

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2013 MAY 13 A 11:03

In Re: AMERICAN DEBT COUNSELING, INC.)
)

CIVIL DIVISION

Docket No. 293-S-13Wncw

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and American Debt Counseling, Inc. (“ADC”), hereby enter into this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

Background

1. American Debt Counseling, Inc. is a Florida corporation with offices located at 14051 N.W. 14th Street, Sunrise, FL 33323. ADC’s services include providing debt management programs and credit counseling to assist clients reduce their debt.
2. ADC began doing business in Vermont in or around January 2010 and has since entered into contracts to provide debt reduction services to seven (7) Vermont consumers. As of April 14, 2013, these clients had paid to ADC a total of \$3,863.50 in fees to ADC.
3. The business of ADC falls within the definition of “debt adjustment” under 8 V.S.A. § 2751(2) and is thus subject to licensure under the Vermont Debt Adjusters Act, 8 V.S.A. §§ 2751-2768.
4. At no time relevant to this AOD did ADC possess a Vermont Debt Adjuster license as required by 8 V.S.A. § 2752. In addition, ADC failed to pay the fees or obtain the bond required by 8 V.S.A. §§ 2754 and 2755 in order to obtain a Vermont Debt Adjuster License.

5. The Attorney General asserts that the above-described practice violated the Vermont Consumer Protection Act's prohibition on unfair and deceptive trade practices, 9 V.S.A. § 2453(a).
6. The Attorney General and ADC are willing to accept this AOD pursuant to 9 V.S.A. § 2459.

Assurances and Relief

7. Before engaging in any activity in Vermont, ADC shall comply with all applicable federal and Vermont laws and regulations, including but not limited to the Vermont Debt Adjusters Act, 8 V.S.A. ch. 83, the Vermont Consumer Protection Act, 9 V.S.A. ch. 63, and any regulations promulgated under either statute.
8. In the event that ADC obtains a license to engage in the business of debt adjustment and credit counseling in Vermont in the future, ADC shall: (i) clearly and conspicuously advise clients of the right to cancel without charge, by including in all written contracts, a separate provision stating "RIGHT TO CANCEL" in boldface type of a minimum size of 10 points that describes the client's right to cancel, using substantially similar language as that contained in 8 V.S.A. § 2759a; (ii) provide oral notice of the right to cancel in any telephonic solicitation sale (whether incoming or outbound calls), as required by Vermont Consumer Protection Rule 113.02(c); and (iii) if ADC obtains clients via a website sign-up or registration process, ADC shall post a notice of a right to cancel (using substantially similar language as that contained in 8 V.S.A. § 2759a) before the completion of any website sign-up process.
9. Within thirty (30) days of the filing of this AOD with the Washington Superior Court, ADC shall refund to all of its Vermont clients all unrefunded fees and other charges of

whatever kind paid by each of those clients to ADC. In the event that ADC is unable to make one or more refunds, for example because certain clients cannot be located, the company shall, within eighty (80) days of mailing the refund checks, pay the total amount of those unpaid refunds to the State of Vermont, in a single check, payable to "Vermont State Treasurer," mailed to the Vermont Attorney General's Office, to be treated as unclaimed funds.

10. ADC shall also pay liquidated damages in the amount of \$2,000.00 (two thousand dollars) to any Vermont client who was sued by one or more creditors between the consumer's sign-up with ADC and the date of the company's settlement with the creditor. ADC shall pay this amount within thirty (30) days of receipt by the company of documentation of the lawsuit.
11. ADC shall pay actual damages to any Vermont client who was assessed late fees or other penalty charges by one or more creditors between the consumer's sign-up with ADC and the date of the company's settlement with the creditor. ADC shall pay this amount within sixty (60) days of receipt by the company of documentation of the late fees or penalty charges.
12. ADC shall promptly complete, without charge, its credit counseling and debt payment services with all listed creditors of each of its Vermont clients, at the client's option. In the event of a dispute about the adequacy or promptness of ADC's efforts under this paragraph, the parties shall attempt in good faith to resolve the issue themselves. If they are unable to do so, either party may petition the Washington Superior Court in Montpelier, Vermont, for a ruling.

13. To implement the provisions of paragraphs 9 through 12, above, within thirty (30) days of the filing of this AOD with the Washington Superior Court, ADC shall send to each of its Vermont clients, by first class mail, postage prepaid, a letter in substantially the same form as Exhibit 1, enclosing an itemized list of the amounts and dates of all fees paid to the company, and further enclosing any payments required by paragraphs 9-12, above, in the form of a check or checks. If the letter is returned as undeliverable, ADC shall make all reasonable efforts to find a valid mailing address for the consumer in question and shall promptly resend the letter and any accompanying payment required by this AOD to the new address.
14. ADC shall pay to the State of Vermont, in care of the Vermont Attorney General's Office at the address of the undersigned below, the sum of ten thousand dollars (\$10,000.00) as a civil penalty, according to the following schedule: four thousand dollars (\$4,000) within ten (10) days of signing this AOD; two thousand dollars (\$2,000) within thirty (30) days of signing; two thousand dollars (\$2,000) within sixty (60) days of signing; and the final two thousand dollars (\$2,000) within ninety (90) days of signing.

Other Terms

15. Acceptance of this AOD by the Vermont Attorney General does not constitute approval of any business practices of ADC, nor shall the company or anyone acting on its behalf state or infer otherwise.
16. This AOD shall be binding on ADC, its officers, directors, owners, managers, successors and assigns. The undersigned authorized agent of ADC shall

promptly take reasonable steps to ensure that copies of this document are provide to all officers, directors, owners, and managers of the company.

17. This AOD resolves all existing claims that the State of Vermont may have against ADC stemming from the conduct described in this document.

18. The Superior Court of the State of Vermont, Washington Unit, shall have Jurisdiction over this AOD and the parties hereto for the purpose of enabling any of the parties hereto to apply to the Court at any time for orders and directions as may be necessary or appropriate to carry out or construe this AOD, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

19. All notice related to this AOD shall be given to ADC at:

14051 NW 14th Street, Sunrise, Florida, 33323

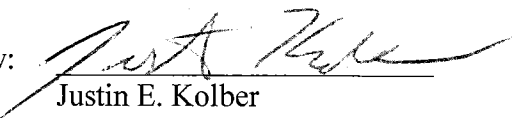
20. In the event that the Attorney General alleges that ADC has violated any of the terms of this AOD, then the parties agree that paragraph 17 shall be void and the Attorney General shall be entitled to bring any other matters to the Court's attention involving potential violations of law by ADC.

DATED at Montpelier, Vermont this 13th day of May, 2013.

STATE OF VERMONT


WILLIAM H. SORRELL
ATTORNEY GENERAL

By:


Justin E. Kolber
Assistant Attorney General
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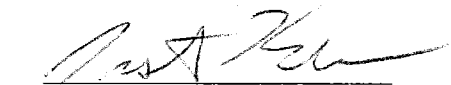
DATED at Sunrise, Florida this 5th day of May, 2013.

AMERICAN DEBT COUNSELING, INC.


By: 
Its Authorized Agent

President
Name and Title of Authorized Agent

APPROVED AS TO FORM:


Justin E. Kolber
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, VT 05609

For the State of Vermont


Matthew Lerner, Esq.
American Debt Counseling, Inc.
14051 NW 14th Street
Sunrise, FL 33323

For American Debt Counseling, Inc.

Exhibit 1

Important Information on Refunds to Consumers

Dear _____:

I am writing to inform you that American Debt Counseling has entered into a legal settlement with the Vermont Attorney General's Office. The Attorney General alleges that American Debt Counseling violated Vermont law by engaging in the business of debt adjustment without a required license.

Under the settlement, we are refunding to you all fees and charges of any kind that you paid to American Debt Counseling, as itemized on the enclosed sheet. If the amount of the enclosed refund appears to be less than the total of what you paid us, please let us know at once by telephone at 1-800-279-1194 or by mail at 14051 NW 14th Street, Sunrise, FL 33323. To receive this benefit, you must cash or deposit the check within 60 days. Thereafter, the money will be available through the unclaimed property division of the Vermont Treasurer's Office.

In addition, if, while you were a client, you were sued by one of the creditors you told us about, we will make an additional payment of \$2,000, as required by the settlement. To receive the \$2000, you will need to provide us with documentation of the lawsuit (for example, a copy of the complaint) within 30 days. You may send the documentation by fax to 954-656-8113 or by mail to 14051 NW 14th Street, Sunrise, Florida, 33323.

Similarly, if, while you were a client, you incurred late fees or penalty charges from one of the creditors you told us about, we will pay those actual amounts, as required by the settlement. Please provide us with documentation of those charges via the above listed methods (fax, email, or mail) within 30 days.

Under the settlement, American Debt Counseling has also agreed, if you choose, to complete its services under the contract (including making payments to your creditors if you provide us with the money), at no charge to you. If you would like us to do that, please call or email us as directed above as soon as you can; otherwise, we will assume that you do not want us to continue our payment services or debt reduction efforts.

Finally, if you have any questions about the settlement, you may call the Vermont Attorney General's Office at (802) 828-5507.

Sincerely,

[American Debt Counseling or representative]