



June 1, 2016

### **The New York State Department of Financial Services Reading the Tea Leaves . . . or Consent Orders**

On May 18, 2016, the New York State Department of Financial Services (“DFS”) announced that it entered into two landmark settlements with two debt buyers. The settlements, memorialized by consent orders, amounted to roughly \$3 million in restitution in connection with the debt buyers’ purchase and collection of payday loans<sup>1</sup> from New York consumers. The settlements represent the first time that DFS has recovered restitution from the debt buying industry in connection with the collection of payday loans.

In the [first consent order](#), National Credit Adjusters, LLC (“NCA”) agreed to discharge more than \$2.26 million in payday loan debt owed by New York consumers, and to provide refunds totaling \$724,577.00. It also agreed to pay a \$200,000.00 penalty. In the [second consent order](#), Webcollex LLC d/b/a CKS Financial (“CKS”) agreed to issue \$66,129.00 in refunds and to discharge \$52,941.00 in payday loan debt owed by New York consumers. CKS also agreed to pay a penalty of \$25,000.00. Both of these settlements involved collection efforts that took place over a several year period. Moreover, NCA and CKS agreed not to sell or assign the payday loans and to remove any negative information from the consumers’ credit reports. NCA also agreed to vacate any payday loan judgments, and to release any associated garnishments, levies, liens and restraining notices.

Although this is the first activity of its kind from DFS, there have been many comparable actions and consent orders issued by the New York City Department of Consumer Affairs and the New York State Office of the Attorney General. Ever since DFS entered the credit and accounts receivable management regulatory sphere through its [rulemaking](#), it has been unclear whether DFS planned to take an active enforcement role. Although that role is still unclear, these consent orders may provide a glimpse of things to come.

\* \* \*

Warshaw Burstein’s [Creditors’ Defense Litigation and Compliance Group](#) advises on all facets of consumer protection compliance and provides representation in litigation defense, investigations and transactions. If you have questions about these consent orders, an investigation your company is facing, or your compliance programs, please contact [Scott E. Wortman](#), [Hilary F. Korman](#), or your regular [Warshaw Burstein](#) attorney.

<sup>1</sup> Payday loans are short term loans, typically made as an advance on an individual's future paycheck or other income source. They usually come with high interest rates that conflict with New York State's 16% general usury limit, among other statutes. See generally New York General Obligations Law § 5-501 and New York Banking Law § 14-a.

© Warshaw Burstein, LLP, 2016. All rights reserved. *This memorandum was prepared as a service to clients and other friends of Warshaw Burstein to report recent developments that may be of interest to them. The content is general and for informational purposes only, and should not be considered or relied on as legal advice. Prior results do not guarantee a similar outcome. Throughout this memorandum, "Warshaw Burstein" and the "firm" refer to Warshaw Burstein, LLP.*

Warshaw Burstein represents clients in the New York metropolitan area, across the United States and around the world.