

Need date March 7, 2016

Carole Reynolds or Teresa Kosmidis

Bureau of Consumer Protection

Need full address

Auto Buyer Consumer

Survey,

-Project No. P154800

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Space After: 0 pt, Line spacing: single, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

I am writing this letter on behalf of the Securities Arbitration and Consumer Clinic Office of Clinical Legal Education for at Syracuse University College of Law. The SACC A branch of this clinic deals represents low-income consumers. in consumer disputes and we have Reticently we have seen with consumer law violations and a great number of the individuals we aid are low income consumers who have been severely taken advantage of by car dealers and finance banks their enablers in the financing industry.

Commented [gp1]: Awkward phrasing

As you know, in many communities access to public transportation is spotty and an thus an automobile is essential for jobs, medical appointments, school etc. Many used car dealership take advantage of their superior knowledge and the customer's economic situation to steer low income buyers into junky overpriced cars at exorbitant financing. In many instances the car dealers used high pressure tactics to force people into vehicles they cannot afford. Some of these vehicles are sold over market value, with many added items such as warranties, VSI and paint protection. Dealers, to finance these deals and receive the great profit that these contracts promise, routinely falsify finance documents. The banks are complicit iacent if not active in this falsification by verifying income in only very rare circumstances. The end result of these actions is a customer driving off the dealership lot owing in some cases over 200% of the value on the vehicle they are driving.

Commented [gp2]: ???

Commented [gp3]: Complicit

This situation is ripe for regulation targeted toward protecting customers and preventing massive defaults and the resulting damage to the economy. Lenders are too willing to give loans to borrowers with out without ensuring that the borrower ability to repay. Dealers have a large incentive to falsify loan documents to get their deals approved and have little chance of being caught in this act. Below are four examples of our clients who h have been the target of these banks and dealers. The fact lenders are so willing to give loans with insufficient collateral and unverified income or ability to repay is very troubling epically in the wake of the housing crisis. Below are just a few examples of the clients we have seen and assisted after they had been taken advantage of by dealers and financial intuitions.

Commented [gp4]: Not sure we should keep this. Not a coherent single thought but mishash. Maybe this para should summarize our view of the major problems

- 1) VMietoria an elderly woman living on social security income went to a local dealership with her companion. There she was induced through high pressure sales tactics to buy a 2011 Ford Fusion for the sticker price of \$20,000. At the time of this transaction there were countless similar vehicles for sale for \$14,000-\$15,000 in the local area. VMietoria was given all but no option to induced to add on an extended warranty and many other extras. The dealership prepared all of the documents for the sale and finance of the vehicle including the credit application and had VMietoria

sign everything in rapid succession ~~and with little or no explanation of what she was signing~~. The dealership claimed VMieteria made THREE TIMES her income so they could get the deal ~~through and make the commission on the overpriced car and numerous extras they sold her~~ approved. The bank MADE NO EFFORT to VERIFY INCOME and granted the loan no questions asked. Upon our questioning, the bank admitted that it was their regular practice to not verify income and grant loans with no ~~indication~~ of the borrower's ability to repay. VMieteria struggled to make the payment for months with the aid of her companion. With her companion now dead she is left with no ability to make the monthly payments. VMieteria is now left with no option but to give up the car and faces an uncertain credit future as a result.

2) MBary is an elderly woman who was happily driving a Mitsubishi. On a whim, after receiving a key in the mail that ~~she was informed may~~ promised it may start a new Cadillac ~~entitle her to a new Cadillac~~ she and her daughter went to the dealership to investigate. Her key did not entitle her to a new Cadillac but did cause her a great deal of trouble. The sales ~~person talked~~ convinced MBary, a retired grocery store worker, into test driving and applying for credit to finance a used 2004 Buick. The credit application was filled out by the dealership and claimed that ~~Mary-MB~~ had an income substantially higher than her sole source of income, social security. With this false information the dealership secured a loan totaling just under \$13,000. The vehicle was worth about 1/2 of the amount financed. The financial burden of the car payment left Mary with no choice but to go on food stamps for the first time in her life. After two years struggling to make her car payment she finally defaulted on the loan. This left Mary with no car and a large outstanding debt.

3) ~~Nagam-NJ is a single mom and was~~ an immigrant ~~to this country~~ and needed reliable transportation ~~to and from work~~ for transportation for her family. She ~~did not make a great deal of money~~ has a small income and as such looked for a reliable and inexpensive four-wheel drive vehicle. (It snows a lot in Syracuse). She ~~was directed~~ located a dealership who's owner spoke her native language ~~to a person from her country who sold used cars~~. There she was steered ~~The owner selected to~~ a 2001 Chevy Tahoe for NJ. This vehicle was 12 years old at the time and had close to 130,000 miles. This vehicle ~~sold~~ was sold for \$7,500. Because of her limited credit history, ~~NJ only qualified~~ she was forced to get subprime financing through Credit Acceptance Corp. at 23.49% APR. Roughly 3 months after buying the Tahoe the transmission failed leaving the car un-drivable and leaving Nagam struggling to get to work. The dealer ~~from which she bought the vehicle~~ refused to fix the truck. The repair bill totaled roughly \$2,000. For 6 months Nagam made payments on vehicle she could not drive to protect her credit and honor her word. Finally, it became too much for her to sustain. Nagam accepting that the vehicle was worthless as a form of transportation ~~sc~~. The high repair bill, age and general condition of the vehicle left no option but to ~~scraped~~ the vehicle. ~~NJ continued making payments with the money she~~

Commented [gp5]: Each of these example ¶ is too long. Try to trim them by 25%, condense thoughts, remove extraneous info, remove the names & use initials

Commented [gp6]: Lots of passive voice, get rid of it

~~made from scrapping the truck. She used the money from scrapping the vehicle to continue making payments on the loan. Nagam made payments on the loan for TWO YEARS. She was paying for a car that was in a scrap yard. The dealership made a profit on the sale. A car that she only drive for 3 months. This system places the risk on the car purchaser. Nagam had the risk of buying a vehicle sold as is despite the dealership making a hearty profit on the transaction. The credit agency mitigated its risk by charging a close to usurious interest rate. Nagam, the most financially and socially vulnerable person in this transaction, was the one forced to take most of the risk and face the consequences of the financial institutions recklessness. This situation is ripe for government intervention to protect consumers.~~

Commented [gp7]: It actually exceeds the usury rate

Formatted: Indent: Left: 0.75", No bullets or numbering

Formatted: Font: (Default) Times New Roman, 12 pt

3)4) ~~RD is elderly disabled man who had not worked since the 1980s. Recently, he was looking to replace his old car and visited a dealership near his home. He told the salesman about his limited income of social security and thought he could afford a car payment of about \$150/month. The salesman and finance manager pushed RD toward a car that was well above his ability to pay. RD insisted that he could not afford such a payment. The dealership staff continued to push even telling RD he had already been approved for the car loan so he must be able to make such a payment. After hours at the dealership, RD relented and drove off the lot with a car and a payment of almost \$300/month (more than 1/3 his monthly income). RD quickly defaulted and the car was repossessed. He found out after complaining to the NY Ag that the loan application included a job and income substantial above his monthly income.~~

Dealers are steering customers into cars they can't afford, not verifying income or ability to repay, selling these cars well above market value, and failing to provide any assurances that the vehicle is in reliable condition. The consumer is being taken advantage of by dealers and banks.

In each of these cases the dealers steered customers to vehicles they could not afford and then lied on the on the credit applications to get the customer approved for a loan on the unaffordable vehicle. To fix this dealers should have a duty to ensure that the credit application they are sending to the bank is accurate. They should have to verify income before sending possibly false documents. Also, the dealers should have to verify the consumer's ability to repay the loan. This would prevent many of the damages caused to the low-income customers who come to our clinic.

Formatted: Indent: First line: 0.5"

In each of these cases the dealers sold cars significantly above local market value. While sophisticated customers negotiate, many financially unsophisticated customers do not and thus buy cars well above market value. To lower the likelihood of this occurring, one solution may be to require dealers to post the local market price of the used vehicle as determined by KBB or a similar car valuing outfit. This would empower unsophisticated customers with a bargaining tool to encourage transactions at fair market value.

In some of these cases the car being sold is quite old and in a condition that makes it unlikely it will last for the term of the financing. This creates a situation that incentives dealers to sell a vehicle in the poorest condition possible that is still passable to a consumer. This incentive could be reduced by implementing a mandatory warranty on used vehicles basic powertrain with a coverage limit up to the profit that the dealer made on the transaction. This would incentivize the dealers to sell a quality car in good and reliable condition if they intend to keep the profit from the transaction. Dealerships and banks are profiting at the expense of individual customers. These large institutions are taking advantage of customers that are typically at the lower levels of income and financial sophistication. The federal government can stop this. Banks should be stopped from giving out loans to consumers who cannot afford to pay those loans back. This practice is detrimental to the individual borrower, the bank and the economy. Dealers are also profiting at the expense of unsophisticated consumers. They are selling vehicles at high profits that are out of line with local markets. The dealers are falsifying loan documents to sell more vehicles to low income customers. While this is already illegal, the enforcement is sporadic and fails to deter this practice. Dealers can point to the signature of the applicant verifying the information on the credit application. The government can stop this also. The government can require that local market value be posted next to the asking price for all used vehicles. The government can require that used vehicles which are financed for over 12 months come with some form of warranty ensuring that the vehicle will be drivable for the term of the financing. Also the government can enact measures to prevent dealers from falsifying loan applications and placing the blame on the consumer.

Formatted: Indent: First line: 0.5"

Respectfully submitted,

Nicholas Daller /s
Nicholas G. Daller

Formatted: Underline

Formatted: Underline

James McCully/s
Student Attorneys
Syracuse University College of Law
Office of Clinical Legal Education
P.O. Box 6543
Syracuse, NY 13217

Formatted: Underline

Gary J. Pieples

Supervising Attorney ~~Need summary ¶~~

Formatted: Right, Indent: First line: 0.5", Space After: 0 pt, Line spacing: single

Suggestions |

Formatted: Font:

Require banks to verify ability to pay before issuing loans: |

Commented [gp8]: Need more meat on this, why do we want this?

Require that credit applicants fill out their own credit application and attach civil or criminal penalties for anyone but the credit applicant filling out the application: |

Commented [gp9]: Bad idea & There already is criminal liability

~~Require that dealers list Blue Book or similar value (such as average price of a similar vehicle in the area) next to the asking price of a used vehicle.~~

~~Require that dealers offer some form of warranty on vehicles that will be financed for over 12 months.~~