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April 22, 2014

Jim Condon, Executive Director
Vermont Association of Broadcasters
500A Dalton Drive
Colchester, VT 05446

Via Certified Mail and E-mail to: vab@vab.org

Re: Illegal Lending Advertisements in Vermont

Dear Mr Condon,

We are writing you in connection with the Attorney General's ongoing efforts to address illegal and predatory lending, and to request your assistance in these efforts.

There has been a recent rise in illegal and predatory lending activities, particularly over the Internet. Online lenders nationwide (currently numbered at over 200) earned over \$18 billion dollars in income from high-interest, small-dollar loans made in 2012. In Vermont, our office has investigated one lender who funded 427 loans (\$993,025 in principal), and earned \$888,950 in interest and fees alone, at an average annualized interest rate of 136%, another lender funded 384 loans (\$197,000 in principal) and earned \$230,000 in interest and fees alone, at an average annualized interest rate over 300%. As to individual examples, one Vermont consumer complained of taking out a \$400 online loan (at over 300% annualized interest) and paying back over \$1,000 within five months (mostly through automatic withdrawals that required bank intervention), another complained of an online lender depositing \$160 in a small loan to his bank account, and then automatically withdrawing \$100 every month in "fees" (resulting in annualized interest of 747%)

Some of these lenders use television and radio commercials to solicit and obtain consumers. The consumer described in the last example above obtained his

loan after viewing a television commercial. As explained further below, by hosting advertisements from online lenders, television and radio networks provide a significant yet harmful link in allowing illegal loans to injure Vermont consumers. We are asking for your help in disseminating this letter, and advising television and radio networks in Vermont not to host commercials for unauthorized lenders.

Vermont law regulates several aspects of money lending. First, all money lenders must obtain a state license, or must be a bank or a credit union, before making or even soliciting a loan. *See* 8 V.S.A. §§ 2201, 2233(b). Interest rates are also capped at 12-24% annually. *See* 9 V.S.A. § 41a(b)(1) & (b)(5). Vermont explicitly prohibits all forms of “payday loans” (which are loan advances contingent on a future paycheck or postdated check). *See* 8 V.S.A. § 2519(a)(13). Although the term “payday loans” is often used to describe the kind of illegal lending that we are writing about, “illegal” or “unauthorized” lending are more accurate and inclusive terms. They refer to *all* loans that do not comply with Vermont law (such as unlicensed or high-interest loans).

Despite the laws referenced above, out-of-state lenders often refuse to comply with state law, claiming that state laws do not apply to them. Therefore, Vermont regulates those who provide assistance to unauthorized lenders. For example, it is a violation of the Consumer Protection Act for a payment processor to do any financial processing on behalf of unauthorized non-bank lenders. *See* 9 V.S.A. § 2481w(c). It is also a violation of the Consumer Protection Act for “any person” to provide “substantial assistance” to a non-bank lender, once that person is aware (or should be aware) that the lender is not licensed under Title 8 of the Vermont Statutes Annotated, or is not a bank or a credit union. *See* 9 V.S.A. § 2481w(d) for the full text of this provision.

We are writing to inform all Vermont television and radio networks and channels that hosting advertisements for unauthorized non-bank lenders would constitute “substantial assistance,” per section 2481w(d). Attached is a list of all known unauthorized lenders who have made illegal loans in Vermont. We advise all networks to cease running any advertisements on behalf of any of the lenders listed in Exhibit A. Having received this notice, our position is that any future advertisement for these lenders would violate 9 V.S.A. § 2481w(d), and could subject the television and radio stations to potential legal liability, civil penalties, and other remedies under the Consumer Protection Act.

Additionally, going forward, if any loan company seeks future advertisement services in Vermont, we suggest that the network first confirm that the lender is licensed to make loans in Vermont or is bank or credit union and, if not, to deny advertising services. All properly licensed non-bank lenders are publicly listed and can be verified using either of the below websites:

- <http://www.nmlsconsumeraccess.org/> – enter name of the company and check for Vermont under “State Licenses/Registrations” results, or
- http://www.dfr.vermont.gov/banking/verify_license – enter “Licensed Lender” in the first drop-down box (“Select a license”)

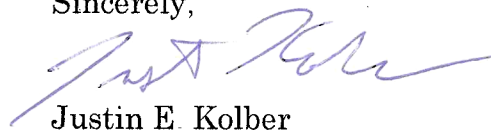
Periodically, the Attorney General’s Office or Department of Financial Regulation will also send notices or “alerts” of other illegal lenders or activity to an email distribution list. We suggest that Vermont television and radio networks join this distribution list by emailing: UnlicensedLending-request@list.state.vt.us. Anyone may also send any questions or information about illegal lending in Vermont to this address. AGOUncensoredLending@atg.state.vt.us.

By taking the steps set forth in this letter, Vermont television and radio networks will be helping to prevent a significant and growing harm to many Vermont consumers. As a positive example, our office discovered an unauthorized lender advertising on Fox44. Upon notice to Fox 44, Roger Hess, Vice President and General Manager, immediately responded and the channel promptly pulled the ad, and assured us of future monitoring and prevention of any other ads from any unauthorized lender. Fox44’s response was commendable. We urge all Vermont networks to follow the same approach.

Within 10 days, please distribute this letter to your members, and post it on your website, and any other means that will reach Vermont television and radio networks and channels. Our hope is to have a positive and cooperative relationship with the television and radio networks on this important issue.

Please feel free to contact me with any questions or suggestions for how we might better protect Vermonters. Thank you for your assistance.

Sincerely,



Justin E. Kolber
Assistant Attorney General

Enc. Exhibit A – “Vermont Illegal Lender List April 2014”