



**Public Advocate for the City of New York**

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# **Corporate Hide and Seek: CONSUMERS SEEK REFUND, FIND HIDDEN FEES**

**A REPORT BY PUBLIC ADVOCATE BETSY GOTBAUM  
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# Office of the New York City Public Advocate

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## Introduction

New Yorkers have been confronted with a new corporate trend: slashed prices, enticing deals—supplemented by an ever-growing number of hidden charges, commonly known as “regulatory assessment” fees, “handling” fees, “restocking” fees, and so on.<sup>1</sup> Ameritrade may charge \$2 for mailing a monthly brokerage account statement<sup>2</sup>. Returning a camcorder at Best Buy Co. costs 15% of the original price<sup>3</sup>.

The Office of the Public Advocate for New York City conducted a consumer survey to determine the extent to which New York City stores charge restocking fees. A “restocking fee” is a charge incurred by a patron when stores accept a return or exchange<sup>4</sup> on a product but will only refund a portion of the price paid<sup>5</sup>. A percentage of the price, usually between 10% and 20%, is forfeited on return or exchange of a purchased item. For larger, more expensive purchases, such as furniture, home decorations, electronics, and jewelry, these restocking fees can amount to hundreds of dollars.

The survey identified stores that do not conspicuously post their return exchange policies, those that charge restocking fees, and those stores that both charge restocking fees and do not conspicuously post information about the fees.

### *Return/Exchange Policies and the Law*

Consumers have the right to know and understand a store’s refund policy before making a purchase. In fact, New York State’s General Business Law mandates that every retail establishment conspicuously post its refund policy.<sup>6</sup> The law further requires the refund policy to be on a sign:

- attached to the item itself;
- affixed to each cash register or point of sale;
- situated in a place clearly visible to the consumer; or
- posted at each store entrance.<sup>7</sup>

The sign must also state whether or not it is the policy of the establishment to give refunds, and if so, under what conditions. Retail establishments in violation of the General Business law must provide the customer with a cash or credit refund for a period of up to 20 days from date of purchase, provided that the merchandise has not been used or damaged by the buyer.

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<sup>1</sup> James Pogue, The New York Times, “State of the Art; Checking Your Bill for a New Charge Called Oops,” December 4, 2004

<sup>2</sup> Emily Thornton, Business Week, “Fees! Fees! Fees!” September 9, 2003

<sup>3</sup> Ibid

<sup>4</sup> <http://www.pcguide.com/buy/ven/eval/guarFees-c.html>

<sup>5</sup> Ibid

<sup>6</sup> New York State General Business Law § 218-a

<sup>7</sup> Ibid

Moreover, the rules enacted by the New York City Department of Consumer Affairs requires establishments to conspicuously post return/exchange policies and allow consumers to claim a refund within 20 days of purchase when signage is absent.<sup>8</sup>

These rules are especially relevant in stores that charge restocking fees. Although retail establishments have the legal right to establish fees as they deem necessary, it is incumbent on them to make customers fully aware of additional costs that may be associated with returning or exchanging their purchases.

## **Methodology**

The Office of the Public Advocate conducted a survey of 163 retail establishments citywide, including 94 in Manhattan, 15 in the Bronx, 18 in Brooklyn, 11 in Staten Island, and 25 in Queens.

This survey focuses on home decorating, furniture, and electronics establishments located in highly trafficked business districts because these types of stores are known to charge restocking fees and are frequented by large numbers of customers. The survey distinguishes between stores that do not conspicuously post their return/exchange policy, stores that charge restocking fees, and stores that both charge restocking fees and do not conspicuously post information about the fees.

Surveyors visited stores in the following locations:

### **Bronx**

- Fordham Road

### **Brooklyn**

- Fulton Mall
- Kings Plaza Mall
- Park Slope
- Bay Ridge

### **Manhattan**

- Herald Square
- Union Square
- 86<sup>th</sup> Street East Side
- Lower Manhattan
- Soho
- Lincoln Center Area
- 125<sup>th</sup> Street
- Midtown

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<sup>8</sup> Rules of the City of New York , 6 RCNY § 5-37

## Staten Island

- Staten Island Mall
- Tompkinsville
- Clifton

## Queens

- Steinway Street

Upon entering each business establishment, surveyors looked for conspicuous signs regarding the store's return/exchange policy. In stores where these signs were posted, the surveyor noted the return/exchange policy and determined whether restocking fees were mentioned. When such signs were not easily identifiable, surveyors interviewed store managers to determine the store's return/exchange policy and establish whether they charged "restocking fees" upon return or exchange of goods. The survey was conducted on weekdays between 10:30 AM and 3:00 PM, from June 20<sup>th</sup> to August 3<sup>rd</sup>.

Surveyors also questioned 100 randomly selected New Yorkers in commercial districts throughout New York City to gauge their awareness of restocking fees.

## **Findings**

***34 percent of the stores surveyed did not post their return and exchange policy as mandated by New York State and City laws.***

- Of the 163 stores surveyed, 55, or 34 percent, did not post their return and exchange policy.

***44 percent of the stores surveyed charge restocking fees.***

- Of the 163 stores surveyed, 71, or 44 percent, charge restocking fees. The amount charged ranged from a low of 10 percent to a high of 35 percent of the purchase price.
- For example, King's Antiques, a home decorating store in Union Square, charges a 10 percent restocking fee, and American Design Furniture, a furniture store located in Astoria, Queens, charges a 30 percent restocking fee on returns and exchanges. [Refer to Appendix I]. A consumer who purchases a \$100 item at American Design Furniture would receive only \$70 if the item had to be returned.
- Some stores charge a set restocking fee. Cell King, a wireless phone store in Bay Ridge, Brooklyn, charges a set fee of \$25 dollars on returns and exchanges, so a phone purchased for \$100 would only yield \$75 upon return. Select Comfort on Staten Island charges a \$200 restocking fee [Refer to Appendix I.] A consumer who purchases a \$300 mattress at this store would only receive \$100 back upon return.
- Retail establishments gave a variety of reasons for charging these fees, many of them legitimate. Several stores cited labor charges, penalties imposed on the store by the carriers/manufacturers (especially at wireless phone stores), and recovery of damages as the rationale for restocking fees.

***27 percent of the stores charging restocking fees did not post conspicuous signs informing consumers of their return/exchange policy.***

- Of the 71 stores that charge restocking fees, 19, or 27 percent, did not post conspicuous signs informing the public of their return/exchange policy.
- One of the stores, Futon Warehouse in Union Square, discloses its restocking fee policy only on its receipts, which are provided to customers *after* the purchase is made.

***Furniture stores are more likely to charge restocking fees.***

- Furniture stores surveyed charge restocking fees at a higher rate than any of the other types of stores. Of the 46 furniture stores surveyed citywide, 22, or 48 percent, charge restocking fees.
- Electronic stores charge restocking fees at the second highest rate. Of the 100 stores surveyed, 43, or 43 percent, of the stores charge restocking fees.<sup>9</sup>
- Of the 17 home decorating stores surveyed, 6, or 35 percent, charge restocking fees.

***Over 40 percent of New Yorkers surveyed were unaware of restocking fees.***

- Of the 100 New Yorkers surveyed, 43, or 43 percent, had never heard of the term “restocking fees” and were unaware that some stores charge these fees when consumers return or exchange their purchases.

**Conclusions**

Hidden fees put an additional burden on New Yorkers struggling to meet the ever-increasing cost of living. It is troubling, therefore, that nearly three out of ten stores surveyed charge hidden “restocking fees” without conspicuously displaying signage regarding their return/exchange policies as required by law. To ensure that New York City consumers have the best protection available under the law, the Public Advocate recommends the following:

- Retail establishments must comply with New York State and City laws by conspicuously displaying their return/exchange policy.
- The New York City Department of Consumer Affairs must enforce its rules and regulations surrounding return and exchange policies.
- Consumers should find out about a store’s return/exchange policy before they make purchases.

## Appendix I

### NYC Retail Establishments that Charge Restocking Fees without Displaying Their Return/Exchange Policy

<b>Retail Establishment</b>	<b>Address</b>	<b>Establishment Type</b>	<b>Restocking Fee Amount</b>
1-800-Mattress	442 86th Street, Brooklyn, NY 11209	Electronics	\$59
Beeper2000T-Mobile	151 West 34 <sup>th</sup> Street, New York, NY 10001	Electronics	35%
Cell King	Brooklyn, NY 11209	Electronics	\$25
Guitar Center	25 West 14th Street, New York, NY10011	Electronics	15%
Kiss	230 West 125th Street, New York, NY 10027	Electronics	25%
Lyric Hi-Fi	1221 Lexington Avenue, New York, NY 10028	Electronics	15%
Sharper Image	89 South Street, New York, NY 10038	Electronics	10% <sup>10</sup>
<u>T-Mobile</u>	Victory Boulevard Staten Island, NY 10301	Electronic	\$200
Wireless Works	34 -15 Steinway Street, Long Island City, NY 11101	Electronics	\$72
American Design Furniture	3292 Steinway Street, Astoria, NY 11103	Furniture	30%
Best Quality Furniture	3265 Steinway Street, Astoria, NY 11103	Furniture	20%
Bombay Co.	900 Broadway, New York, NY 10003	Furniture	20% <sup>11</sup>
Bombay Co.	2655 Richmond Avenue Staten Island, NY 10314	Furniture	20% <sup>12</sup>
Futon Warehouse	113 University Place, New York, NY 10003	Furniture	20%
Manhattan Style Furniture	37 West 14th Street, New York, NY 10011	Furniture	20%
Charles Cherriff Galleries	84 University Place, New York, NY 10003	Home Decorating	10%

<sup>10</sup> Sharper Image only charges restocking fees for Ipods. They are following the manufacturer—Apple’s -- policy of charging restocking fees.

<sup>11</sup> Restocking fee charged only on return or exchange of specific imported bed frame.

<sup>12</sup> Ibid.

Gracious Home	1992 Broadway 67 <sup>th</sup> Street, New York, NY 10001	Home Decorating	Varies, depending on the product
King's Antiques	47 East 11th St, New York, NY 10003	Home Decorating	10%
Weinstock LampCo. Inc.	3430 Steinway Street, Long Island City, NY 11101	Home Decorating	20%