



Jonathan Mintz
Commissioner

Marla Tepper
General Counsel and Deputy
Commissioner for Legal Affairs

42 Broadway
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nyc.gov/consumers

April 19, 2013

Re: Collecting or Attempting to Collect Usurious Payday Loan Debts

To All Licensed Debt Collectors:

The Department of Consumer Affairs (the "Department") issues this letter as a reminder to all debt collectors that it is illegal to collect or attempt to collect on a usurious payday loan purportedly owed by a consumer residing in New York City.

Payday loans and other small-dollar loans offered with interest rates exceeding New York State's civil and criminal usury limits are illegal. "Payday loans" are typically small, short-term loans that the borrower agrees to repay on the borrower's next payday with interest rates as high as 400 percent per annum. In New York, pursuant to Section 5-501 of NY General Obligations Law and Section 14-a of NY Banking Law, charging a rate of interest in excess of 16 percent per annum for loans or forbearances less than \$250,000 is illegal and constitutes civil usury. In addition, under NY Penal Law § 190.40, charging interest on a loan or forbearance in excess of 25 percent per annum is criminal usury in the second degree, a class E felony. Whether they are made over the internet, over the phone, through the mail, or in person, payday loans made to New York City's residents at rates in excess of those permissible under criminal or civil usury statutes constitute illegal loans.

It is therefore illegal to collect or to attempt to collect on these payday loan debts from New York City residents. Since payday loans with interest rates in excess of New York's usury statutes are legally void in New York, collecting on these loans violates 6 RCNY § 5-77(e)(1), which prohibits collecting or attempting to collect on amounts which are "not permitted by law." Further, collecting or attempting to collect on legally void usurious payday loans violates 6 RCNY § 5-77(d) since doing so necessarily involves false and misleading representations, including "threat[s] to take any action that cannot legally be taken or that is not intended to be taken" and "false representation[s] of the character, amount or legal status of any debt."

You must take all steps necessary to ensure that you do not collect or attempt to collect on any illegal loans. Collecting or attempting to collect on a usurious payday loan will subject you to enforcement action by the Department, including sanctions such as revocation of your license, denial of license renewal, and substantial fines. The Department has and will continue to aggressively investigate and prosecute any debt collector that engages in illegal practices that enable abusive payday lending.



Entities not licensed by the Department that attempt to collect any debts from New York City residents are also subject to prosecution. Please report any licensed or unlicensed companies collecting on illegal payday loan debts purportedly owed by consumers in New York City to the Department by sending this information to paydaytips@dca.nyc.gov.

For more information about New York City's laws and rules regulating debt collection agencies, please visit the Department's web site at www.nyc.gov/consumers.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Marla Tepper". The signature is written in a cursive style with some flourishes.

Marla Tepper