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10
 11 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
 12 OF THE STATE OF CALIFORNIA

13 In the Matter of:)
 14) DESIST AND REFRAIN ORDER AND
 THE COMMISSIONER OF FINANCIAL) CLAIM FOR ANCILLARY RELIEF
 15 PROTECTION AND INNOVATION,)
 16) (Cal. Fin. Code §§ 90015 and 90012)
 Complainant,)
 17 v.)
)
 18 UNIQ CREDIT SOLUTIONS, LLC,)
 19)
 Respondent.)
 20)
 21)
 22)

23 The Commissioner of Financial Protection and Innovation (Commissioner) is informed and
 24 believes, and based upon such information and belief, finds as follows:

25 **I.**

26 **Introduction**

27 1. The Commissioner has jurisdiction over the regulation of persons who engage, have
 28 engaged, and propose to engage in offering or providing a consumer financial product or service in

1 California and affiliated service providers under the California Consumer Financial Protection Law
2 (CCFPL) (Cal. Fin. Code §§ 90000-90019).

3 **II.**

4 **FACTUAL BACKGROUND**

5 2. At all relevant times, Uniq Credit Solutions, LLC (Uniq) was a Delaware limited
6 liability company with a purported mailing address at 18500 Von Karman, Irvine, California 92614,
7 with phone numbers (325) 215-4323, (855) 437-0366, (786) 949-4759, (786) 937-5670, (949) 669-
8 4988, (949) 994-8294, and (949) 773-4489, a website at <https://uniqcreditnet.wpcomstaging.com> and
9 <https://uniqcredit.net>, and the following email address: info@uniqcredit.net.

10 3. Beginning in at least February 2023, Uniq offered credit repair or debt settlement
11 services to more than one California consumer.

12 4. In February 2023, a California consumer (Consumer A) had a phone conversation
13 with an Uniq representative who assured her that it would be able to negotiate with her creditors,
14 remove negative information from her credit profile with each of the major credit reporting agencies,
15 and revive her credit score. The Uniq representative promised that its attorneys would work with
16 Consumer A's creditors to negotiate and settle her debts.

17 5. On or about February 17, 2023, Consumer A entered into a written agreement with
18 Uniq (Contract A).

19 6. Contract A promised the following services:

20 a. "UNIQ will do the following as part of its representation of you:

- 21 i. Assist you in stopping creditors and any related debt collectors from harassing
22 or contacting you in connection with any of the debt identified below;
- 23 ii. Dispute derogatory and negative remarks on your credit report under the Fair
24 Credit Reporting Act resulting in an improved credit rating;
- 25 iii. Dispute the legal validity of the debt identified below;
- 26 iv. Assist you in removing erroneous or inaccurate information reported in
27 connection with debts identified below;
- 28 v. Represent you in any lawsuit filed against you in connection with any of these

- 1 debts;
- 2 vi. Defend you against any collection activity or lawsuit on any individual debt at
- 3 any point in time, without expiration, in connection with any debt identified
- 4 below;
- 5 vii. Initiate legal action in a court of competent jurisdiction against any creditor
- 6 that violates any state or federal law in connection with any debt identified
- 7 below; and
- 8 viii. Determine your qualification for bankruptcy under Chapter 7 or Chapter 13 of
- 9 the US Bankruptcy Code, and counsel you regarding the procedures and
- 10 effects of bankruptcy as well as your qualifications to file the same.”

11 7. Contract A also provided that Uniq would “**remove all negative and derogatory**

12 **remarks on your credit report!** No matter how many accounts you have on your credit reports, our

13 attorneys can remove them all. And make sure they **stay off** during the entire clean up process.” It

14 also guaranteed “**an improved credit score and significant relief** on your unsecured debts within **3-**

15 **6 months** of working with our attorney network!” (Emphasis in original.)

16 8. Under the agreement, Consumer A had to make ten (10) advance payments of

17 \$429.00. Consumer A made the first payment in February 2023 at the time Contract A was signed,

18 with a second payment on March 17, 2023.

19 9. In late March 2023, Consumer A discovered that Uniq had failed to reach out to any

20 of her creditors to begin negotiating settlements on her behalf.

21 10. Consumer A attempted to contact Uniq several times to discuss whether Uniq was

22 engaging her creditors on her behalf. Unfortunately, Uniq never answered any of Consumer A’s

23 calls.

24 11. Frustrated with the fact that her creditors were never contacted, Consumer A stopped

25 making monthly payments to Uniq.

26 12. In June 2023, a California consumer (Consumer B) spoke over the phone with an

27 Uniq representative, “Mitchell”, at (786) 937-5670 who assured her that it would be able to settle

28 with her credit agencies and improve her credit score.

1 13. On or about June 7, 2023, Consumer B entered into a written agreement with Uniq
2 (Contract B). Contract A and Contract B are collectively referred to herein as “Contracts.”

3 14. Contract B was virtually identical to Contract A but for the payment terms.
4 Under Contract B, Consumer B was required to make 24 advance monthly payments of \$125.00,
5 which would be automatically withdrawn from Consumer B’s bank account monthly. The first
6 payment was withdrawn in June 2023.

7 15. In November 2023, Consumer B realized that the monthly \$125.00 payment had not
8 been withdrawn from her account. On or about November 27, 2023, Consumer B reached out to
9 Uniq via text at (786) 937-5670 asking if there were any issues with her monthly payment. Uniq did
10 not respond to her text.

11 16. On or about November 29, 2023, and December 4, 2023, Consumer B reached out to
12 Uniq via text at (949) 994-8294 asking Uniq to call her to figure out the payment issue. At or
13 around this time, Consumer B realized that Uniq had not communicated with any of her creditors.

14 17. On or about December 6, 2023, “Fin,” an Uniq representative, reached out to
15 Consumer B from (949) 773-4489. Three identical texts came through stating: “So sorry for missing
16 your call. This is Fin from UNIQ, noticed you weren’t able to get in touch w/anybody earlier. I
17 looked up your account, I looks like the attorneys have been trying to reach you about your hardship
18 programs. Call me back when you have a chance to reach them directly!”

19 18. On or about December 7, 203, Consumer B texted Uniq at (949) 773-4489 and asked
20 to cancel her “hardship program.” In response, Uniq texted back with four identical messages: “You
21 called in the other day and unfortunately disconnected. This is Fin from UNIQ. I looked up your
22 file and the attorneys really need to speak with you. Give me a call whenever you have a chance.
23 Don’t worry its good news!” However, when Consumer B tried to call Uniq back, her calls were
24 met with either a busy signal or an automated recording.

25 19. On January 22 and February 5, Consumer B received six identical texts: “Is this a
26 good time to talk? The attorneys really want to speak with you.” Again, when Consumer B tried to
27 call Uniq back, her calls were met with either a busy signal or an automated recording. When it
28 became clear that Uniq was not settling with her creditors, Consumer B put a freeze on her card to

1 stop the monthly Uniq charges.

2 20. Uniq has not carried out the services promised to Consumer A or Consumer B
3 (collectively, Consumers) as enumerated in the Contracts before receiving payment for its services.

4 **III.**

5 **APPLICABLE LAW – CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW**

6 21. Under the CCFPL, it is unlawful for a “covered person” to “[e]ngage, have engaged,
7 or propose to engage in any unlawful, unfair, deceptive, or abusive act or practice with respect to
8 consumer financial products or services.” Cal. Fin. Code § 90003(a)(1).

9 22. A “covered person” includes “[a]ny person that engages in offering or providing a
10 consumer financial product or service to a resident of this state.” Cal. Fin. Code § 90005(f)(1).

11 23. A “consumer financial product or service” is generally a “financial product or service
12 that is delivered, offered, or provided for use by consumers primarily for personal, family, or
13 household purposes.” Cal. Fin. Code § 90005(e)(1).

14 24. “Financial product or service” includes, among other things, “[p]roviding financial
15 advisory services ... including ... [p]roviding services to assist a consumer with debt management
16 or debt settlement, modifying the terms of any extension of credit, or avoiding foreclosure.” Cal.
17 Fin. Code § 90005(k)(8)(B).

18 25. Under Financial Code section 90015(d), if, in the opinion of the Commissioner, any
19 person engages, has engaged, or proposes to engage in any activity prohibited by section 90003 or
20 90004, the Commissioner “may issue an order directing the person to desist and refrain from
21 engaging in the activity, act, practice, or course of business.”

22 26. In any administrative action under Financial Code section 90015, the Commissioner
23 may include a claim for ancillary relief as provided in section 90012(b). Cal. Fin. Code § 90015(e).

24 27. Relief may include, but is not limited to, “[r]escission or reformation of contracts.”
25 “[r]efund of moneys[,]” and “[m]onetary penalties.” Cal. Fin. Code § 90012(b)(1), (2), (8).

26 28. Under Financial Code section 90012(c), in any administrative action brought pursuant
27 to the CCFPL, any person that violates, through any act or omission, any provision of the CCFPL
28 shall forfeit and pay a penalty not exceeding \$2,500.00 for each act or omission in violation of the

1 CCFPL. Cal. Fin. Code § 90012(c)(1)(A)(i).

2 IV.

3 **APPLICABLE LAW – CALIFORNIA FAIR DEBT SETTLEMENT PRACTICES ACT**

4 29. Under the California Fair Debt Settlement Practices Act (Cal. Civ. Code §§1788.300
5 et seq.) (CA FDSPA), “debt settlement provider” is a person who, “for compensation and on behalf
6 of a consumer, provides debt settlement services.”

7 30. “Debt settlement services” is defined as:

- 8 1) Providing advice, or offering to act or acting as an intermediary, including, but
9 not limited to, offering debt negotiation, debt reduction, or debt relief services
10 between a consumer and one or more of the consumer's creditors, if the primary
11 purpose of that advice or action is to obtain a settlement for less than the full
12 amount of the debt.
13 2) Advising, encouraging, or counseling a consumer to accumulate funds in an
14 account for future payment of a reduced amount of debt to one or more of the
15 consumer’s creditors.

16 Cal. Civ. Code §1788.301(b).

17 31. “Consumer” is defined as “a person who is allegedly legally responsible for a debt.”
18 Cal. Civ. Code §1788.301(d).

19 32. “Debt” is defined as “money, whether in principal, interest, fees, or other charges,
20 which is due or owing or alleged to be due or owing from a natural person to another person and
21 incurred primarily for personal, family, or household purposes.” Cal. Civ. Code §1788.301(g).

22 33. Under California Civil Code section 1788.302, a debt settlement provider “shall not
23 engage in false, deceptive, or misleading acts or practices when providing debt settlement services.”

24 34. California Civil Code section 1788.302(b)(1) provides:

25 (b) A debt settlement provider shall provide to the consumer the following disclosures
26 along with an unsigned copy of the written contract proposed to be entered into
27 between the debt settlement provider and the consumer no less than three calendar
28 days prior to the execution of that contract by the consumer. A fully executed copy of
the contract shall be delivered to the consumer by the debt settlement provider
immediately after the debt settlement provider receives the contract.

(1) The contract shall be preceded by a disclosure that contains all of the following
information in conspicuous boldface type that is larger than the typeface provided in
the contract typeface:

(A) There is no guarantee that any particular debt or all of the consumer's enrolled
debts will be reduced, eliminated, or otherwise settled.

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(B) The deposits made pursuant to the contract will not be distributed to the creditor until a settlement is obtained. This may take months to achieve.

(C) If the consumer stops paying any creditor, any of the following may occur:

(i) The creditors may still try to collect.

(ii) The creditors may sue.

(iii) If a creditor obtains a judgment against the consumer, the creditor may garnish the consumer's wages or levy the consumer's bank account or accounts, or both garnish the consumer's wages and levy the consumer's bank account or accounts.

(iv) The consumer's credit score or credit rating may be negatively impacted.

(D) Failing to pay debts on time may adversely affect the consumer's credit rating or credit scores.

(E) Specific results cannot be predicted or guaranteed, and the debt settlement provider cannot require a creditor to negotiate or settle a debt.

(F) A consumer may cancel the debt settlement contract at any time without any penalty.

(G) Debt settlement services may not be suitable for all individuals.

(H) Bankruptcy may provide an alternative to debt settlement.

(I) Canceled debt may be counted as income under federal tax law, and the consumer may have to pay income taxes on the amount of forgiven or reduced debt.

(J) Many sources of income may be protected from debt collection. Common sources of protected income include disability insurance benefits, life insurance benefits, military benefits, pension plans, retirement benefits, public assistance, social security benefits, supplemental security income (SSI), unemployment benefits, veterans benefits, workers compensation, and student aid. See form EJ-155 from the Judicial Council for a complete list.

(K) The number of months estimated to enter into settlement agreements that completely resolve all enrolled debts.

(L) All conditions that the consumer must satisfy before the debt settlement provider will make a settlement offer to a creditor.

(M) Whether the debt settlement provider pays or receives referral fees.

35. California Civil Code section 1788.302(b)(2) provides:

(2) Each contract between a consumer and debt settlement provider:

(A) Shall list each debt to be serviced, including, for each debt, the name of the creditor and the total amount of the debt. The total amount of the debt may be based on either a billing statement for the debt or information in the consumer's consumer report, as that term is defined under the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.). The billing statement or consumer report must have been issued within 30 calendar days of the date of the contract.

(B) Shall provide the estimated period of time it will take the consumer to accumulate in a settlement account the amount of money estimated to be required to settle all debts.

(C) Shall provide the amount of time necessary to achieve the represented results.

(D) Shall provide, in terms easily understood by the least sophisticated consumer, the method that the debt settlement provider will use to calculate the charges and fees for debt settlement services.

1 (E) Shall provide the name and mailing address of the debt settlement provider and of
the consumer.

2 (F) Shall provide a telephone number at which the consumer may speak, during
3 normal business hours, with a live representative of the debt settlement provider
4 during normal business hours who is able to access information about the consumer's
account.

5 (G) Shall be provided to the consumer in English and in the language in which it was
6 negotiated or in which the debt settlement services were offered, if that language is
one of the languages set forth in Section 1632.

7 (H) Shall not require a compulsory agreement with any other party. A debt settlement
8 provider may require that the consumer obtain a dedicated settlement account and
9 provide a list of preferred vendors, however a payment processor who receives
compensation from the consumer for payment processing services must supply its
own contract to the consumer for engagement.

10 (I) Shall not be entered into by a consumer who is not already allegedly legally
11 responsible for all the debt that will be enrolled in the debt settlement services. In the
12 event multiple consumers engage in a single contract for debt settlement services, if
any consumer is not proficient in English and speaks a language set forth in Section
1632, a translated copy of the disclosures and contract shall be provided to the
consumer in that language and in a manner that complies with this subdivision.

13 (3) A debt settlement provider shall not communicate with any of a consumer's
14 creditors until five calendar days after full execution of a contract for debt settlement
15 services.

16 36. Under California Civil Code section 1788.302(c)(2) and (5), debt settlement providers
17 are prohibited from engaging in unfair, abusive, or deceptive acts or practices, such as by requesting
18 or receiving payment of any fee or consideration for debt settlement services, until the following
19 occur:

20 (2) (A) The debt settlement provider has renegotiated, settled, reduced, or otherwise
21 altered the terms of at least one debt pursuant to a settlement agreement approved and
executed by the consumer.

22 (B) The consumer has made at least one payment pursuant to that settlement
agreement between the consumer and the creditor.

23 (C) To the extent that debts enrolled in a debt settlement service are negotiated,
settled, or modified individually, the fee or consideration must either:

24 (i) Bear the same proportional relationship to the total fee for renegotiating, settling,
25 reducing, or altering the terms of the entire debt balance as the individual debt
amount bears to the entire debt amount. The individual debt amount and the entire
26 debt amount are those owed at the time the debt was enrolled in the service.

27 (ii) Represent a percentage of the amount saved as a result of the renegotiation,
28 settlement, reduction, or alteration. The percentage charged cannot change from one
individual debt to another. The amount saved is the difference between the amount
owed at the time the debt was enrolled in the service and the amount agreed pursuant
to the settlement agreement between the consumer and the creditor to satisfy the debt.

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(3) Beginning July 1, 2022, for a payment processor, facilitating the distribution of payment of any fee or consideration for debt settlement services before the requirements set forth in paragraph (2) have been met . . .

(5) For a debt settlement provider, failing to distribute a statement of accounting to a consumer at least once a month while the contract for debt settlement services is in effect, as well as on or before the fifth business day after a consumer requests a statement of accounting.

(A) When an accounting is available to the consumer online, the debt settlement provider must make prominent and ongoing the ability for a consumer to opt in to a paper accounting to be mailed to the consumer under the terms of this section.

(B) The statement of accounting must contain the following information to the extent applicable:

(i) The amounts, dates, and creditors associated with each settlement obtained by the debt settlement provider on behalf of the consumer.

(ii) The fees that the debt settlement provider has billed and collected in connection with each of the debts settled.

(iii) With respect to any debt settled by the debt settlement provider on behalf of the consumer, all of the following information:

(I) The total amount of money that the consumer paid or will pay to the creditor to settle the debt.

(II) The amount of the debt at the time the debt settlement provider and the consumer entered into the contract.

(III) The amount of the debt at the time the creditor agreed to settle the debt.

(IV) The amount of compensation that the debt settlement provider received, or may receive, to settle the debt.

V.

APPLICABLE LAW – TELEMARKETING SALES RULE

37. The Telemarketing Sales Rule (TSR) (16 C.F.R. §§ 310.1-310.9) is the implementing regulation of the federal Telemarketing and Consumer Fraud and Abuse Prevention Act (Telemarketing Act) (15 U.S.C. §§ 6101-6108). Pursuant to section 3(c) of the Telemarketing Act (15 U.S.C. § 6102(c)) and section 18(d)(3) of the Federal Trade Commission Act (FTC Act) (15 U.S.C. § 57a(d)(3)), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce in violation of section 5(a) of the FTC Act (15 U.S.C. § 45(a)).

38. It is a violation of the TSR for any seller or telemarketer to request or receive payment of any fee or consideration for any debt-relief service until and unless: (1) the “seller or telemarketer has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a settlement agreement, debt management plan, or other such valid contractual agreement executed by the customer;” and, (2) the “customer has made at least one payment

1 pursuant to that settlement agreement, debt management plan, or other valid contractual agreement
2 between the customer and the creditor or debt collector.” 16 C.F.R. § 310.4(a)(5)(i).

3 39. Under the TSR, “debt relief service” is “any program or service represented, directly
4 or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of
5 the debt between a person and one or more unsecured creditors or debt collectors, including, but not
6 limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor
7 or debt collector.” 16 C.F.R. § 310.2(o).

8 40. Under the TSR, a “seller” is “any person who, in connection with a telemarketing
9 transaction, provides, offers to provide, or arranges for others to provide goods or services to the
10 customer in exchange for consideration.” 16 C.F.R. § 310.2(ee).

11 41. Under the TSR, a “telemarketer” is “any person who, in connection with
12 telemarketing, initiates or receives telephone calls to or from a customer.” 16 C.F.R. § 310.2(gg).

13 42. Under the TSR, “telemarketing” is, in relevant part, “a plan, program, or campaign
14 which is conducted to induce the purchase of goods or services ... by use of one or more telephones
15 and which involves more than one interstate telephone call.” 16 C.F.R. § 310.2(hh).

16 VIII.

17 **DESIST AND REFRAIN ORDER – CCFPL**

18 43. Uniq is a “covered person” under the CCFPL that engages in offering or providing
19 consumer financial products or services to California residents, including, but not limited to,
20 including financial advisory services such as assisting consumers with debt management or debt
21 settlement. Cal. Fin. Code § 90005(k)(8)(B).

22 44. Uniq is a debt settlement provider within the meaning of the California Fair Debt
23 Settlement Practices Act (FDSA) in that it that offered to provide advice and act as an intermediary
24 to debt negotiation, debt reduction, or debt relief services on behalf of the Consumers with regards to
25 debts with various creditors. Specifically, Uniq promised to negotiate with the Consumers’ creditors
26 on their behalf.

27 45. Uniq failed to send the Consumers the required disclosures in violation of California
28 Civil Code section 1788.302(b)(1).

1 Agreements directly to each respective California resident (Refunds). All Refunds shall be paid
2 directly to the respective California residents through an ACH transfer based upon the California
3 resident’s last known bank account, or by mailing a check to the California resident’s last known
4 address. Payment of the Refunds shall not be conditioned upon any California resident waiving any
5 right. Uniq shall escheat any unclaimed Refunds to the California State Controller’s Office within
6 the period provided by Code of Civil Procedure section 1520 of the Unclaimed Property Law (Cal.
7 Code Civ. Proc. § 1500 *et seq.*). Satisfactory proof of the Refunds must be sent to Nami Kang,
8 Senior Counsel, by email at: Nami.Kang@dfpi.ca.gov, within 30 days from the date of this order.

9 **X.**

10 **CONCLUSION**

11 Based upon the foregoing, the Commissioner finds that grounds exist, and that it is in the
12 public interest, to issue the following orders: (1) desist and refrain order against Uniq; (2) claim for
13 ancillary relief against Uniq rescinding all Agreements between Uniq and California residents
14 relating to the performance of debt relief, debt managements, or debt consulting services; and (3)
15 claim for ancillary relief against Uniq, in the form of refunds or restitution, for all monies Uniq
16 collected from California residents pursuant to the Agreements. The Commissioner hereby notifies
17 Uniq of her intention to make such orders final.

18 These orders are necessary, in the public interest, for the protection of consumers, and are
19 consistent with the purposes, policies, and provisions of the California Consumer Financial
20 Protection Law. These orders shall remain in full force and effect until further order of the
21 Commissioner.

22 Dated: August 14, 2024
23 Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



24
25 By: _____
26 MARY ANN SMITH
27 Deputy Commissioner
28 Enforcement Division