



Consumer Federation of America

The “e-loansharking” Problem

- Payday loans and similar forms of extremely high-cost debt are among the most controversial financial products in America. Interest rates on these predatory loans often exceed 300 percent.
- Many state legislatures and ballot measures have prohibited high-cost payday loans altogether. Other states only allow this type of lending subject to state licensing, consumer protection rules, and oversight.
- Nevertheless, over the past two decades massive interstate internet-based payday lending operations have evolved to cash in on illegal lending by circumvent state laws.
- These illegal lending operations evade state law enforcement through offshore shell companies, manipulating federal tribal sovereign immunity laws, and concealing their tracks online.
- Illegal interstate payday lending operations are harming millions of Americans, undermining the rule of law, and destroying working families’ faith in federal and state government.

These “e-loansharks” violate the federal Racketeer Influenced and Corrupt Organizations (“RICO”) Act:

- 18 U.S.C. § 1962(c): *“It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect interstate or foreign commerce, to conduct or participate, directly or indirectly, in conduct of such enterprise’s affairs through a pattern of racketeering activity or collection of unlawful debt.”*
- 18 U.S.C. § 1961(6). *“unlawful debt” means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;”*
- 18 U.S.C. § 1963: *“Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years....”*

Recent prosecutions show that the Department of Justice can make a difference:

- [U.S. v. Scott Tucker](#)—The U.S. Attorney’s Office for the Southern District of New York successfully prosecuted the CEO and legal counsel of a \$35 billion online “rent-a-tribe” payday lending operation. After a jury trial, a federal judge sentenced the CEO to over sixteen years in prison and the attorney to seven years in prison. This case also helped facilitate a [\\$613 million fine on US Bank](#) for its role in the operation.
- [U.S. v. Charles Hallinan](#)—The U.S. Attorney’s Office for the Eastern District of Pennsylvania successfully prosecuted the CEO and outside legal counsel of an online “rent-a-tribe” payday lending operation. After a jury trial, federal judge sentenced the CEO to 14 years in prison and the attorney to eight years in prison.
- [U.S. v. Richard Moseley](#)—The U.S. Attorney’s Office for the Southern District of New York successfully prosecuted the CEO of a fake “offshore” internet payday lending operation. After a jury trial, a federal judge sentenced the CEO to ten years in prison.

Despite these successes, much more needs to be done:

- Many e-loansharks have not been prosecuted for their serious criminal enterprises. Many e-loansharking businesses are continuing to cash-in on illegal lending to American consumers.
- U.S. Attorneys offices around the country need to step up and do their job to protect the public from criminal e-loansharking operations.