

1 State of New Hampshire Banking Department

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3 In re the Matter of: ) Case No.: 07-316  
 )  
 4 State of New Hampshire Banking )  
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 5 Department, ) Consent Order  
 )  
 6 Petitioner, )  
 )  
 7 and )  
 )  
 8 Debt Settlement America Inc. )  
 )  
 9 Respondent )  
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10  
11 CONSENT ORDER

12 I. This Consent Order (hereinafter referred to as "Consent Order") is  
13 entered between the New Hampshire Banking Department ("the  
14 Department") and Respondent Debt Settlement America Inc.  
15 ("Respondent"). Respondent does hereby stipulate and agree to the  
16 following:

- 17 1. The term "this matter" shall refer to the Respondent's  
18 unlicensed debt adjustment activity in the State of New  
19 Hampshire from at least 2007.
- 20 2. The Department is authorized by New Hampshire RSA 399-D:1 to  
21 regulate debt adjustment services performed in the State of  
22 New Hampshire or on behalf of a person located in the State  
23 of New Hampshire.
- 24 3. RSA 399-D:13 authorizes the Department to investigate alleged  
25 violations of laws or rules to determine whether any person

1 has violated or is about to violate any provision of RSA  
2 Chapter 399-D, rule or order given under RSA Chapter 399-D or  
3 other applicable state and federal laws and regulations.

4 4. RSA 399-D:22 authorizes the Department to perform  
5 examinations of Respondent's debt adjustment business.

6 5. Respondents acknowledge that RSA 399-D:14,I states in part  
7 that "No licensee shall be entitled to any fee against the  
8 debtor, upon any contract, until the debt adjustment program  
9 is arranged and approved by the debtor."

10 6. Respondent acknowledges that new RSA 399-D:2,IV(e) states the  
11 definition of debt adjustment includes a person engaging in  
12 the debt adjustment business including but not limited to  
13 acting upon outstanding debt adjustment contracts.

14 7. This matter concerns at least six (6) New Hampshire consumers  
15 ("debtors") whose fees Respondent refunded pursuant to the  
16 Department's examination of this matter.

17 8. Respondent has agreed to file for licensure with the  
18 Department to obtain a debt adjuster license in the State of  
19 New Hampshire. However, Respondent has previously and is  
20 currently conducting debt adjustment activity in the State of  
21 New Hampshire without a license.

22 9. The Department and Respondent would like to avoid formal  
23 proceedings, and further expense, and to finally resolve this  
24 matter under the terms and conditions set forth below.

1           10. The terms of this Consent Order are a fair and reasonable  
2           disposition of this matter and are in the public interest.

3           11. In consideration of the mutual promises and representations  
4           set forth herein, and in further consideration of the  
5           Department's reliance upon the substantial accuracy and good  
6           faith of the representations and submissions made to it by  
7           Respondent, the Department and Respondent intending to be  
8           legally bound herein, agree to the terms and conditions  
9           below.

10   II.   For purposes of amicably resolving and closing the above-referenced  
11       matter, the above named Respondent and the Department hereby agree to  
12       the following terms and conditions:

13           1. Respondent agrees it has voluntarily entered into this  
14           Agreement without reliance upon any discussions between the  
15           Department and Respondent, without promise of a benefit of  
16           any kind (other than concessions contained in this Consent  
17           Order) and without threats, force, intimidation, or coercion  
18           of any kind. Respondent further acknowledges its  
19           understanding of the nature of the offenses alleged herein,  
20           including the penalties provided by law.

21           2. Respondent agrees to waive any and all rights to a hearing  
22           and appeal thereof.

23           3. Respondent agrees that it will not deny the factual basis for  
24           this Consent Order to which it has stipulated above and will  
25           not give conflicting statements about such facts or its

1 involvement in the stipulated facts.

2 4. Respondent agrees that all terms of this Consent Order are  
3 contractual and none is a mere recital.

4 5. Respondent represents and warrants that it has all the  
5 necessary rights, powers and ability to carry out all of the  
6 terms of this Consent Order which are applicable to  
7 Respondent.

8 6. Respondent represents and warrants that it can accomplish the  
9 full relief contemplated and required herein and that all  
10 parents, subsidiaries, affiliates, and successors necessary  
11 to effectuate the full relief contemplated by this Consent  
12 Order are parties to this Consent Order.

13 7. Respondent represents and warrants that it has obtained all  
14 third-party approvals necessary to comply with the Consent  
15 Order.

16 8. Respondent acknowledges that the Department is relying upon  
17 the representations and warranties of Respondent, stated  
18 herein, in making its determination in this matter.

19 9. Subject to the terms of this Consent Order, Respondent  
20 consents to the entry of an administrative penalty of  
21 \$3,000.00, which shall be paid to the Department  
22 contemporaneously with the execution of this Consent Order.

23 10. Subject to the terms of this Consent Order, Respondents agree  
24 to immediately pay \$650.00 to the Department. The amount  
25 represents the back license fee of \$500.00 for the current

1 year and \$150.00 for the previous year Respondents conducted  
2 debt adjustment activity in the State of New Hampshire  
3 without a required license.

4 11. Respondent acknowledges the amounts to be paid above exclude  
5 any fees incurred as a result of a pre-licensing examination  
6 the above named Respondent hereby agrees will be conducted by  
7 the Department.

8 12. Respondent acknowledges that failure to make payment as  
9 agreed above may result in civil and/or criminal penalties.

10 13. This Consent Order shall become effective immediately upon  
11 the date of its issuance, which is upon the Commissioner's  
12 signature.

13 14. The provisions of this Consent Order shall remain effective  
14 and enforceable except to the extent that, and until such  
15 time as, any provisions of this Consent Order shall have been  
16 modified, terminated, suspended, or set aside by the Bank  
17 Commissioner or upon an order of a court of competent  
18 jurisdiction.

19 III. This Agreement represents the complete and final resolution of, and  
20 discharge of any basis for any civil or administrative proceeding by  
21 the Department against the Respondent for violations arising as a  
22 result of or in connection with any actions or omissions by the  
23 Respondent through the date of this Order as it applies to the  
24 allegations in this matter; provided, however, this release does not  
25 apply to facts not known by the Department or not otherwise provided

1 by the Respondent to the Department as of the date of this Consent  
2 Order nor to actions for restitution under RSA 383:10-d (excluding  
3 restitution provided previously), or any possible actions related to  
4 the examination to be completed prior to licensure with the  
5 Department. Such facts would include, but not be limited to, any  
6 consumer harm from Respondent's actions. The Department expressly  
7 reserves its right to pursue any administrative, civil or criminal  
8 action or remedy available to it should the above named Respondent  
9 breach this Consent Order or in the future violate the Act or rules  
10 and orders promulgated thereunder.

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