

**ATTORNEY GENERAL OF THE STATE OF NEW YORK
BUREAU OF CONSUMER FRAUDS & PROTECTION**

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**In the Matter of the
Investigation by Eric T. Schneiderman,
Attorney General of New York, of**

AOD No. 11-040

Debtmerica, LLC dba Debtmerica Relief,

Respondent.

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ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) has conducted an investigation, pursuant to Executive Law § 63(12) and General Business Law (“GBL”) Article 22-A, of the business practices of Debtmerica, LLC, doing business as Debtmerica Relief (referred to herein as “Debtmerica” or the “Company”). This Assurance of Discontinuance (“Assurance”) contains the findings of the OAG’s investigation and the relief agreed to by the OAG and Debtmerica (collectively, the “parties”).

I. DEFINITIONS

1. For purposes of this Assurance, the following terms shall have the following meanings:

(a) “Clear and Conspicuous” and “Clearly and Conspicuously” means that the statement, representation or term being disclosed is of such size, color, contrast and/or audibility and is so presented as to be readily noticed and understood by the person to whom it is being disclosed. If such statement is necessary as a modification, explanation

or clarification to other information with which it is presented, it must be presented in close proximity to the information it modifies, in a manner so as to be readily noticed and understood. In addition to the foregoing, in interactive media, the disclosure shall also be unavoidable (i.e., no click-through required to access it), and shall be presented prior to the consumer incurring any financial obligation.

(b) “Debt Relief Service” shall mean any program or service represented, directly or by implication, to renegotiate, settle, or alter in any way the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, interest, or fees owed by a person to an unsecured creditor or debt collector.

(c) “Eligible Consumer” shall mean any consumer who enrolled in a Debt Relief Service program prior to the execution of this Assurance where the enrollment resulted in a monetary payment to Debtmerica.

(d) “FTC Rule” shall mean the amendments adopted by the Federal Trade Commission to the Telemarketing Sales Rule to address the provision and marketing of Debt Relief Services, which are set forth in 16 C.F.R. Part 310.

II. FINDINGS OF THE ATTORNEY GENERAL

2. Debtmerica is a Nevada limited liability company, with its principal place of business located at 3100 S. Harbor Blvd., Suite 250, Santa Ana, California.

3. Debtmerica markets and enrolls consumers in New York and elsewhere in the United States in Debt Relief Service programs that purport to reduce consumers' credit card and other unsecured debt in exchange for a fee. Debtmerica enrolls the vast majority of its New York customers in the Debt Relief Service program offered by

Freedom Debt Relief, LLC (“FDR”), a Delaware limited liability company, with its principal place of business located at 1875 South Grant Street, Suite 400, San Mateo, CA, 94402. FDR is a subsidiary of Freedom Financial Network, LLC. Debtmerica primarily markets FDR’s Debt Relief Service program to New Yorkers via the Internet and print enrollment materials, and uses other forms of advertising, such as direct solicitations and radio advertisements, outside of New York.

4. Pursuant to an agreement between Debtmerica and FDR, Debtmerica markets and promotes FDR’s Debt Relief Service program and obtains all necessary information required to enroll consumers into FDR’s program. FDR provides the actual Debt Relief Services to enrolled consumers. In exchange for identifying and enrolling customers, FDR provides Debtmerica with payments each month based on the volume of consumers enrolled and their total debt.

5. If a consumer does not meet the underwriting criteria to enroll in FDR’s Debt Relief Service program, Debtmerica will enroll the consumer in a program administered by Century Negotiations, Inc. (“CNI”) – another Debt Relief Service company that contracts with FDR – which is organized under the laws of the state of Pennsylvania and has a principal place of business located at 1061 Main Street, Building 2 Banco Suite 19, North Huntingdon, Pennsylvania. When a customer is referred to CNI’s Debt Relief Service program, Debtmerica’s employees deal directly with FDR’s underwriting personnel, who approve individual enrollment in CNI’s program. In exchange for enrolling consumers, CNI provides Debtmerica with a portion of the fees collected from enrolled consumers.

6. Debtmerica also contracts with third-party affiliates that serve as marketing partners and utilize Debtmerica's advertising materials to market via the Internet. Debtmerica's relationship with each affiliate varies. For example, one affiliate may own websites where Debtmerica's advertisements are displayed, while another affiliate may have existing relationships with companies that already have established e-mail lists that can be utilized to market Debtmerica's services.

7. Since 2006, Debtmerica has enrolled over 1300 New York consumers in Debt Relief Service programs and has collected over \$1.2 million in fees as a result.

8. Debtmerica's advertising and marketing give consumers the false impression that the Debt Relief Service programs it markets will allow consumers to settle all of their outstanding debts at substantial discounts and thus become debt-free. However, the Debt Relief Service programs rarely provide the claimed results.

9. The model for FDR's Debt Relief Service program can be described as follows: Upon enrollment, consumers cease making even minimum payments to their creditors and, instead make monthly deposits to a dedicated savings account that purportedly will be used to pay off the consumers' debts at the significantly reduced settlement amounts referenced in its advertising.

10. Prior to October 27, 2010¹, FDR required consumers to pay a total fee equal to 15% of the total debt that they enrolled in FDR's Debt Relief Service program, of which Debtmerica received a percentage. FDR collected a retainer fee, equal to 5% of

¹ Among other things, the FTC Rule banned the collection of up-front fees by for-profit Debt Relief Service companies. The rule requires that these companies not collect fees until they settle accounts for consumers. 16 C.F.R. § 310.4(a)(5)(i). The ban on the collection of up-front fees became effective on October 27, 2010. However, the up-front fee ban applies only to the fee structure for consumers enrolled after October 27, 2010, so consumers who enrolled prior to that date are still required to continue to pay fees under the old fee structure for as long as they are in the program.

a consumer's original enrolled balance, and a service fee, equal to 10% of a consumer's originally enrolled balance. Most of the consumer's initial three or four monthly payments were used to satisfy FDR's 5% retainer fee, and approximately 40% of each monthly payment thereafter for the next 15-16 months was used to satisfy FDR's 10% service fee. As a result of this structure, FDR generally could not even attempt to settle most of the consumer's enrolled accounts until many months after the consumer had enrolled in the program and stopped making payments to creditors. By that time, the consumer's debts usually had substantially increased due to the accumulation of late fees, interest, and other penalties.

11. As of October 27, 2010, FDR revised its fee structure to conform to the requirements of the FTC Rule and no longer charges advance fees for consumers enrolled after that date.

12. Many consumers, already financially pressed, are not able to maintain the strict monthly deposit schedule mandated by the program. Consequently, in many instances, consumers have no choice but to drop out of the program, before FDR has negotiated settlements for most of the consumer's enrolled accounts. This often leaves FDR (and Debtmerica) with its fees paid in full (or almost in full), and the consumers in a worse position than before joining the program.

13. Moreover, the failure of consumers to pay creditors also causes some consumers to be subject to debt collection efforts by their creditors, including lawsuits, which can result in adverse legal judgments, wage garnishments, and seized bank accounts. In addition, the failure to make minimum payments significantly damages a consumer's credit rating and credit scores.

14. Debtmerica has engaged in false and misleading advertising and deceptive practices in the marketing of Debt Relief Service programs to New York consumers.

i. False and Misleading Marketing Claims Regarding Expected Consumer Savings

15. Debtmerica's Internet advertising induces consumers to enroll in Debt Relief Service programs by falsely promising specific savings and debt reductions within a certain period of time. These representations are false and misleading because they are unsubstantiated and differ from the results actually achieved for the vast majority of its customers.

16. For example, in late 2006, on its website, www.debtmerica.com, Debtmerica began promising consumers the following: (i) "Lower your debt to only 50% of what you owe!"; (ii) "Best alternative to bankruptcy, debt consolidation, and consumer credit counseling!"; and (iii) "Results are guaranteed!"² In 2007, Debtmerica's website made the following misrepresentations: (i) "Guaranteed Debt Reduction!"; (ii) "Completely Debt Free In 12-30 Months & No Service Fees Unless You Save!"; (iii) "Our Debt Settlement Program can help you get out of debt in no more than about 2 years, and our clients typically only pay about 60% of what they currently owe, including our fees"; and (iv) "Our program not only cuts your debt by about 55%, it enables you to be debt-free in 2 years on average. Many of our clients have experienced a profound increase in their credit rating as well after finishing our program."³

17. More recently, some of the representations on Debtmerica's website have included: (i) "Our Debt Resolution Programs can help you get out of enrolled debt in as little as 24-48 months, and debts can be settled to as low as 50% of what you owe at the

² Debtmerica Website, November 4, 2006.

³ Debtmerica Website, October 13, 2007.

time of enrolment”; and (ii) “Typically, we negotiate your balances down to about 50% LESS than what you owe. For example, through our debt resolution programs, if you owe \$30,000 to your creditors, you may be able to reduce your debts by \$15,000 or more.” The website also recently included a section entitled “Top Settlements” that lists, by month, instances when Debtmerica claims that Freedom Financial Network or affiliated companies settled debts for far less than the amount owed - most of the examples reflect savings or more than 80%. Additionally, Debtmerica’s homepage recently included a chart that indicated that consumers with \$30,000 of debt could settle their debts for \$20,000 using Debtmerica’s services, as opposed to \$50,000 if they simply made their minimum monthly payments, \$42,000 if they used credit counseling services, or \$39,000 if they used debt consolidation. The disclaimer on Debtmerica’s current website – which appeared in significantly smaller font at the very bottom of the website’s homepage, far from the representations concerning savings – was insufficient to alter the net impression of the advertising that the Debt Relief Service Provider would achieve the claimed results.

18. When a consumer called Debtmerica in response to its advertising, Debtmerica sent the consumer a letter along with a debt evaluation form and other advertising materials that praise both Debt Relief Services generally and FDR’s services, specifically. These materials have reiterated the savings claimed in the Internet advertising above. The form entitled “Debt Resolution Options” identified the claimed “advantages” of FDR’s program and the “disadvantages” of alternative options, such as credit counseling, loan consolidation, and bankruptcy. The stated “advantages” included the following: (i) “Debt is reduced by 40-60%”; (ii) “Only takes 2-3 years to be Debt

Free”; (iii) “Protection from Creditors (calls, legal, harassment is minimized)”; and (iv) “Monthly payment is much lower than any alternative.” Other print advertising materials sent by Debtmerica to consumers at this stage include the following representations:

- “Debts can be reduced to as low as 40-50% of what you owe.”
- “In as little as 12-30 months you could be debt free enjoying financial freedom.”
- “Typically, we negotiate your balances down to about 50% LESS than what you owe. For example, through our debt reduction program, if you owe \$30,000 to your creditors, we may be able to reduce your debts by over \$15,000.”
- “Even better than simply saving money is the fact that your accounts will be settled in full...meaning you no longer have any of your original debt outstanding. If being debt free in as little as 2.5 years (or faster in some cases) for less than half of what you owe – with a monthly payment that fits your budget – sounds good to you, give one of our debt consultants a call to discuss your specific situation.”
- A “Comparison Chart” – allegedly representing “the results of a typical client with \$20,000 in debt” – indicates that such a consumer would settle her debts for \$11,000 using FDR’s services, as opposed to \$68,000 if she made her minimum monthly payments, or \$28,000 if she used credit counseling services.
- “Our average client will be debt free in just 12-30 months.”
- “Typically, we can arrange settlements for around 40-50 cents on the dollar.”
- “With settlements as low as 40%, this means that when it is all said and done, your savings could be as much as 45 cents on the dollar, including our fees.”

19. Once consumers provided Debtmerica with their specific account information and express interest in joining a Debt Relief Service program, Debtmerica sent the consumer an enrollment packet containing, among other things, a congratulatory

letter indicating the exact dollar amount that the consumer would allegedly save through the program. The materials sent to the consumer repeat representations as to the effectiveness of the program as compared to alternatives like bankruptcy and credit counseling, and also reiterate the savings consumers are likely to achieve. These representations have included a statement that, on average, an FDR client will settle their debts for 55% of the total debt, including the payment of all fees to FDR.

20. The representations contained in paragraphs 16 through 19 concerning consumer savings are false and misleading because they are unsubstantiated and differ from the results that FDR, as well as most other Debt Relief Service providers, actually obtain for the vast majority of the consumers who use their services. Indeed, few, if any, of the consumers that Debtmerica enrolled in FDR's Debt Relief Service program have actually completed the program and received the promised 40%-60% savings when taking into account the fees paid by the consumer and the amount of the accrued debts at the time of settlement. Debtmerica's advertising has misrepresented the savings that consumers are likely to achieve through a Debt Relief Service program.

ii. Debtmerica Advertised a Deceptive Money-Back Guarantee

21. Debtmerica prominently advertised a service fee money back guarantee on its website and in the print advertising materials it provided to prospective consumers. Specifically, as recently as August 2010, the homepage of Debtmerica's website included the following: "Reduce Debt Balances By Up to 60% With a Money-Back Service Fee Guarantee!" Debtmerica's customer service representatives also made this guarantee when consumers called in response to Debtmerica's advertising.

22. This guarantee was false and misleading in that it wrongly led consumers

to believe that they would obtain a full refund of their fees if they did not obtain Debtmerica's claimed savings. In reality, however, the guarantee: i) applied only to the small percentage of consumers who fully completed the program by making all of the required monthly payments; and ii) was limited to instances when the paid service fee was more than 1/2 of the amount the consumer had saved, as calculated off the amount of debt at the time of settlement, which meant that a consumer might not be entitled to the refund even if he or she settled an account for more than the amount of debt in the account at the time of enrollment. While Debtmerica's website mentioned these limitations, the language appeared in significantly smaller font at the very bottom of the website's homepage - far removed from the money-back guarantee language - and was thus insufficient to alter the net impression of the advertising.

23. Although the vast majority of consumers did not obtain the advertised savings and debt reductions, the OAG has not been presented with any evidence showing that any consumer enrolled by Debtmerica in a Debt Relief Service program has received a full refund of his or her service fee. Thus, Debtmerica's prominently advertised "Money-Back Guarantee" claim was false and misleading because it led consumers to believe that they would obtain a full refund of their fees if they did not obtain the claimed savings, when in fact this did not occur.

iii. Debtmerica Falsely Holds Itself Out As An Entity That Performs Debt Negotiations

24. Despite the fact that Debtmerica provides only marketing and enrollment services for other Debt Relief Service providers, it advertised itself as a company that actually performs debt negotiation. For example, Debtmerica advertised the following:

(i) "Debtmerica is a consumer debt reduction service that uses negotiated debt settlement

to work towards aggressively reducing your unsecured debt, letting you move on with your life”; and (ii) “We specialize in negotiated debt settlement to assist clients by reducing debt balances while providing an affordable monthly payment.”

25. Debtmerica’s advertisements were false and misleading because they foster the false impression that Debtmerica would be negotiating with the consumer’s creditors, when in fact, any such negotiations are done by FDR or CNI, not Debtmerica.

iv. Debtmerica Advises Consumers To Ignore Their Creditors and To Stop Paying Them.

26. Debtmerica advised consumers that the Debt Relief Service program only works if customers stop making payments to their creditors. Debtmerica’s website stated, “If you are current on your payments, it is very difficult, if not impossible to settle your debt. Creditors typically want to see that you are in a hardship situation before they are willing to negotiate. Therefore, you will have to voluntarily stop paying your unsecured debts; allowing them go (sic) into delinquency before settlement.” Additionally, in materials provided by Debtmerica to its consumers in the past, Debtmerica had advised consumers to do the following: “1) Do not answer your phone when creditors call. Use your caller ID to screen calls. 2) Consider changing your phone number to an unlisted number.”

27. By not making even minimum payments to creditors while enrolled in a Debt Relief Service program, consumers subject themselves to collection efforts, lawsuits, and wage garnishments by their creditors, as well as significant damage to their credit ratings and credit scores.

28. New York Executive Law § 63(12) prohibits persons or business entities from engaging in repeated fraudulent or illegal acts or otherwise demonstrating persistent

fraud or illegality in the carrying on, conducting or transaction of business.

29. GBL Article 22-A prohibits deceptive acts or practices (GBL § 349), and false advertising in the conduct of any business, trade or commerce (GBL § 350).

30. The OAG finds that the practices described above constitute repeated violations of GBL Article 22-A, §§ 349 and 350, and Executive Law § 63(12).

IT IS HEREBY AGREED by Debtmerica, its principals, successors and assigns, and on behalf of its agents, representatives, employees, and by any corporation, subsidiary or division through which it acts or hereafter acts, as follows:

III. PROSPECTIVE RELIEF

WHEREAS, the OAG is willing to accept the terms of this Assurance pursuant to New York Executive Law § 63(15) and to discontinue its investigation; and

WHEREAS, Debtmerica has cooperated with the OAG's investigation by producing evidence and responding to questions relevant to the investigation; and

WHEREAS, the parties each believe that this Assurance is a prudent and appropriate way to resolve this dispute;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the parties that:

Practices and Conduct

31. Debtmerica shall fully comply with New York GBL §§ 349 and 350, Executive Law § 63(12), and the FTC Rule. In addition, with respect to its marketing and dealings with New York consumers, Debtmerica shall comply with all requirements of the FTC Rule regardless of whether Debtmerica's conduct or activities fall within the

definition of “telemarketing” under 16 C.F.R. § 310.2(dd).⁴

32. Specifically, Debtmerica shall not, either directly or through its agents, do any of the following with respect to its marketing to and dealings with New York consumers:

- (a) misrepresent, directly or by implication, any material fact, term, or condition, make a material omission, or make any false or misleading claims in connection with the solicitation, offering, contracting or provision of Debt Relief Services;
- (b) engage in any advertising or marketing that includes the making of any false, misleading, or deceptive statements or representations with regard to the Debt Relief Services to be performed or the fees to be charged;
- (c) misrepresent, directly or by implication, the nature of the Debt Relief Services to be performed; the time within which such services will be performed; the amount or type of settlements or savings a consumer can expect to receive as a result of the Debt Relief Services; the qualifications, training, or experience of Debtmerica’s personnel; or the nature or terms of its refund or cancellation policies;
- (d) make representations, directly or by implication, about the specific savings or percentage debt reductions that have been, can or will

⁴ For instance, Debtmerica shall comply with the FTC Rule’s requirements even if its Debt Relief Service sales activities do not involve the use of the telephone or the placement of at least one interstate call. 16 C.F.R. § 310.2(dd). Debtmerica shall also comply with the FTC Rule’s requirements even if its Debt Relief Service sales activities fall within the exemptions set forth in 16 C.F.R. § 310.6.

be achieved by individual consumers enrolling in a Debt Relief Service provider's program unless those representations reflect the experience of the majority of consumers who enrolled in the Debt Relief Service provider's program during the period 36 or more months (or the number of months that coincides with the standard length of the Debt Relief Service provider's program) preceding the representations. For example, if 1000 consumers had enrolled in the Debt Relief Service provider's program during that period, Debtmerica would be permitted to represent that consumers can achieve a certain debt reduction savings only if more than 500 consumers had achieved such savings based on the Debt Relief Service provider's efforts. However, Debtmerica may make representations limited to the savings or percentage debt reductions that have been achieved by a defined universe of consumers, such as those who have actually completed the program and resolved all of their enrolled debts, provided that such representations Clearly and Conspicuously disclose in close proximity to such representations: (i) the defined universe and that such results are limited to those consumers in the defined universe; and (ii) the approximate proportion of enrolled customers that fall within the defined universe.⁵ Nothing in this provision shall be deemed to

⁵ With respect to banner and click-through Internet advertisements where mandatory policies, requirements, rules, or other restrictions apply that would make inclusion of these required two disclosures impossible because of limitations on parameters, format, and size, including, but not limited to, restrictions on the maximum number of characters, lines of text or graphics, or pixels, and/or the file size, Debtmerica may

prevent Debtmerica from making a “good faith estimate” of “the monetary commitments” required to complete the Debt Relief Service program, as stated in the portion of the FTC Commentary to the FTC Rule concerning Section 310.3(a)(1)(viii)(A) & (B), provided that Debtmerica complies with the terms of the FTC Commentary, including the requirement that there is a reasonable basis to support the “good faith estimate”;

- (e) make representations, directly or by implication, about savings or percentage debt reductions that have been, can or will be achieved through a Debt Relief Service program that (i) do not incorporate the fees that must be paid to the Debt Relief Service provider, and (ii) are not based on the consumer’s aggregate enrolled debt at the time the consumer enrolled in the Debt Relief Service programs;
- (f) make representations, directly or by implication, that consumers will become debt-free, or that consumers will become debt-free within a specified period of time, by enrolling in the Debt Relief Service provider’s program unless those representations reflect the experience of the majority of consumers who enrolled in the Debt Relief Service provider’s program during the period 36 or more months (or the number of months that coincides with the standard

provide these required two disclosures through the use of a hyperlink to a landing page on Debtmerica’s website that Clearly and Conspicuously makes these disclosures, provided that the hyperlink is Clear and Conspicuous and in close proximity to the representations regarding results and is labeled with a term that conveys the subject matter and/or the importance of the information contained on the hyperlinked page. In addition, Paragraphs 32 (d) and (f) do not apply to the use of consumer testimonials in advertising, which is governed by Paragraph 32(h).

length of the Debt Relief Service provider's program) preceding the representations. For example, if 1000 consumers had enrolled in the Debt Relief Service provider's program during that period, Debtmerica would be permitted to represent that consumers can become debt-free through the program only if more than 500 consumers had become debt-free based on the Debt Relief Service provider's efforts;

- (g) advertise a refund or money-back guarantee policy that does not Clearly and Conspicuously disclose any material limitations, such as a requirement that the consumer must make all required payments necessary to complete the Debt Relief Service provider's program in order to qualify for the refund;
- (h) use consumer testimonials in advertising that do not comply with the FTC Guides Concerning the Use of Endorsements and Advertising, 16 C.F.R. § 255.2. Specifically, if Debtmerica does not have substantiation that the consumer's experience is representative of the results customers generally achieve through the Debt Relief Service program, Debtmerica shall Clearly and Conspicuously disclose in direct proximity to the testimonial the generally expected performance in the depicted circumstances, for which Debtmerica shall have adequate substantiation; and
- (i) represent, directly or by implication, that Debtmerica will negotiate debt reductions on the consumer's behalf if other third parties are

actually going to be conducting the negotiations.

33. Prior to enrolling any New York consumer in a Debt Relief Service program that seeks to renegotiate, settle, or alter in any way the balance owed on a debt between a person and one or more unsecured creditors or debt collectors, Debtmerica shall ensure the entire agreement between any Debt Relief Service provider and the consumer is written in the same language that is spoken and understood by the consumer.

The contract shall Clearly and Conspicuously disclose the following:

- (a) a description of the nature of the services to be provided;
- (b) the manner in which fees will be calculated, charged, and collected;
- (c) the consumer's right to cancel the contract or withdraw any funds placed into the consumer's settlement account at any time without penalty or obligation, other than the consumer's obligation to pay any fees earned by FDR as permitted by the FTC Rule and this Assurance;
- (d) a realistic estimate of the amount of time necessary to achieve any represented results, settlements, savings, or percentage debt reductions;
- (e) the amount of money or the percentage of each outstanding debt that the consumer must accumulate before FDR will make a bona fide settlement offer to each of the customer's creditors or debt collectors;
- (f) that Debt Relief Service provider's ability to provide any benefit to

consumers who enroll in the Debt Relief Service program depends at least in part on the consumer's ability to make the required monthly payments for the duration of the program;

- (g) that fees, interest, and penalties will likely accumulate with respect to many of the consumer's enrolled debts prior to the commencement of the debt negotiation process;
- (h) that enrollment in a Debt Relief Service program can have an adverse effect on the consumer's credit rating and credit score;
- (i) that pending completion of the Debt Relief Service program, the consumer's creditors may pursue debt collection efforts including the initiation of lawsuits;
- (j) that enrollment in a Debt Relief Service program may not be suitable for all individuals;
- (k) that failure to make payments to creditors on enrolled accounts may increase the amount a consumer owes due to fees, penalties, and the accumulation of interest; may adversely impact the consumer's credit rating or credit score; and may result in debt collection activities including the initiation of lawsuits by creditors or debt collectors; and
- (l) that the potential savings a consumer may achieve through a Debt Relief Service program may be taxable income.

34. Debtmerica shall not provide marketing services for a Debt Relief Service provider, or enroll any New York consumer in a Debt Relief Service provider's program,

if the Debt Relief Service provider does business in New York State and makes statements in its advertising or marketing materials that Debtmerica is prohibited from making pursuant to this Assurance or that are inconsistent with any affirmative representations or disclosures that Debtmerica is required to make pursuant to this Assurance.

35. Debtmerica shall not, either directly or through its representatives or agents, charge New York consumers fees of any type or amount, or receive compensation from a consumer of any type or amount, unless the amount and manner of collecting the fees or compensation fully conform to the requirements and conditions of the FTC Rule.

IV. MONETARY RELIEF

36. Debtmerica shall pay by wire transfer, certified or bank check payable to the State of New York the sum of \$175,000.00 to be used by the OAG for restitution to Eligible Consumers and the costs of administration of said restitution. If payment is made by check, it shall be payable to the State of New York and delivered to the State of New York Office of the Attorney General, Consumer Frauds and Protection Bureau, Attention: Stephanie Sheehan, Assistant Attorney General, 120 Broadway, 3rd Floor, New York, New York, 10271. Such amount shall be payable within ten (10) business days after execution of this Assurance by the parties. Restitution shall be distributed by the OAG to Eligible Consumers in a manner determined by the OAG to be appropriate. Any payments and all correspondence related to this Assurance must reference Assurance No. 11-040.

37. Within twenty (20) business days after execution of this Assurance by the parties, Debtmerica shall provide the OAG with a database setting forth a list of Eligible

Consumers, which shall include the consumers' names, addresses, and telephone numbers, the total amount of all monies received by Debtmerica as a result of the enrollment of each Eligible Consumer in a Debt Relief Service program; and the name of the Debt Relief Service provider that contracted to provide Debt Relief Services for the Eligible Consumer.

Penalty, Costs and Fees

38. In consideration of the making and execution of this Assurance, and within one (1) year of the date of this Assurance, Debtmerica shall pay by wire transfer, certified or bank check payable to the State of New York the sum of \$25,000.00 in penalties, fees and costs. If payment is made by check, it shall be payable to the State of New York and delivered to the State of New York Office of the Attorney General, Consumer Frauds and Protection Bureau, Attention: Stephanie Sheehan, Assistant Attorney General, 120 Broadway, 3rd Floor, New York, New York, 10271.

V. MISCELLANEOUS

39. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by Debtmerica and its counsel and the OAG's own factual investigation as set forth in the Findings in Paragraphs (2)-(30) above. To the extent that any material representations are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

40. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by the Debtmerica in agreeing to this Assurance.

41. Debtmerica represents and warrants, through the signatures below, that the

terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. Debtmerica shall not take any action or make any statement denying, directly or indirectly, the propriety of this Assurance or expressing the view that this Assurance is without factual basis, but shall be permitted to state that Debtmerica does not admit the findings set forth in the Assurance. Nothing in this paragraph affects Debtmerica's (i) testimonial obligations or (ii) right to take legal or factual positions in defense of litigation or other legal proceedings to which the OAG is not a party. This Assurance is not intended for use by any third party in any other proceeding and is not intended, and should not be construed, as an admission of liability by Debtmerica.

42. This Assurance may not be amended except by an instrument in writing signed on behalf of all the parties to this Assurance.

43. This Assurance shall be binding on and inure to the benefit of the parties to this Assurance and their respective successors and assigns, and Debtmerica may not assign, delegate, or otherwise transfer any of its obligations under this Assurance without the prior written consent of the OAG.

44. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

45. On January 3, 2012 and again on January 3, 2013, Debtmerica shall submit to the OAG a sworn statement by an officer of Debtmerica certifying that Debtmerica has complied with the provisions of this Assurance and setting forth the

manner and extent of its compliance. The sworn statements shall describe the procedures in place to ensure that Debtmerica's advertising and marketing materials, website, sales scripts, and training materials comply with this Assurance. The sworn statements shall attach the following: (a) a representative sampling of Debtmerica's advertising and marketing materials; and (b) copies of all sales scripts used by Debtmerica in its dealings with New York consumers. The affidavits shall be sent to the attention of Stephanie Sheehan, Assistant Attorney General.

46. To the extent not already provided under this Assurance, Debtmerica shall, upon request by OAG, provide all documentation and information necessary for the OAG to verify compliance with this Assurance.

47. Acceptance of this Assurance by the OAG shall not be deemed approval by the OAG of any of the practices or procedures referenced herein, and Debtmerica shall make no representation to the contrary.

48. Pursuant to New York Executive Law § 63(15), any violation of the terms of this Assurance shall constitute prima facie proof of violation of the applicable law in any civil action or proceeding thereafter commenced by the OAG against Debtmerica.

49. If a court of competent jurisdiction determines that Debtmerica has breached this Assurance, Debtmerica shall pay to the OAG the reasonable cost, if any, of such determination and of enforcing this Assurance, including without limitation reasonable legal fees, expenses, and court costs.

50. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

51. This Assurance constitutes the entire agreement between the OAG and

Debtmerica and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of this Assurance.

52. Any notices, statements or other written documents required by this Assurance shall be provided by first-class mail to the intended recipient at the addresses set forth below, unless a different address is specified in writing by the party changing such address:

For The People of the State of New York:

Stephanie A. Sheehan, Assistant Attorney General
Office of the New York State Attorney General
Bureau of Consumer Frauds & Protection
120 Broadway, 3rd Floor
New York, New York 10271
Tel. (212) 416-8953
Fax. (212) 416-6003

For Debtmerica:

Jesse E. Torres, IV
Managing Partner &
Chief Executive Officer
Debtmerica, LLC
3100 S. Harbor Blvd.
Suite 250
Santa Ana, California 92704

Daniel J. French, Esq.
French-Alcott, PLLC
300 South State Street
Syracuse, New York 13202
Tel. (315) 413-4061
Fax. (315) 413-4055

Such notices, statements and documents shall be deemed to have been given upon mailing.

53. Debtmerica shall provide written notice to the OAG of any change in address within ten days of such change.

54. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. The OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

55. Notwithstanding anything else in this Assurance, if compliance with any provision of this Assurance would render compliance with any provision of New York or federal laws or regulations relating to the same subject matter impossible, then compliance with such provision of state or federal law or regulation shall be deemed compliance with the relevant provision of the Assurance. Debtmerica shall provide written notice to the OAG within fifteen (15) days of its determination that compliance with a provision of this Assurance is rendered impossible by state or federal law of regulation.

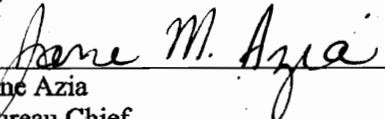
56. This Assurance may be executed in multiple counterparts.

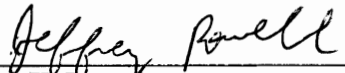
WHEREFORE, the signatures evidencing assent to this Assurance have been

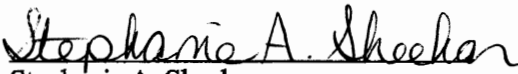
affixed hereto on the dates set forth below.

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York

Bureau of Consumer Frauds & Protection
Executed August 18, 2011
By:

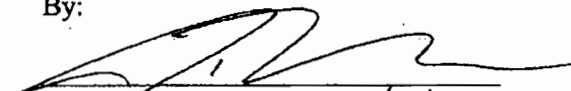

Jane Azia
Bureau Chief

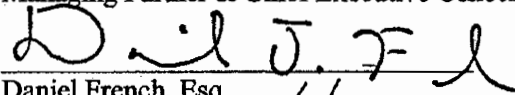

Jeffrey K. Powell
Deputy Bureau Chief


Stephanie A. Sheehan
Assistant Attorney General

Debtmerica, LLC

By:


Jesse E. Torres, IV *8/16/11*
Managing Partner & Chief Executive Officer


Daniel French, Esq. *8/16/11*
Counsel