December 13, 2010

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex T)
600 Pennsylvania Ave, NW
Washington, DC 20580

Re: Debt Settlement Company Evasion of Amendments to TSR

Dear Commissioners,

We are writing to speak out against the deceptive tactics employed by a growing number of debt settlement companies intent on evading the Federal Trade Commission's recent amendments to the Telemarketing Sales Rule (TSR) that you issued to protect consumers. We are also urging that immediate action be taken to curb the activities of these companies.

We all applaud the amendments made to the TSR, as well as the enforcement actions announced on December 6th. We also recognize that some debt settlement companies have made an effort to comply with the revised rules. It must be noted, however, that many more companies have chosen to ignore the new rules and the authority of the FTC itself. We strongly believe that more aggressive monitoring of the settlement industry *and* enforcement of the TSR rules are needed to halt the continuing abuses of settlement companies that are preying on vulnerable consumers looking to resolve their financial problems.

The professional non-profit credit counseling agencies we represent speak with thousands of financially stressed consumers every day, providing free education and meaningful solutions to their problems. We know the kinds of challenges people are facing as they try to make ends meet. Being scammed out of the little money they have available to pay their debts must stop.

A few schemes used to avoid the new TSR rules appear to be gaining in popularity. Here's how they work to deceive unsuspecting consumers:

- **<u>The Attorney Model:</u>** We have seen a number of debt settlement companies employ an "attorney-model," in which the settlement agency fronts as a law firm. The reality is that many consumers never even speak to a lawyer, and if they do, it is likely not a lawyer licensed to practice in their state. These companies claim they are not governed by the FTC and that the fees they charge are a "retainer." Under this guise, the typical settlement model continues, complete with exorbitant up-front and monthly fees, and with little chance of settlement for the average consumer.

- **<u>Text-Messaging:</u>** More recently, consumers have started receiving text messages from someone posing as a representative of a "survey" company, asking if they want to "reduce their unsecured debt." If the consumer makes contact with the fraudster, they are quickly asked if their debts total $10,000 or more and are told they can be put in touch with a “consumer advocate.” That “advocate” turns out to be a debt settlement company representative. In one version of this scam, the company doesn’t even use the words “debt settlement.” Instead, they try to convince the consumer to sign up for a plan involving a complex legal strategy that can supposedly reduce their debt. In that version, up-front “retainer” fees are required, usually 10% of the total debt owed.

- **Other Tactics:** Some settlement companies are using Internet “chat” to arrange settlement plans, while others are setting up off-shore call centers, strategies employed in the illegal sports betting industry until the U.S. Department of Justice brought enforcement actions. The selling of “debt settlement kits,” books, and software at vastly inflated prices has also been seen.

We recognize that the burden of protecting consumers rests not only on the FTC, but also on state regulatory bodies and law enforcement agencies. Without a focused, committed, and coordinated response by authorities, the flaunting of the FTC’s regulations will continue and consumers will suffer.

Accordingly, we, the undersigned, call for the following:

1) That the FTC launch a new investigation into the on-going fraudulent conduct of the debt settlement industry in order to expose the worst offenders and compile evidence of the full range of regulatory evasion tactics.

2) That the FTC obtain injunctions against the offending settlement companies in order to protect consumers.

3) That the FTC coordinate with attorneys general to ensure enforcement at the state level.

We are hopeful that prompt action can be taken. Consumers facing financial hardship cannot afford - emotionally or monetarily - to be abused by those who pretend to offer relief.

Respectfully,

Christopher Viale
President & CEO
Cambridge Credit Counseling

Diane Chen
President & CEO
Consumer Education Services, Inc.

Tom Coates
Executive Director
Consumer Credit of Des Moines

Russell Graves
Executive Director
Consumer Credit and Budget Counseling

Kevin Porter
President
Alliance Credit Counseling, Inc.

Hank Keaton
President & CEO
American Financial Solutions

Sam Hohman
President & CEO
Credit Advisors Foundation

Alan Franklin
President
American Credit Alliance, Inc.

Michael McAuliffe
President
Family Credit Management

Barry Coleman
Compliance and Project Manager
ClearPoint Financial Services

Geri Napolitano
President
Debt Counseling Corporation

CC: Allison Brown, Bureau of Consumer Protection, Federal Trade Commission
Alice Hrdy, Bureau of Consumer Protection, Federal Trade Commission
Evan Zullow, Bureau of Consumer Protection, Federal Trade Commission
Mitchell Katz, Office of Public Affairs, Federal Trade Commission
Senator Christopher Dodd, Chairman, Senate Committee on Banking, Housing, and Urban Affairs
Senator Richard C. Shelby, Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs
Senator Chuck Schumer, Sponsor, S.3264: Debt Settlement Consumer Protection Act of 2010
Senator Claire McCaskill, Cosponsor, S.3264: Debt Settlement Consumer Protection Act of 2010
Representative Barney Frank, Chairman, House Committee on Financial Services
Representative Luis Gutierrez, Chairman, House Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit & Sponsor, H.R.5387: Debt Settlement Consumer Protection Act of 2010
Representative Jeb Hensarling, Ranking Member, House Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit
Representative Keith Ellison, Cosponsor, H.R.5387: Debt Settlement Consumer Protection Act of 2010
Representative Gwen Moore, Cosponsor, H.R.5387: Debt Settlement Consumer Protection Act of 2010
North Carolina Attorney General Roy Cooper, President, National Association of Attorneys General
Elizabeth Warren, White House's Consumer Financial Protection Bureau
Gail Hillebrand, Senior Attorney & Manager, Financial Services Campaign, Consumer Union
Susan C. Keating, President & CEO, National Foundation for Credit Counseling
Travis Plunkett, Legislative Director, The Consumer Federation of America