

FTC Bans Merchant Cash Advance Provider from Industry

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On January 5, the FTC [announced](#) that two defendants will be permanently banned from the merchant cash advance and debt collection industries, and required to pay \$675,000 to resolve allegations that they used deceptive and illegal means to seize assets from small businesses, non-profits, and religious organizations. The order results from a 2020 complaint against two New York-based companies engaged in small-business financing, along with several of their owners and officers.

The FTC notes that merchant cash advances are a type of alternative small business financing where merchant cash advance companies provide funds to businesses in exchange for a percentage of the businesses' revenue. Typically, a merchant cash advance company will make daily withdrawals from the business's bank account until the obligation has been met. However, the [original](#) complaint alleged that the defendants violated the FTC Act for engaging in deceptive and unfair practices by, among other things, misrepresenting the terms of their merchant cash advances, using unfair collection practices, and making unauthorized withdrawals from consumers' accounts. The [amended](#) complaint alleges that the defendants also violated the Gramm-Leach-Bliley Act's prohibition on using false statements to obtain consumers' financial information, including bank account numbers, log-in credentials, and the identity of authorized signers, in order "to withdraw more than the specified amount from consumers' bank accounts."

The FTC's case against three other defendants is ongoing, and the proposed order requires the settling defendants to cooperate with the FTC.

Putting it Into Practice

This FTC action is in-line with the FTC's [continuing focus in recent years on small business financing](#), and serves as a reminder for participants in the cash advance space to monitor their compliance with state and federal unfair and deceptive practices laws and other regulations to ensure full and appropriate compliance

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