Federal Trade Commission

Protecting America's Consumers

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CREDIT REPAIR? BUYER BEWARE!

FTC, States Announce Crackdown On Scams That Bilk Consumers

Consumers are still being bilked out of millions of dollars by bogus credit repair organizations, the Federal Trade Commission said today as it announced another project in its continuing effort to eliminate these illegal operations. "Operation Eraser," a federal-state crackdown on fraudulent credit repair firms, targeted 31 companies that promise consumers that they can restore their creditworthiness for a fee. Sometimes charging more than $1,000, these firms purport to guarantee consumers they can remove negative information from their credit reports -- even if the negative information is accurate and timely. But, according to the FTC, these companies cannot remove legitimate negative information and, where there are actual errors in credit reports, consumers have the legal right to have those corrected for free most of the time. In some cases, these credit repair companies are advising consumers to take actions such as using false Social Security numbers, which, if followed, would constitute felonies. This joint law enforcement sweep is the first combined effort to utilize the Credit Repair Organization Act (CROA), a new federal law designed to help consumers combat fraudulent credit repair operations.

"Credit repair organizations that promise to clean up consumers' credit reports by removing accurate, up-to-date credit information are breaking federal law," said Jodie Bernstein, Director of the FTC's Bureau of Consumer Protection. "This fraud is particularly appalling because it preys on consumers who already find themselves in financial difficulty as a result of layoffs, divorce, or heavy medical expenses. The new statute gives both consumers and law enforcement agencies additional ammunition to fight these phony operations. Although there are legitimate, not-for-profit credit *counseling* services, the FTC has never seen a legitimate credit *repair* company. Along with our state and local law enforcement partners, we will continue to fight this fraud."

According to Connecticut Attorney General Richard Blumenthal, "Credit repair scams literally kick consumers when they are down, fostering and exploiting false hopes of building a better credit history after suffering through tough times financially. Now the FTC and the states are escalating efforts to strike back to end these rip-offs and educate consumers," Blumenthal said. "Consumers must understand that no one can erase negative credit information if it is accurate and current, and anything that is inaccurate can be corrected at little or no cost to the consumer."

The state of Connecticut was the first state to bring a credit repair case under the CROA. The effort being announced today includes law enforcement actions initiated in federal courts across the United States by the FTC against 20 companies; with an additional 11 companies targeted by state law enforcers. Seven of the FTC's cases were referred to the Department of Justice for filing.

In all of the FTC's cases announced today, the agency charged that the defendant companies and their principals violated Section 5 of the FTC Act by making deceptive claims about improving consumers' credit records. In all but one of these cases, the FTC also alleged violations of the CROA by seeking advance payment for credit repair services and misrepresenting the credit repair services that would be performed. In the remaining case being brought by the FTC, the complaint contends that the defendant, Dixie W. Cooley, is making false claims about her ability to help consumers obtain a new credit identity. These claims are being made widely throughout the country through unsolicited commercial e-mail, also known as "spam." The FTC has requested an injunction to prohibit the claims. In three cases, the defendants were charged with failing to provide to consumers, prior to the sale, required written disclosures of important information, including the right to a three-day cooling-off period. Five of these 20 actions were conducted jointly with the local State Attorney General. (A list of cases is **attached**.)

In 12 of these cases, the FTC asked for and the courts issued temporary restraining orders, asset freezes (in some cases, limited asset freezes) and, in some cases, appointed a receiver to take charge of the companies. Ultimately, in all cases the FTC is seeking permanent injunctions prohibiting the alleged deceptive practices and redress for consumers.

The additional seven cases are being brought by the Department of Justice’s Office of Consumer Litigation, and have been filed in federal courts across the country. DOJ will be seeking injunctions, civil penalties, and restitution for victims.

The final set of 11 cases are being brought by state Attorneys General and other law enforcers across the country. Some of these cases utilize the CROA, others rely solely on state law. (A list of state cases is **attached**.)

Credit repair cons are pitched in a variety of media, including in television and radio ads, infomercials, classified ads and on the Internet. The scams operate in two different ways. In the first, the credit repair operation falsely promises that truthful, adverse information, such as bankruptcies, late payment histories, and judgments can be removed from a consumer’s credit report. But federal law allows credit bureaus, which compile consumers’ credit history information, to report all truthful information, including negative information for seven years (bankruptcies can be reported for 10 years), the Commission said, and the credit repair operators cannot and do not get the information removed.

A second approach -- labeled “file segregation” -- claims to create a new credit history for the consumer. Typically, the consumer is advised to apply for an Internal Revenue Service (IRS) “Employer Identification Number,” which has the same number of digits as a Social Security number, and to use that in lieu of a Social Security number when applying for credit, the FTC said. According to the Commission, consumers who follow the advice of "file segregation" operations are committing felonies -- it is illegal to make false use of a Social Security number and it also is illegal to make any false statement to a federally insured financial institution when seeking credit.

“Consumers have the power to put these fraud artists out of business,” Bernstein added. They can correct any errors in their own records for free, most of the time. And there is little that they can do about truthful, negative information other than to live within a budget and rebuild their credit one step at a time. The only sure result from hiring these companies is that consumers will fall even more into debt."

Over the past two years, the FTC has undertaken extensive consumer education efforts to inform consumers of their rights under federal law. These include a brochure, titled "***Credit Repair: How to Help Yourself***." In addition, the Commission has brought numerous law enforcement efforts since the 1980s -- the most recent was in April 1996, when the agency and nine state AGs and the District of Columbia brought 17 law enforcement actions against 13 credit repair firms.

The CROA is the first federal law specifically targeting credit repair scams. Effective April 1, 1997, the new statute is enforced by the FTC and state Attorneys General. In addition, this law allows consumers to bring lawsuits on their own in federal court and obtain damages, attorneys fees, and punitive damages.

The most important new consumers rights under the statute include:

> Prohibiting credit repair organizations from taking money from consumers **before** services are fully performed.
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> Requiring credit repair organizations to give consumers a written disclosure explaining their legal rights about their credit history, before any contract is signed.
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> Requiring credit repair organizations to give consumers a written contract with all the terms and conditions of payment, a detailed description of the services to be provided, including any guarantees of performance, and an estimate of how long it will take to perform the contract.
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> Giving consumers a three-day cooling-off period, or right to cancel any agreement they sign with a credit repair organization.
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> Making void any contract between a consumer and a credit repair organization that doesn't comply with the law.
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> Prohibiting credit repair organizations from making deceptive claims about credit repair services.

In continuing its consumer education efforts, the FTC today issued a new Consumer Alert: ***"Credit Repair: How to Help Yourself."***

The FTC wishes to thank the Attorneys General of Arizona, California, Connecticut, Florida, Indiana, Massachusetts, Missouri, New Jersey, North Carolina, Nevada, Ohio, Oregon, Pennsylvania, and the Orange County, California District Attorney's Office for their participation in "Operation Eraser."

The Commission votes authorizing the filing of the complaints in court were 4-0, with Commissioner Mary L. Azcuenaga not participating.

NOTE: The Commission files a complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. A complaint is not a finding or ruling that the defendant has actually violated the law. The cases will be decided by the courts.

Copies of the complaints and the consumer education materials are available from the FTC's web site at *http://www.ftc.gov* and also from the FTC's Consumer Response Center, Room 130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580; 202-326-3128; TTY for the hearing impaired 1-866-653-4261. To find out the latest news as it is announced, call the FTC NewsPhone recording at 202-326-2710.

Media Contact:

Howard Shapiro,
Office of Public Affairs
202-326-2176

Staff Contact:

C. Steven Baker or
Russell W. Damtoft
Chicago Regional Office
55 E. Monroe Street
Suite 1860
Chicago, Illinois 60603-5701
312-960-5634