

**DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK**

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DEPARTMENT OF CONSUMER AFFAIRS,	CONSENT ORDER
Complainant,	
-against-	No.: PL05349408
D.A.L.T. MALLOY LLC.	
Respondent.	
-----X	

1. D.A.L.T. MALLOY LLC. ("Respondent") enters into this Consent Order with the Department of Consumer Affairs ("the Department") to settle the above-captioned matter.
2. Upon an investigation, the Department finds that the Respondent was engaged in unlicensed debt collection activity in New York City. The Respondent does not admit to the Department's findings, but agrees to this Consent Order with the Department to avoid further investigation and litigation. This Consent Order should not be construed as an admission of liability on the part of Respondent.
3. Deborah D'Amato, as President, represents and warrants that she is authorized to enter into this Consent Order on behalf of Respondent.
4. This Consent Order shall apply to Respondent, its directors, officers, employees, representative agents, assignees, and successors, and any entities owned or controlled by Deborah D'Amato. For the purpose of this Consent Order, "employee" means any person employed for hire or permitted to work by Respondent including, but not limited to, any person who manages or oversees the work of another and any person whose earnings are based in whole or in part on commission for work performed for Respondent.
5. If Respondent obtains a license from the Department, Respondent shall comply fully with all relevant laws and rules related to debt collection from New York City consumers including, but not limited to: (a) the Licensing Law and Rules, Admin. Code Section 20-101 *et seq.* and Title 6 of the Rules of the City of New York Sections 1-01 *et seq.*; (b) the Debt Collection Agencies Licensing Law and Rules, Admin. Code Sections 20-488 *et seq.* and 6 R.C.N.Y. Sections 2-190 *et seq.*; (c) the Consumer Protection Law and Rules, Admin. Code Sections 20-700 *et seq.* and 6 R.C.N.Y. Sections 5-76 *et seq.*; and (d) Title 23 of the NYS Financial Services Law Section 23 NYCRR1.

INJUNCTIVE RELIEF

Licensing

6. Respondents shall not act as a debt collection agency as defined in Section 20-489 of the Admin. Code at any time without holding a valid license from the Department.
7. If Respondent is found to be engaging in debt collection activity without the required license(s) at any time after the execution of this Consent Order, for the purpose of imposing fines, there shall be a presumption of continuous unlicensed activity commencing on the date of execution of this Consent Order.
8. Respondent further agrees that any future violations of the Consumer Protection Law and Rules shall be treated by the Department as knowing violations.

Collection Practices

9. In addition to complying with the requirements in Admin. Code Section 20-493.2 and 6 R.C.N.Y. Sections 2-190, and 5-77(f), Respondent shall, if it obtains a license from the Department, engage in the following practices:
 - a. Whenever a New York City consumer questions, disputes, or challenges the information on which Respondent is relying to collect or attempt to collect a debt, Respondent shall either:
 - i. Close the account, permanently terminate collection efforts with respect to the specific debt, and request deletion of that item of information from the consumer's credit reporting file; or
 - ii. Report that item of information as disputed to any consumer reporting agency to which the information was previously reported and conduct a reasonable and truthful investigation into the accuracy or completeness of such information. If Respondent does not complete its reasonable investigation within thirty (30) days from receipt of the dispute, Respondent shall request deletion of that item from the consumer's credit reporting file and cease collection activities until the reasonable investigation is complete. If after the investigation the Respondent cannot substantiate that the consumer owes the debt, Respondent shall not sell the debt or provide it to any other entity for the purpose of collection.
 - b. With regard to any New York City consumer's debt which has been paid in full or settled pursuant to an oral or written agreement, Respondent shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which

Respondent furnishes information a request for deletion of any negative information from the consumer's credit report.

10. Respondent shall not purchase, collect, or attempt to collect debts from New York City consumers if those debts arise from usurious loans, including but not limited to payday loans. For the purposes of this agreement, "usurious loan" means a loan with an initial principal of less than \$250,000, for which the annual percentage rate of interest exceeds the rate specified by Section 14-a of the New York Banking Law. Respondent shall implement policies and procedures to comply with the terms of this paragraph that include, but are not limited to, a screening process for debts which are likely to be usurious payday loans, such as those for which the original creditor's name contains the terms "Payday," "Cash," "Check," "Instant," "Advance," "Fast," "Now," or "Quick."
11. With regard to any New York City consumer's debt that arises from a usurious loan, Respondent shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which Respondent furnishes information a request for deletion of any negative information from the consumer's credit report.

Consumer Complaint Resolution

12. Respondent shall make all possible efforts in good faith to resolve all consumer complaints filed with the Department within twenty (20) days of receipt of copies of those complaints, but in all instances, Respondents shall respond in writing to the Department regarding those consumer complaints within twenty (20) days of receipt of any complaints.

NON-COMPLIANCE WITH THIS CONSENT ORDER

13. A finding, after notice and hearing, that Respondent has committed a breach of the terms of this Consent Order shall constitute prima facie evidence of Respondent's lack of fitness to hold a license from the Department.
14. Upon a finding, after notice and hearing, that Respondent has committed violations of Section 20-490 of the Admin. Code, Respondent agrees that there shall be a presumption that Respondent engaged in continuous unlicensed activity from the day of execution of this Consent Order. Upon a finding, after notice and hearing, that Respondent has committed violations of this Consent Order, the Licensing Law, the Debt Collection Agency Law, or the Consumer Protection Law, Respondent shall be subject to an additional penalty of one thousand dollars (\$1,000.00) for breach of the Consent Order as well as the Department's costs for investigation and litigation.

PENALTIES AND OTHER TERMS AND CONDITIONS

15. Respondent shall pay a total of \$1,200.00 to the Department upon execution of this Consent Order, due as follows:

Three (3) Equal Payments of \$400.00 on the 15th of every month beginning with September 15, 2015, with the last payment due on November 15, 2015. Failure to comply with the terms of this payment plan shall render the full amount due immediately.

<u>Payment Due Date</u>	<u>Amount Due</u>
September 15, 2015	\$400.00
October 15, 2015	\$400.00
November 15, 2015	\$400.00

Payment shall be made by bank check, certified check, or money order in the full amount made payable to the New York City Department of Consumer Affairs, and delivered to the New York City Department of Consumer Affairs, Legal Division, 42 Broadway, 9th Floor, New York, New York 10004.

16. This Consent Order shall constitute the final disposition of the above-captioned matter only if this Consent Order is fully executed and the settlement amounts are received by the Department as per the terms stated above in paragraph 15.
17. This Consent Order shall constitute a final order pursuant to Section 6-42(c) of the Rules.

WAIVER OF APPEALS

18. Respondent hereby agrees to waive any further right to a hearing and appeal on any of the matters referred to herein under Sections 20-104 and 20-105 of the Admin. Code or under Article 78 of the New York State Civil Practice Law and Rules.

DEPARTMENT'S AUTHORITY

19. The acceptance of this Consent Order by the Department shall not be deemed approval by the Department of any of Respondent's business practices, and Respondent shall make no representation to the contrary.

MISCELLANEOUS

20. Respondent affirms that its current address is [REDACTED] and that its current telephone numbers are [REDACTED] (work) and [REDACTED] (home) and that its current email address is [REDACTED].

21. This Consent Order contains the entire agreement of the parties with respect to the subject matter of the Consent Order. This Consent Order supersedes any prior agreements, understandings, or negotiations, whether written or oral, between the parties, and it can only be amended through a written document formally executed by all parties.

Agreed to for the Respondent by:

Deborah Anne D'Amato

Print Name

President

Title

Deborah Anne D'Amato

Signature

July 30, 2015

Date

Accepted for Julie Menin, Commissioner of Consumer Affairs for the City of New York, by:

[REDACTED]

Print Name

Staff Attorney

Title

[REDACTED]

Signature

July 30, 2015

Date

Agreement Dated: July 30, 2015

Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.