



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST
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MCIEASTO 5801.1
SJA
13 Jul 10

MARINE CORPS INSTALLATIONS EAST ORDER 5801.1

From: Commanding General
To: Distribution List

Subj: PREDATORY LENDING PRACTICES

Ref: (a) ALMAR 060/05 of 2 Dec 05
(b) JAGINST 5801.2A (Navy and Marine Corps Legal Assistance Program)
(c) MCO P5800.16A (Marine Corps Manual for Legal Administration)
(d) MCO 1620.2D (Armed Forces Disciplinary Control Boards and Off Installation Liaison and Operations)
(e) MCO P1700.24B (Marine Corps Personal Services Manual)
(f) SECNAVINST 1740.4 Personal Financial Management (PFM), Education, Training, and Counseling Program
(g) 15 U.S.C. 1692 et seq (Federal Fair Debt Collection Practices Act)
(h) North Carolina General Statutes, chapter 58, article 70 (Sections 70-1 thru 70-130)
(i) North Carolina General Statutes, chapter 75, article 2 (Sections 50-56)

1. Situation. Predatory lending practices have a serious, adverse, and potentially ruinous affect on military service members and their families. One practice in particular, payday lending, is especially damaging to morale, financial well being, career potential, and even military readiness. As the former Commandant succinctly stated in reference (a), "a Marine's financial readiness directly impacts unit readiness and, consequently, the Corps' ability to accomplish its mission."

2. Cancellation. CG's Policy Letter 007-07 of 16 Oct 07.

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13 Jul 10

3. Mission. To establish policy and procedures to combat payday lending and other predatory lending practices by educating service members on predatory lending practices and to report those practices to the appropriate authorities.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. Marine Corps Installations East (MCIEAST) will ensure policies and procedures are established to prevent lending and other predatory lending practices.

(2) Concept of Operations. All MCIEAST service members will be educated on predatory lending practices and how to report such practices to the appropriate authorities.

b. Subordinate Element Missions

(1) AC/S, G-1. Ensure the S-1 for each installation provides new joins with consumer protection information, including, at a minimum, instruction concerning the resources available through the Marine Corps Community Services (MCCS) Command Financial Counselor, Legal Assistance, the Navy and Marine Corps Relief Society (NMCRS), and military websites. In addition, new joins shall be briefed concerning payday loans, and some of the more prevalent consumer issues, rip offs and scams. Coordinate as necessary with the MCCS Command Financial Counselor and the Staff Judge Advocate (SJA).

(2) SJA. The SJA for each installation, principally via their legal assistance program, will:

(a) Work with state attorneys general, banking commissions, and other regulatory agencies to pursue enforcement against predatory lenders violating the law.

(b) Work with MCCS financial counselors, NMCRS, the Public Affairs Office (PAO), and other applicable organizations, to ensure educational material is made available to service members, and to ensure training is provided to new joins per paragraph 4b(1) above.

13 Jul 10

(c) Provide pertinent information via the MCIEAST chain of command to the SecDef Office of Legislative Affairs so that agency will be better able to pursue local, state, and federal legislation to abolish payday lending and to protect service members from all forms of predatory lending.

(d) Provide a robust preventative law program per references (b) and (c).

(e) Provide legal advice and assistance to the Command Inspector General (CIG) investigating allegations of payday lending and other predatory lending practices, per reference (d).

(f) Meet not less than semi-annually with MCCS Command Financial Counselors and NMCRS to review current issues, and to examine the prevalence of various forms of payday lending.

(3) CIG. The Armed Forces Disciplinary Control Board (AFDCB) provides a ready and useful mechanism in combating businesses that adversely affect the health, morals, and welfare of service members, such as payday lenders and other financial predators. As such, the AFDCB process, as outlined in reference (d), should be utilized to address businesses identified as engaging in predatory lending practices. In accordance with reference (d), a business need not be found to be operating illegally in order to be placed off limits to military personnel. Rather, per appendix B, section B-6(a) of reference (d), the off limits sanction may be invoked when "an establishment or area frequented by Armed Forces personnel presents conditions which adversely affect their health, safety, welfare, or morals."

(4) PAO

(a) Working with the local SJA, provide input to installation newspapers and other appropriate venues concerning payday lending, predatory loans, and consumer protection.

(b) Assist the SJA, as requested, in executing the legal assistance preventative law program.

(c) Review questionable advertisements in installation publications with the SJA or his designee to ensure that no MCIEAST publication advances, publicizes, or otherwise

13 Jul 10

lends support to any predatory lender. Predatory lenders include, but are not necessarily limited to, those businesses offering payday loans, refund anticipation loans, car title loans, and loans with an effective annual interest exceeding thirty six percent. Whenever possible, arrange for review of such advertisements, or requests for advertisement prior to acceptance for publication, as removal of unwanted advertisements become more difficult once the installation and/or the publisher is contractually bound. As deemed necessary, demand sample loan contracts, company policies, or written assurances as a precondition to advertisement.

(5) MCCS

(a) Coordinate with the SJA to ensure that questionable businesses are not granted a contract to operate aboard the installation or to sponsor an MCCS event. Such questionable businesses include, but are not necessarily limited to those businesses that offer payday loans, refund anticipation loans, car title loans, and any loan with an effective annual interest rate exceeding thirty six percent.

(b) Ensure that MCCS financial counselors work closely with NMCRS, PAO, SJA, and other applicable organizations, to ensure educational material is made available to service members, and to ensure training is provided to new joins per paragraph 4b(1).

(c) Conduct financial education classes per reference (e).

(d) Consistent with reference (f), and resource availability, conduct instruction in personal financial management and related topics as requested by unit commanders.

(6) MCIEAST Commanders

(a) Ensure your personnel are familiar with the common forms of predatory lending as outlined above. Assist your personnel to recognize some of the warning signs of predatory lending: (1) high interest rates; (2) requiring borrowers to purchase additional products such as collateral insurance and credit life insurance; (3) requiring borrowers to sign a written "Statement of Understanding" or other writing contrary to what was provided verbally by the salesman; (4)

13 Jul 10

requiring borrowers to waive their rights under the Service Members Civil Relief Act; (5) unlawful debt collection practices, including applications containing authorization to provide debt information to commanders; and (6) failure to comply with disclosures required by the Federal Truth in Lending Act.

(b) Unlawful debt collection practices are widely associated with predatory lending, often using military authorities as leverage to pursue collection. Accordingly, commanders and appropriate members of their staffs will become familiar with the Marine Corps policy concerning indebtedness per chapter 16 of reference (c), with the general nature of reference (g) and with any particularly relevant state debt collection legislation.

1. Per reference (c), it is the policy of the Marine Corps not to assist in any debt collection effort where the debt collector has not first made a bona fide effort to collect the debt directly from the service member concerned, or where the debt collector's claim is patently false or misleading, or where the debt collector's actions violate Federal law or the law of the state in which the installation is located.

2. Federal law prohibits a debt collection agency from contacting third parties, such as employers or commanders, except with the consent of the debtor or in other very limited circumstances. Of note for North Carolina commands, the law of that state imposes prohibitions not only on those hired to collect debts for others, but on creditors as well (References (h) and (i)). Further, per section 75-53(1)(a) of reference (i), North Carolina debtor consent given prior to default, such as the purported consent on loan application forms, is completely ineffective consent. Thus, permission must be given after default to be legally effective.

(c) Commanders and their staffs will report questionable debt collection practices, together with the details, and any debt collection materials, to the officer in charge, legal assistance, or other person as designated by the installation commander.

13 Jul 10

(d) Ensure your personnel, particularly your new joins, receive the appropriate training concerning personal finances, predatory lending, and other scams and rip-offs.

(e) Refer personnel, as appropriate, to available resources such as the local legal assistance office, MCCA financial counselors, and the NMCRS.

(f) Encourage personnel to report practices of payday lending and other predatory practices to the local legal assistance office and/or the Command Inspector General.

5. Administration and Logistics. Point of contact for this Order is the SJA, MCIEAST at DSN 751-9726, or (910) 451-9726.

6. Command and Signal

a. Command. This Order is applicable to MCIEAST.

b. Signal. This Order is effective the date signed.


C. B. JENSEN

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