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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

FREEDOM DEBT RELIEF, LLC, a
Delaware limited liability company,

Defendant.

NO.

COMPLAINT FOR VIOLATION OF
THE WASHINGTON CONSUMER
PROTECTION ACT AND THE
WASHINGTON DEBT ADJUSTING
ACT

Plaintiff State of Washington ("State") files this lawsuit by and through Attorney General Rob McKenna and Assistant Attorney General Robert Lipson of the Consumer Protection Division. The State alleges that Defendant Freedom Debt Relief ("Freedom") has violated the Consumer Protection Act, RCW 19.86 et seq., and the Debt Adjusting Act, RCW 18.28 et seq.

I. BACKGROUND AND ALLEGATIONS

1.1 The State alleges that Freedom is a debt adjuster for purposes of applying the Debt Adjusting Act, RCW 18.28.

1.2 The Debt Adjusting Act, among other things, circumscribes the amount of fees that a debt adjuster can charge, when those fees are earned and can be taken, and imposes various operational limitations and requirements on the business of a debt adjuster.

1 1.3 The Consumer Protection Act applies generally to business conducted in
2 Washington or affecting Washington consumers, and prohibits unfair and deceptive acts and
3 practices that occur in commerce and that affect the public interest. A violation of the Debt
4 Adjusting Act is a per se violation of the Consumer Protection Act.

5 1.4 The State contends that Freedom violated both the Debt Adjusting Act and the
6 Consumer Protection Act. In particular, but without limitation, the State contends that
7 Freedom at times charged its Washington consumers more than the Debt Adjusting Act allows,
8 that it took its fees before the time permitted by the statute, that certain material facts relating
9 to the risks and terms of the program were not adequately disclosed to consumers, that some
10 consumers were misled or not adequately informed about how the program worked, and that
11 some consumers were enrolled in the program without adequate regard to their ability to satisfy
12 the program's requirements.

13 1.5 The State alleges that Freedom's business is to act as a debt negotiator on behalf
14 of its customers. It advertises that consumers who owe large amounts of unsecured debt,
15 usually \$10,000 or more and typically credit card debt, can have their debt eliminated in 18 to
16 48 months at 40-60% of its face value.

17 1.6 Freedom's program is designed and intended for those who are in severe
18 financial hardship and who are or soon will be unable to meet their minimum monthly credit
19 payments but who for whatever reason choose not to file for bankruptcy. A condition of
20 entering Freedom's program is that consumers must not make payments to their unsecured
21 creditors. Instead, the consumer must allow those accounts to go into default and age. Rather
22 than making monthly payments to creditors, debtors contribute a monthly sum to a dedicated
23 bank account controlled by the consumer out of which Freedom takes its fees and in which,
24 over time, settlement funds build up. As the creditor accounts age, go further into default and
25 grow larger because of added interest, late fees and penalties, the dedicated bank account,
26 minus Freedom's fees, grows. When sufficient funds have accumulated in the consumer's

1 settlement account, Freedom attempts to settle the consumer's debts for a fraction of the
2 current balance. If a settlement is reached and approved by the consumer, the consumer then
3 pays the settlement amount to the creditor.

4 1.7 Freedom's fees vary to some extent but are generally 15% of the debt as
5 measured at the time of enrollment. Freedom typically collects its fee over the first 18-24
6 months of the consumer's participation in the program. About one-third of is total fee (or 5%
7 of the total enrolled debt) is automatically deducted from the dedicated bank account over the
8 first 3-6 months of the program, and the remaining two-thirds of the fee (or 10% of the total
9 enrolled debt) is deducted over the next 15-18 months. The State contends that this means that
10 Freedom's fees are front-loaded during the first half-life of the program, that substantial fees
11 are paid before any debts are settled, and that all fees are paid before all of the consumer's
12 debts are settled.

13 1.8 Freedom began operating in Washington in 2003. Since then it has had about
14 1,100 Washington customers. Some consumers dropped out of the program before any debts
15 were settled, some dropped out after some but not all enrolled debts were settled, some
16 successfully completed the program, and some are still in the program having had some but not
17 all of their debts settled.

18 1.9 Since March 2009, Freedom has not enrolled any new Washington clients in its
19 program.

20 II. PARTIES

21 2.1 Defendant Freedom was founded in 2002 and is a Delaware limited liability
22 company with its principal place of business in San Mateo, California. It also has operational
23 facilities in Sacramento, California and Phoenix, Arizona, and has approximately 500
24 employees. Over the internet and by telephone, it has enrolled over 30,000 Americans,
25 including over 1,100 in Washington State, in its debt negotiation and settlement program.

1 2.2 Plaintiff is the State of Washington. The Consumer Protection Division of the
2 Attorney General's Office brings this action as authorized by statute. The State seeks
3 injunctive relief, restitution on behalf of Washington consumers, civil penalties, costs and fees.

4 **III. JURISDICTION AND VENUE**

5 3.1 Jurisdiction of this court over defendant is conferred by the Consumer
6 Protection Act and by the Debt Adjuster Act, and by the fact that it has been doing business in
7 Washington State and its activities in trade and commerce here have affected citizens of this
8 State.

9 3.2 Venue is proper in King County because it has conducted business in King
10 County and its activities have affected consumers here.

11 **IV. CAUSE OF ACTION 1: VIOLATION OF THE DEBT ADJUSTING ACT,**
12 **RCW 18.28**

13 4.1 The Debt Adjusting Act, RCW 18.28.010, defines debt adjusting as "the
14 managing, counseling, settling, adjusting, prorating, or liquidating of the indebtedness of a
15 debtor, or receiving funds for the purpose of distributing said funds among creditors in
16 payment or partial payment of obligations of a debtor." The State alleges that Freedom is a
17 debt adjuster under the Debt Adjusting Act.

18 4.2 The statute proscribes how much debt adjusters can take as fees and when those
19 fees can be taken. As set forth in RCW 18.28.080:

20 "By contract a debt adjuster may charge a reasonable fee for debt
21 adjusting services. The total fee for debt adjusting services may not
22 exceed fifteen percent of the total debt listed by the debtor on the
23 contract. The fee retained by the debt adjuster from any one payment
24 made by or on behalf of the debtor may not exceed fifteen percent of the
25 payment.

26 In the event of cancellation or default on performance of the contract by
 the debtor prior to its successful completion, the debt adjuster may
 collect in addition to fees previously received, six percent of that portion
 of the remaining indebtedness listed on said contract which was due
 when the contract was entered into, but not to exceed twenty-five
 dollars."

4.3 The State contends that Freedom violated RCW 18.28.080 by taking as fees more than fifteen percent of any one payment made by or on behalf of the debtor, by taking more than twenty-five dollars as an initial charge, and by taking more than twenty-five dollars as fees related to unsettled indebtedness for those consumers who stopped participating in the program.

4.4 RCW 18.28.080 also makes it illegal to retain any fee before notifying all the creditors of the enrolled debt. The State alleges Freedom on occasion violated this provision.

4.5 RCW 18.28.090 states that if a debt adjuster receives fees above the maximums allowed, then the contract with the consumer is “void and the debt adjuster shall return to the debtor the amount of all payments received from the debtor or on the debtor's behalf and not distributed to creditors.” Accordingly, whenever improper fees are taken, then all fees, and not just improperly taken fees, must be disgorged.

4.6 RCW 18.28.120 also provides that it is a statutory violation to make any false, misleading or deceptive statement in connection with any debt adjusting service. The State contends that Freedom violated this section of the statute by, among other things, not disclosing that its fees were excessive or improperly timed and therefore illegal, and by not adequately disclosing certain fundamental pitfalls associated with the program.

4.7 RCW 18.28.185 makes a violation of the Debt Adjuster Act a per se violation of the Consumer Protection Act. Each and every act of Freedom in violation of the Debt Adjuster Act is therefore also a separate violation of the Consumer Protection Act.

V. CAUSE OF ACTION 2: VIOLATION OF THE CONSUMER PROTECTION ACT, RCW 19.86

5.1 The Consumer Protection Act, RCW 19.86.020 et seq., prohibits unfair and deceptive acts and practices that occur in trade or commerce.

5.2 As noted above, each violation of the Debt Adjuster Act, is also a per se violation of the Consumer Protection Act.

1 5.3 In addition, each of Freedom's unfair or deceptive acts or practices, regardless
2 of whether it also constitutes a violation of the Debt Adjuster Act, also is a violation of the
3 Consumer Protection Act. The State alleges that Freedom misled consumers through
4 statements and representations, inadequate disclosures, non-disclosures, or through conflicting
5 statements and representations about the nature, suitability, risks and pitfalls of its program,
6 including but not limited to:

- 7 a. Success rates;
- 8 b. The percent of consumers who did not successfully and fully complete
9 the program within the advertised debt reduction percentage;
- 10 c. The percent of consumers who did not successfully and fully complete
11 the program in the advertised time period;
- 12 d. The suitability of the program for certain consumers;
- 13 e. The likelihood of being sued when creditors are no longer paid;
- 14 f. The full effect on a credit rating that occurs when debtor payments stop;
- 15 g. The effect that a judgment would have on settlement possibilities;
- 16 h. The effect that a judgment would have on wage and asset garnishment
17 and how a garnishment would effect the ability to continue with the
18 program;
- 19 i. That the advertised debt reduction percentages are based on debt as
20 measured at the time of enrollment and not the size of the debt at the
21 time of settlement which in all cases will be substantially larger;
- 22 j. That its fee structure violates Washington law; and
- 23 k. That it is illegal for it to tell or encourage consumers to breach their
24 credit contracts.


5.4 Pursuant to RCW 19.86.080 and RCW 19.86.140, the Attorney General is empowered to seek injunctive relief, restitution, civil penalties, costs and attorney's fees for violations of the Consumer Protection Act.

VI. RELIEF SOUGHT

The State seeks the following relief:

- a. An injunction against Freedom prohibiting it from charging fees in violation of the law;
- b. An injunction against Freedom prohibiting it from engaging in any unfair or deceptive act or practice including but not limited to any misrepresentation or inadequate disclosure of a material term or fact relating to its program;
- c. Restitution to consumers of all fees not permitted by law;
- d. Civil penalties of up to \$2,000 per violation; and
- e. Costs and attorney's fees as provided for by law.

DATED this 18th day of March, 2011.


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Attorney for Plaintiff
State of Washington