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CFPB Settles Lawsuit with Nation's Largest Debt-Settlement Services Provider

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The CFPB announced that it has settled the lawsuit it filed in a California federal district court against Freedom Debt Relief (FDR) and its CEO for alleged violations of the Consumer Financial Protection Act (CFPA) and the Telemarketing Sales Rule (TSR). The CFPB's press release describes FDR as "the nation's largest debt-settlement services provider." The Stipulated Final Judgment and Order requires FDR to pay $20 million in restitution and a $5 million civil money penalty.

The Bureau's lawsuit alleged that FDR required consumers enrolled in its debt-settlement program to deposit money into dedicated accounts with an FDIC-insured bank and informed consumers that it would negotiate with creditors to accept less than the amounts actually owed. When a debt was settled or collection attempts ceased, FDR charged the consumer a fee that typically ranged from 18 to 25 percent of the amount of the debt.

The CFPB alleged that FDR and its CEO violated the CFPA by engaging in the following conduct:

- Despite knowing there was a significant chance that it would be unable to negotiate directly with certain creditors, by touting its "negotiating power" when marketing its services, creating "the false net impression that Freedom itself would be able to negotiate directly with all creditors."

- Failing to disclose to consumers before they enrolled in FDR’s program that they might be required to negotiate with creditors on their own.
- Despite representing to consumers that it would not charge any fees for its services until it had settled a debt and the consumer had made a settlement payment to the creditor, charging fees in cases where FDR had not settled the consumer’s debt and no settlement payment was made.

The CFPB also alleged that FDR and its CEO violated the TSR (and thereby also violated the CFPA) by engaging in the following conduct:

- Charging fees in the absence of a settlement.
- Failing to clearly and conspicuously disclose that the consumer owed the funds held in a dedicated account, could withdraw from the debt-relief service at any time, and would be entitled to all funds in the account other than fees earned by FDR if the consumer withdrew.

The settlement requires FDR to provide disclosures to consumers before enrollment regarding requests by FDR for the consumer to negotiate directly with the creditor and the consumer’s right to receive deposited funds upon withdrawal from FDR’s program. It also prohibits FDR from charging a fee where FDR considers a debt to be resolved but where the debt had not been settled with the creditor (Non-Settlement Outcome).

The $20 million in restitution is to be paid to consumers who, during a specified period, paid a fee for a Non-Settlement Outcome or in connection with a settlement that the consumer negotiated directly with the creditor. The settlement also provides that the CFPB will remit $493,500 of the $5 million civil penalty “in light of the civil money penalty paid under [an FDIC consent order].” The referenced consent order was entered into in March 2018 by the FDIC-insured bank that held the dedicated accounts of FDR’s clients (and that funded loans made to FDR’s clients to pay negotiated settlements to creditors) and by a company that was FDR’s affiliate as well as a bank-affiliated company (and that marketed and serviced such loans).

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