

WILLIAM H. SORRELL  
ATTORNEY GENERAL

SUSANNE YOUNG  
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN  
CHIEF ASST. ATTORNEY  
GENERAL



TEL: (802) 828-3171  
FAX: (802) 828-2154  
TTY: (802) 828-3665  
CIVIL RIGHTS: (802) 828-3657  
WEBPAGE: [www.atg.state.vt.us](http://www.atg.state.vt.us)

STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER  
05609-1001

April 22, 2014

**XYZ Lender** [incl. affiliated entities]  
d/b/a [website name]  
[address]

Via Fax; Certified Mail; and E-Mail

Re: Unauthorized Lending in the State of Vermont

Dear Sir or Madam:

I am writing to notify you that we have information to believe that **XYZ** has extended credit to a Vermont resident in violation of Vermont's lending and usury laws (described below). If so, you are hereby advised to: (1) cease making consumer loans to any Vermont resident unless you come into immediate compliance with Vermont law; and (2) cancel and refund all outstanding Vermont loans to each and every Vermont consumer. If you have not made any consumer loan in Vermont, and believe you received this letter in error, please let us know and provide your support. Otherwise, you are instructed to comply with the below.

Unlicensed money lending (including payday lending<sup>1</sup>) is prohibited in the State of Vermont. The Vermont Licensed Lenders Act provides that "no person shall . . . engage in the business of making loans of money [or] credit" without "first obtaining a license from" the state Department of Financial Regulation ("DFR"). 8 V.S.A. § 2201. A failure to comply with this provision constitutes an unfair and deceptive act in commerce, in violation of the Vermont Consumer Protection Act. 9 V.S.A. § 2481w(b). It is also illegal to solicit loans without a state license. *Id.* Vermont also has statutory limits on the rate of interest charged for money lending. See 9 V.S.A. § 41a(b)(1) & (b)(5) (setting the interest rates at 12-24% per annum for all loans involving money or credit).

---

<sup>1</sup> See 8 V.S.A. § 2519(a)(13).

The Vermont Consumer Protection Act authorizes the Attorney General to enforce the Act. This includes conducting formal investigations via subpoena (section 2460), and civil actions including injunctive and monetary relief (section 2458). The latter section expressly authorizes the Attorney General to recover a civil penalty of up to \$10,000 for each violation of the Act, and to seek “restitution . . . on behalf of a consumer.” Each loan made is a separate and distinct violation.

Therefore, unless you obtain a license from the DFR pursuant to Title 8, Chapter 73, you are immediately ordered to: (i) cease all loan origination and solicitation of loans in Vermont; and (ii) cease collection of all outstanding Vermont loans. **Additionally**, you are directed to: (iii) identify all payment processors used by you to collect loan payments from consumers; and (iv) refund all amounts collected from Vermont consumers.<sup>2</sup> **Please provide a list of:** all such consumers, the date and amount of each loan, any interest and fees charged, confirmation that all amounts are refunded (i.e., copy of any explanatory letter, and check), and the list of payment processors, within **30 days** of the date of this letter.

Please note that Vermont’s laws apply regardless of whether **XYZ** has no physical presence in Vermont. 8 V.S.A. § 2233(b) (“A loan solicited or made by mail, telephone, or electronic means to a Vermont resident shall be subject to [Vermont law] notwithstanding where the loan was legally made.”). *See also Revision Military, Inc. v. Balboa Mfg. Co.*, 2011 WL 3875624 (D. Vt. Aug. 31, 2011), at \*9 (asserting jurisdiction over California company that “does not have any real property, employees, sales staff, or offices in Vermont; is not registered to do business in Vermont, has no registered agent to accept service within the state, and does not advertise in Vermont-based publications”) (citing with approval the seminal case of *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F.Supp. 1119 (W.D. Pa. 1997), which established jurisdiction based on Internet activity: “[w]hen a defendant makes a conscious choice to conduct business [over the Internet] with the residents of a forum state, ‘it has clear notice that it is subject to [jurisdiction] there’...” (citation omitted)); *QuikPayday, Inc. v. Stork*, 549 F. 3d 1302 (10th Cir. 2008) (Utah-based internet lender subject to Kansas usury regulations); *Cash America Net of Nevada, LLC v. Commonwealth of Pennsylvania*, 8 A.3d 282, 292 (Pa. 2010) (out-of-state internet lender subject to Pennsylvania’s “licensing and regulatory restrictions”).

---

<sup>2</sup> *See West Virginia v. CashCall, Inc.*, Civ. No. 08-C-1964 (Kanawha County Circuit Court, Judge Bloom), Sept. 10, 2012 (prohibiting the “making and collecting of all usurious loans” without a state license, voiding all loan contracts and cancelling all outstanding debts, and ordering over ten million dollars in consumer restitution); *see also Solomon v. Gilmore*, 731 A. 2d 280, 289 (Conn. App. 1999) (voiding loan contracts in violation of state statutory or licensing requirements); *Edwards v. Alabama Farm Bureau Mutual Casualty Insurance Company*, 509 So. 2d 232, 236 (Ala. App. 1986) (same).

Your prompt attention to this matter will be appreciated. Please contact this office with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Justin Kolber". The signature is fluid and cursive, with the first name "Justin" and last name "Kolber" clearly distinguishable.

Justin Kolber  
Assistant Attorney General