, LLC, The Purewal Law Group, Legal Network of America and Settlement Corporation of America), Anderson, Crenshaw, & Associates, LLC, Credit Answers, The Debt Answer, Debt Relief Servicing, Global Client Solutions, J Hass Group, LLC, The Klosk Law Group, Inc., and Security Debt Services. Many of the actions are for practicing in the state without a license.

In 2012, new enforcement actions were filed against American Debt Solutions (aka Legal Settlement Solutions, LLC, The Purewal Law Group, Legal Network of America, and Settlement Corporation of America). The actions included a cease-and-desist order as well as orders to repay fees and impose civil penalties. In addition to charging the firm with operating without a license, the order notes that American Debt charged excessive fees and requires the firm to pay restitution to appropriate Connecticut residents. Connecticut law states that the fees of debt settlement firms cannot exceed 10 percent of the amount by which the consumer's debt is reduced. The state charged American Debt with a $100,000 civil penalty.

A consent order was filed against Golden State debt settlement firm. Golden State was charged $3,000 and ordered to refund money collected from Connecticut residents.

Ohio

Ohio Attorney General Mike DeWine sued two California debt settlement firms for over-charging Ohio residents and failing to deliver results. The companies, Jackson Hunter Morris & Knightly and the now-dissolved Nelson Gamble, are both owned by Jeremy Nelson.

The suit alleges that the companies charged consumers a $199 initial fee rather than the $75 fee permitted under the state's Debt Adjusters Act. It further charges that the companies failed to settle consumers' debts, provide written contracts, or provide refunds.

Massachusetts

The Massachusetts Consumer Affairs Department has created a site to educate consumers about common scams (www.topmassachusettsdeals.com). If you click on the site's Debt Relief tab, you go to a homepage entitled "Debt Menders" that resembles the websites of many debt settlement firms. When the consumer clicks on any link, he or she learns more about advocates' concerns about debt settlement. It's an interesting and innovative way to provide on-line consumer education. Check it out!