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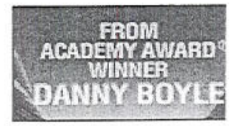

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New York State May Hire Outside Debt Collectors

By ALISON LEIGH COWAN

In these hard times, New York's future governor, Andrew M. Cuomo, has made a point of standing alongside consumers who are down on their luck. As attorney general, he conducted a statewide crackdown on debt collectors who ran afoul of consumer protection laws, and his office encouraged consumers with their own tales of woe to contact it.

"Too often consumers find themselves in over their heads," reads one section of the attorney general's Web site. "If you are one of those consumers, you may be feeling overwhelmed trying to make ends meet while paying off your bills. You may be experiencing calls from people demanding that you pay a certain debt."

So, it may come as a jolt to learn that the office of the attorney general, consisting of the state's chief lawyers, also does a brisk business collecting debts from consumers who owe money to many state agencies and authorities — returning about $100 million a year to the state's coffers.

And it may come as an even bigger jolt to learn that New York State is seriously looking at handing over responsibility for some collection activity to outside bill collectors who, like many of those prosecuted by Mr. Cuomo over the last four years, would be chasing profits above and beyond the return of taxpayer money.

The outreach to private debt collection companies began last May, according to the New York State Division of the Budget's Web site, and the division could award a contract any day.

New York State "did terrific work in going after debt collectors, and now they're going to hire these same people and have no control over what they're going to do?" said Johnson Tyler, a lawyer who works with the indigent for South Brooklyn Legal Services.

Others, though, support the decision to seek private help in collecting public debts.

“If the budget division wants to outsource it, I’m delighted,” said Edmund J. McMahon, a senior fellow at the Empire Center for New York State Policy, based in Albany, and a former deputy commissioner for tax policy in the administration of Gov. George E. Pataki. He added: “There are plenty of reputable players in that business. There are some not-reputable players, too. But presumably they would not have them do it.”

Budget division officials have refused to divulge much information about the type of debts being turned over to the collection agencies. Information posted on the division’s Web site suggests that the initial award will consist of at least $425 million or more of i.o.u.’s that are owed to a variety of state agencies but have been declared “uncollectible” and given up on.

Some of the more sensitive or complex debts — those bound for court, for instance, or those owed by the mentally ill — will remain the responsibility of the attorney general’s office.

Professional debt collectors generally work like bounty hunters, keeping a set percentage of what they bring in. Veteran debt collectors said they would not be surprised if those bidding for the state contracts asked to keep 30 to 40 percent of what they collect.

“If you collect 1 out of 10, you’re doing great,” said Eric Najork, a third-generation owner of the Collection Bureau Hudson Valley in Newburgh and an official with the New York State Collectors Association.

A decision by government to turn to private debt collectors is not novel. Rozanne Andersen, chief executive of the Association of Credit and Collection Professionals, a trade group based in Minneapolis, that said it represents 91,000 debt collectors across the country, said private collectors had helped recoup nearly $800 million last year for the federal government. The United States Department of Education has long used private debt collectors to pursue unpaid student loans.

The industry, though, has regularly found itself a target of investigation. Spying an opportunity midway through his term as attorney general to burnish his credentials as the consumer’s champion, Mr. Cuomo directed his staff to take on the bad actors in the private collection business aggressively.

At last count, 14 debt collection enterprises had been put out of business by Mr. Cuomo's office, including one whose chief official was a gun-toting felon and another who singled out servicemen, threatening their families and calling their commanders. The office also helped obtain criminal convictions against a dozen or so of the worst offenders, people who intimidated consumers by posing as law enforcement officers and even one man who continued to run his debt collection business from inside a federal prison.

At least six more debt collection companies signed agreements promising to mend their ways. Along the way, the attorney general's SWAT team also shut down or sued affiliated law firms, process servers and debt consolidators whose services turned out to be shams.

"At a time when New York families are already struggling with unprecedented levels of debt, unscrupulous collection agencies add salt to an open wound," Mr. Cuomo said in May 2009, after taking on the debt collectors.

In an effort to steer clear of debt collectors with troubled pasts, the budget division has declared that it will not hire any bidder that has "an adverse determination" against it by the New York State attorney general. That includes any bidder that signed a civil agreement with Mr. Cuomo requiring it to make payments to the state or affected individuals, even if there was no admission of wrongdoing.

"It's a huge decision for a state or city to make the decision to retain a third-party debt-collection agency, because it is new and it is going outside their comfort zone," Ms. Andersen said. Still, she warned that government's tendency to want to squeeze debt collectors "and get them for the lowest fee "can be a prescription for disaster in terms of making the program unsuccessful."

According to the budget division's Web site, the winner of the contract will be expected to track down consumers and notify them of their obligations, using three rounds or more of letters and phone calls. Consumers can be offered installment plans. But any collector that wins the state's business cannot accept less than what is owed without consulting the agency that referred the debt and the budget division.

The state also reserves the right to increase the amount of debt and the types of debt that may be farmed out during the maximum three-year life of the contract. So the mix could still veer into touchy areas for politicians, like hospital debt owed by those who are disabled, injured or mentally frail.

Lawyers and debt collectors say these are some of the thorniest cases in the attorney general's portfolio because of the wrenching issues they raise. State lawyers have an obligation to track down assets that could repay taxpayers for providing treatment to someone in need. That goes for state-operated psychiatric hospitals, where the charges can run $700 a day. Yet so often the people in need at such centers are either short on funds or long on hardships, or both.

Add to that a fragile economy, and like it or not, the attorney general's book of business has only swelled. According to Richard Bamberger, the office's spokesman, the office recorded $64 million in civil recoveries in 1994, and the general trend has been upward. Recoveries reached a peak of $134 million in 2009 and are on track to beat that this year.

Consumer advocates and lawyers who represent the indigent are never thrilled when the attorney general goes after their clients.

But the advocates are even less enthusiastic about having private debt collectors take up the charge. "It's a bad idea," said Anamaria Segura, a staff lawyer with the consumer rights project at MFY Legal Services. "I think the state should have to collect its own debts."