

This Notice Was Authorized by the United States District Court for the Southern District of New York. This is not a solicitation from a lawyer.

---

# Notice of Proposed Class Action Settlement and Fairness Hearing You May Include Yourself in a Class Action Settlement and Receive a Settlement Payment

*In re Midland Funding LLC Interest Rate Litigation*  
United States District Court, Southern District of New York  
Case No.: 11-cv-8149 (LMS)

---

- ▶ This is a Notice to inform you about a proposed settlement (the “Settlement”) in a class action lawsuit brought against Midland Funding LLC and Midland Credit Management, Inc. (collectively, “Midland” or “Defendants”) related to allegations that Defendants violated federal and New York State law by sending New York consumers collection letters that sought interest at a rate higher than 25%.
- ▶ Unless you opt out, you will be included as a Class Member and you will therefore be a party to the Settlement. **HOWEVER, YOU MUST MAIL IN A CLAIM FORM OR SUBMIT ONE ONLINE IF YOU WISH TO RECEIVE MONEY OR A BALANCE ADJUSTMENT.**
- ▶ This Notice describes the Settlement and informs you of your rights.
- ▶ Please carefully read the entire Notice. If you take no action, you WILL be included in the Settlement. You MUST submit a claim online or by mail to receive a cash payment or balance adjustment.
  - If you do not wish to be included in the Settlement, you must follow the procedures stated in response to Question 10 below no later than **July 29, 2019**.
  - If you wish to be included as a Class Member but to object to the terms of the Settlement, you must follow the procedures stated in response to Question 11 below no later than **July 29, 2019**.

If you do nothing, you will automatically be included as a Class Member. However, ONLY CLASS MEMBERS WHO SUBMIT A CLAIM FORM WILL RECEIVE CASH PAYMENTS AND/OR BALANCE ADJUSTMENTS. To submit a claim, you can mail in the Claim Form that was attached to the postcard we sent you OR submit a claim online at [www.MidlandInterestRateSettlement.com](http://www.MidlandInterestRateSettlement.com).

- ▶ By submitting a claim or doing nothing, you consent to the jurisdiction of U.S. Magistrate Judge Lisa M. Smith pursuant to 28 U.S.C. § 636(c).

Cash payments and balance adjustments will vary depending on a variety of factors. However, based on reasonable assumptions about claims participation, most Class Members who fill out their Claim Form and send it back will receive a cash payment of at least \$50.00 to \$118.00 or a balance adjustment of at least \$1,920.00 (assuming the claimant has a balance equal or greater to this amount). Not sure of your balance? Want to compare different options?

Go to [www.MidlandInterestRateSettlement.com](http://www.MidlandInterestRateSettlement.com).

Basic Information ..... **PAGES 3-4**

1. What is this lawsuit about?
2. What is a class action and who is involved?
3. Why did I get this Notice?
4. Why is there a Settlement?

The Claims in the Lawsuit ..... **PAGE 4**

5. What did the Plaintiffs ask for?
6. Who is representing the Class Members in this case?

The Terms of the Settlement ..... **PAGES 4-6**

7. What is the Settlement?
8. What claims are released if I participate in the Settlement?

Your Rights and Options ..... **PAGES 6-7**

9. How do I participate in the Settlement?
10. What if I want to exclude myself from the Settlement?
11. What if I wish to object to the terms of the Settlement?
12. What is the difference between objecting to the Settlement and not including myself from the Class?
13. What will happen at the Fairness Hearing?
14. How will I know if the settlement is approved?

Additional Information ..... **PAGE 8**

15. How may I obtain more information about the case?
16. What if my address changes?

## Basic Information

### 1. What is this lawsuit about?

This lawsuit involves collection letters sent by Midland Credit Management, Inc. on behalf of Midland Funding LLC to New York consumers. The collection letters sought to collect interest that had been applied to the collection accounts at a rate of over 25%. Plaintiffs contend that this was illegal under New York law and that Defendants therefore violated the Fair Debt Collection Practices Act and New York General Business Law Sec. 349. Defendants contend that their conduct was lawful and that they were permitted to seek and collect interest at a rate over 25% under New York and federal law.

### 2. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” (in this case Linda Taylor Gay; Rocco Commisso; Marianne Norelli and Galo Uribe) sue on behalf of themselves and other people who have similar claims. The people together are a “Class” or “Class Members.” The companies they sued (in this case, Midland) are called the Defendants. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

### 3. Why did I get this Notice?

You received this Notice because available records show that you are one of the consumers who received a collection letter from Midland that sought interest at a rate higher than 25%. As a result, unless you opt out, you will be included as a Class Member and be subject to the terms of the Settlement as described in response to Questions 7 and 8 below.

Specifically, individuals will be included as Class Members absent a specific request to the contrary if they meet the following definition:

All persons residing in New York who were sent a letter by Defendants attempting to collect interest in excess of 25% per annum regarding debts incurred for personal, family, or household purposes, whose cardholder agreements: (i) purport to be governed by the law of a state that, like Delaware’s, provides for no usury cap; or (ii) select no law other than New York. This class comprises two subclasses: (a) for claims arising out of GBL violations from November 10, 2008 through February 27, 2017; and (b) for claims arising out of FDCPA violations from November 10, 2010 through February 27, 2017.

There are approximately 58,263 people who are members of these classes.

These individuals are divided into two subclasses:

- a) 11,237 members who are members of the GBL Statutory Subclass but not the FDCPA Subclass;  
and
- b) 47,026 consumers who are members of both the GBL Statutory Subclass and the FDCPA Subclass.

The following people who otherwise meet the Settlement Class definition are excluded: any person whose Letter relates to a debt which was discharged pursuant to Chapter 7 of the United States Bankruptcy Code.

#### 4. Why is there a Settlement?

Both sides agreed to a settlement before going to trial in order to avoid the costs and uncertainties of litigation. The Class Representative and counsel for the class (“Class Counsel”) believe the Settlement is in the best interest of all Class Members.

### The Claims in the Lawsuit

#### 5. What did the Plaintiffs ask for?

Plaintiffs sought statutory damages, actual damages under the FDCPA, treble damages, punitive damages and a declaration that Midland broke the law and requiring Midland to stop engaging in the practice Plaintiffs allege is unlawful. Plaintiffs also sought attorneys’ fees and costs, as well as a service fee to each named plaintiff.

#### 6. Who is representing the Class Members in this case?

The Court appointed the following firms as “Class Counsel” to represent the Class:

Daniel A. Schlanger  
Schlanger Law Group LLP  
9 E. 40th Street, Suite 1300  
New York, NY 10016  
T. 212-500-6114  
F. 646-612-6996

O. Randolph Bragg  
Horwitz, Horwitz and Associates, Ltd.  
25 E. Washington, Suite 900  
Chicago, Illinois 60602  
T. 312.372.8822  
F. 312.372.1673

These attorneys are experienced in handling class actions. You will not be charged for their services. You may hire your own attorney to represent you in this matter. If you want to be represented by your own lawyer, you will be responsible for paying his or her fees.

### The Terms of the Settlement

#### 7. What is the proposed settlement?

a) If the Settlement becomes final, there are three forms of relief to the Class:

- Monetary Relief (total: \$555,000, as set forth below);
- Balance Reduction Relief (total: \$9,250,000 of credits available to class, as set forth below); and
- Confirmation Of Certain Changes In Business Practices (as set forth below).

Each person who does not opt out of the Settlement will be releasing claims, as described in response to Question 8, in exchange for relief provided by the Settlement.

b) FDCPA Subclass Relief: Settlement Class Members who are members of the FDCPA Subclass shall be entitled to submit a claim for either Monetary Relief or a Balance Reduction (whichever the consumer prefers), to be indicated by the consumer on the Claim Form. With regard to members of

this subclass who submit a claim and opt for Monetary Relief, \$297,233 of the Settlement Fund shall be available for these payments. The funds shall be distributed pro-rata to those Class Members who file a claim and opt for Monetary Relief rather than a Balance Reduction. With regard to members of this subclass who submit a claim and opt for balance reduction, see “Balance Adjustment Relief”, below.

- c) GBL Subclass Relief: Settlement Class Members who are members of the GBL Subclass but not the FDCPA Subclass shall be entitled to submit a claim for either Monetary Relief or a Balance Reduction (whichever the consumer prefers). With regard to members of this subclass who submit a claim opting for Monetary Relief, \$118,392 of the Settlement Fund shall be available for these payments. The funds shall be distributed pro-rata to those Class Members who file a claim and opt for Monetary Relief rather than a Balance Reduction. Payments to Settlement Class Members who are members of the GBL Subclass but not the FDCPA Subclass made under this subprovision are capped at \$50.00 per person. If, based on the claims rate and per person cap, the total amount payable under this provision is less than \$118,392, the excess shall “spill over” to the Supplemental Fund For Settlement Class Members Who Paid In Excess Of 25% Interest, and be added to the \$139,375 available to those qualifying for a supplemental payment, as set forth below. With regard to members of this subclass who submit a claim and opt for balance reduction, see “Balance Adjustment Relief”, below.
- d) Supplemental Fund For Settlement Class Members Who Paid In Excess Of 25% Interest (“Supplemental Fund”): In addition to all other relief set forth in this Settlement Agreement, Settlement Class Members who paid Midland interest in excess of 25% per annum, as reflected in the Class List, and who submit a claim shall also receive a pro rata share of a fund consisting of \$139,375 (absent any spillover from other funds as set forth herein), capped at \$320 per Settlement Class Member. If, based on the claims rate and per person cap, the total amount payable under this provision is less than \$139,375 (plus any “spill over” from the GBL Subclass Relief), the excess shall be added to the amount available to FDCPA Subclass members pursuant to 7(a), above.
- e) Balance Adjustment Relief:
  - i. Defendants shall establish a credit pool of \$9,250,000 (\$9.25M) for the benefit of the Class. These credits shall be available to reduce the balances of those Class Members who file a claim and opt for Balance Adjustment Relief. Credits shall be allocated pro-rata up to the amount of each Class Member’s individual account balance. No refunds shall be issued to any Settlement Class Member whose balances are exhausted by the application of the credit pool.
  - ii. To the extent those claimants opting for balance adjustments do not exhaust the balance credit pool of 9.25M, any remaining balance credits in the pool shall be applied pro rata to the balances of the Class Members who filed a claim for monetary relief.
  - iii. Regarding Settlement Class Members With Current Purported Balances of \$100 or less: In addition to the credit pool of \$9,250,000, Midland shall adjust the balance of any Settlement Class Member who is alleged to owe \$100 or less to reflect a zero balance.
- f) Compliance Of Midland Policies And Practices With Applicable Law Regarding Collection Of Interest On Settlement Class Member Accounts: Defendants warrant and represent that that they will comply with all laws, regulations and case law regarding the collection of interest, including those related to the application and or attempted collection of usurious interest, on Class Member accounts, and all accounts of New York residents more generally. Defendants confirm that they will comply with all binding precedent, and will monitor the law for changes in the relevant New York/federal statutes. Nothing herein shall be construed to constitute a consent decree.

- g) Defendants Shall Pay the Cost of Administering the Settlement: Defendants will pay all costs of administering the Settlement up to \$76,500, including the fees and costs of the Settlement Administrator in sending out this Notice. If any checks remain uncashed, the remaining funds will be distributed to the Volunteer Lawyer For A Day (“VLFD”, run jointly by the New York State Access to Justice Program and New York Legal Assistance Group (NYLAG)).
- h) Defendants Shall Pay Class Counsel’s Attorneys’ Fees and Costs: Defendants have agreed to pay Class Counsel’s reasonable attorneys’ fees and expenses incurred in connection with this litigation, in the amount of \$550,000, subject to Court approval. This payment will not reduce the benefits to each Class Member.
- i) Defendants Shall Pay an Incentive Award to the Class Representatives: In exchange for the release of their individual claims and in recognition of their efforts on behalf of the Class, Defendants will pay each of the Class Representatives \$5,000 and will adjust each Class Representatives’ balances to zero.

**8. What claims are released if I participate in the Settlement?**

Under the Settlement Agreement, each Class Member who does not opt out will give up the right to sue Midland with regards to any claim based on the same facts as the claims brought in this lawsuit. However, this release shall not include any defense to any of the underlying state court actions and/or judgments taken against any Settlement Class Member.

If you opt out of the Settlement, you will not release any claims. However, there is no guarantee that anyone who opts out of the settlement will have any viable claims or receive any compensation.

## **Your Rights and Options**

**9. How do I participate in the Settlement?**

You do not need to do anything to be included in the Settlement. **HOWEVER, ONLY THOSE CLASS MEMBERS THAT MAIL IN A CLAIM FORM (OR SUBMIT A CLAIM ONLINE AT [WWW.MIDLANDINTERESTRATESETTLEMENT.COM](http://WWW.MIDLANDINTERESTRATESETTLEMENT.COM)) WILL RECEIVE MONEY OR A BALANCE CREDIT.**

By submitting a claim or doing nothing, you consent to the jurisdiction of U.S. Magistrate Judge Lisa M. Smith pursuant to 28 U.S.C. § 636(c).

**10. How do I opt out of the Class?**

If you do not want to be included as a Class Member, you must submit a written request for exclusion. The request for exclusion **must** (1) set forth your full name and current address and (2) specifically state your desire not to be included as a Class Member.

Your request for exclusion must be sent by First-Class U.S. Mail, postage paid, to the following address:

*In re Midland Funding LLC Interest Rate Litigation* Settlement Administrator  
P.O. Box 404137  
Louisville, KY 40233-9712

Your letter must be postmarked on or before July 29, 2019.

If you choose not to be included as a Class Member, you will not enjoy any of the benefits of the Settlement described in response to Question 7 above. You also will not be permitted to object to the terms of the Settlement, as described in response to Questions 11 and 12 below.

Any person who falls within the definition of a Class Member stated in response to Question 3 above, but who does not submit a request for exclusion in complete accordance with these requirements, will be included as Class Member and shall be bound by the terms of the Settlement.

**11. What if I object to the terms of the Settlement?**

Objecting is telling the Court that you do not approve of the Settlement or that you dislike the Settlement. Any Class Member who wishes to object to the Settlement must send a written objection (“Objection”) to the Settlement Administrator by First-Class U.S. Mail, postage paid, to the following address:

*In re Midland Funding LLC Interest Rate Litigation* Settlement Administrator  
P.O. Box 404137  
Louisville, KY 40233-9712

An objection must be postmarked no later than July 29, 2019.

The objection must set forth: (1) your full name, current address and telephone number; (2) a statement of the position you wish to assert in opposition to the Settlement, including any factual or legal grounds for the position; and (3) you must provide copies of all documents you wish to submit in support of your position.

**Any person who does not strictly comply with these procedures will not be permitted to object to the Settlement.**

Any objector may appear at the Fairness Hearing on September 9, 2019 in person or through counsel, to show cause why the Settlement should not be approved as fair, adequate, or reasonable.

**12. What is the difference between objecting to the settlement and not joining the Settlement Class?**

If you choose to opt out you are not a Class Member. If you are not a Class Member, then you cannot object to the Settlement. You may not object and then exclude yourself from the class. You may not exclude yourself from the class and then object.

**13. What will happen at the Fairness Hearing?**

At the Fairness Hearing, presently scheduled for 11:00 a.m. on September 9, 2019, Magistrate Judge Lisa M. Smith will hear arguments on whether the settlement is fair, reasonable, and adequate and whether it should be given final approval. The Judge will also consider any objections, determine whether Class Counsel’s requested attorneys’ fees and expenses are reasonable, and whether the requested incentive payments to the Class Representatives should be approved. Unless you wish to object to the settlement, **you are not required to attend the Fairness Hearing**. You are welcome to attend at your own expense. The Court may adjourn the Fairness Hearing without further written notice to Class Members.

**14. How will I know if the settlement is approved?**

If the Court approves the settlement, the final approval order will be made available at this website: [www.MidlandInterestRateSettlement.com](http://www.MidlandInterestRateSettlement.com). You may also contact Class Counsel.

## Additional Information

### 15. How may I obtain more information about the case?

- **Do not contact the judge or the Clerk of Court for legal questions or advice.**
- You may obtain copies of the complaint and other documents filed in this lawsuit from the Clerk of the Court, United States District Court, Southern District of New York, 300 Quarropas St., White Plains, NY 10601-4150, during regular business hours. You will need to provide the name of the lawsuit and the case number: *In re Midland Funding LLC Interest Rate Litigation* Case No.: 11-cv-8149 (LMS).
- You can also obtain documents filed with the Court in this case through the website [www.pacer.gov](http://www.pacer.gov), which requires registration and charges a small fee.
- You may also contact Class Counsel at the addresses listed in the answer to Question 6 above.

### 16. What if my address changes?

If your address has changed, or changes in the future, you should send your new address and telephone number to *In re Midland Funding LLC Interest Rate Litigation* Settlement Administrator, the company selected to mail Notices and settlement checks to the Settlement Class Members, at this address:

*In re Midland Funding LLC Interest Rate Litigation*  
Settlement Administrator  
P.O. Box 404137  
Louisville, KY 40233-9712

**Not sure of your balance?  
Want to see an estimate of how much cash or balance reduction you are likely to receive?**

**Go to [www.MidlandInterestRateSettlement.com](http://www.MidlandInterestRateSettlement.com) and put in your claim ID.**

THIS NOTICE WAS APPROVED BY  
THE UNITED STATES DISTRICT COURT,  
SOUTHERN DISTRICT OF NEW YORK.