FTC Cracks Down on Illegal Telemarketing in Debt Relief Scheme and Issues Agenda for Robocall Summit

In an action filed by the Federal Trade Commission, a California district court has issued a temporary restraining order against the operators of debt relief companies that the agency says not only made false representations in telemarketing phone calls and on websites about the nature of the services they provided and their success rates, but also allegedly made phone calls to numbers listed on the federal Do Not Call List. The order requires the defendants to stop their allegedly deceptive practices and freezes their assets pending the outcome of the FTC's action against Jeremy R. Nelson and four companies he allegedly controlled. The TRO also required defendants to shut down a number of websites offering debt relief services.

The complaint in *FTC v. Nelson Gamble & Associates LLP* charges defendants with violating the Federal Trade Commission Act and the agency's Telemarketing Sales Rule by making false and deceptive claims; causing consumers' bank accounts to be debited without their express, informed consent; and charging advance fees for debt relief services. The FTC alleges that defendants marketed and sold debt relief services through telemarketing and websites, representing that lawyers would assist consumers in settling debts for 50 to 80 percent less than they owed, as they had for numerous clients in the past, when, in reality, defendants are not lawyers and have settled few, if any, debts for customers. Defendants also allegedly violated the Electronic Fund Transfer Act and Regulation E by debiting consumers' bank accounts on a recurring basis without their written authorization and without providing consumers with a copy of the authorization.

According to the FTC's complaint, in addition to making false and deceptive claims, defendants violated the Telemarketing Sales Rule by calling phone numbers listed on the National Do Not Call Registry, calling consumers who had told them not to call, failing to transmit caller identification to consumers' caller ID service, delivering prerecorded messages without consumers' prior written consent, repeatedly calling consumers to annoy them, and delivering prerecorded messages that failed to identify the seller, the call's purpose, and the product or service.

The Ohio Attorney General's Office, which assisted the FTC with its investigation, reportedly filed suit against the defendants, alleging that the companies entered into agreements with consumers over the telephone but did not provide consumers with written agreements; misrepresented themselves as law firms and lawyers, or as having an affiliation with lawyers; and failed to provide refunds to consumers who demanded that the defendants either deliver the agreed-upon services or refund their money. The defendants have also been the subject of recent consumer complaints, a 2010 consumer warning by the Better Business Bureau and more than one consumer lawsuit.

According to the FTC's statement, the suit is part of the agency's focus on halting scams that target consumers in financial distress and its continuing crackdown on illegal "robocalls," which has included 88 enforcement actions to date against 250 corporate and 194 individual defendants involving robocalls and Do Not Call violations, resulting in payments of more than $69 million in civil penalties and equitable monetary relief.

Also as part of its crackdown on illegal telemarketing, FTC has announced the agenda for its upcoming Robocalls Summit on October 18, 2012. After opening remarks by FTC Chairman Jon Leibowitz, the morning session will focus on

"Where We Are Today" and will include panels on the current state of telephonic technology; how changes in technology have affected the telecommunications industry; and the law surrounding robocalls, including enforcement, challenges and limitations, and how this affects consumers. The afternoon sessions will focus on "Developing Solutions" and will include panels on caller ID spoofing and call authentication technology, data mining and anomaly detection, and call-blocking technology.

For more information about the content of this alert, please contact Michael Mallow or Michael Thurman (follow him on Twitter @CPD_Attorney).

For more information about Loeb & Loeb's Consumer Protection Defense Department, please contact:

ARTHUR W. ADELBERG	AADELBERG@LOEB.COM	202.618.5020
ROBERT M. ANDALMAN	RANDALMAN@LOEB.COM	312.464.3168
MARK D. CAMPBELL	MCAMPBELL@LOEB.COM	310.282.2273
CHRISTIAN D. CARBONE	CCARBONE@LOEB.COM	212.407.4852
TAMARA CARMICHAEL	TCARMICHAEL@LOEB.COM	212.407.4225
DARLENE M. CHO	DCHO@LOEB.COM	310.282.2168
AURELE A. DANOFF	ADANOFF@LOEB.COM	310.282.2398
THERESA L. DAVIS	TDAVIS@LOEB.COM	312.464.3188
PATRICK N. DOWNES	PDOWNES@LOEB.COM	310.282.2352
ERIC GUERRERO	EGUERRERO@LOEB.COM	310.282.2214
EMILY R. HAUS	EHAUS@LOEB.COM	312.464.3126
JESSICA M. HIGASHIYAMA	JHIGASHIYAMA@LOEB.COM	310.282.2072
DEREK K. ISHIKAWA	DISHIKAWA@LOEB.COM	310.282.2364
MICHAEL W. JAHNKE	MJAHNKE@LOEB.COM	212.407.4285
JENNIFER A. JASON	JJASON@LOEB.COM	310.282.2195
THOMAS P. JIRGAL	TJIRGAL@LOEB.COM	312.464.3150
BENJAMIN KING	BKING@LOEB.COM	310.282.2279
RICHARD M. LORENZO	RLORENZO@LOEB.COM	212.407.4288
MICHAEL MALLOW	MMALLOW@LOEB.COM	310.282.2287
DOUGLAS N. MASTERS	DMASTERS@LOEB.COM	312.464.3144
FIONA P. MCKEOWN	FMCKEOWN@LOEB.COM	310.282.2064
DANIEL G. MURPHY	DMURPHY@LOEB.COM	310.282.2215
JAY K. MUSOFF	JMUSOFF@LOEB.COM	212.407.4212
JERRY S. PHILLIPS	JPHILLIPS@LOEB.COM	310.282.2177
RACHEL RAPPAPORT	RRAPPAPORT@LOEB.COM	310.282.2367
CHRISTINE M. REILLY	CREILLY@LOEB.COM	310.282.2361
AMANDA J. SHERMAN	ASHERMAN@LOEB.COM	310.282.2261
MICHAEL B. SHORTNACY	MSHORTNACY@LOEB.COM	310.282.2315
MEREDITH J. SILLER	MSILLER@LOEB.COM	310.282.2294
DENISE A. SMITH-MARS	DMARS@LOEB.COM	310.282.2028
WALTER STEIMEL, JR.	WSTEIMEL@LOEB.COM	202.618.5015
MICHAEL A. THURMAN	MTHURMAN@LOEB.COM	310.282.2122
LAURA A. WYTSMA	LWYTSMA@LOEB.COM	310.282.2251
MICHAEL P. ZWEIG	MZWEIG@LOEB.COM	212.407.4960