Credit Acceptance responds to suit by CFPB & NY AG

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Credit Acceptance responded to a robust lawsuit brought by the Consumer Financial Protection Bureau and the New York attorney general on Wednesday triggered by an investigation that began in May 2019.

New York attorney general Letitia James and the CFPB said through a news release that they are suing Credit Acceptance "for deceiving thousands of low-income New Yorkers into high-interest car loans."

Credit Acceptance responded through a filing with the Securities and Exchange Commission on Wednesday afternoon, saying that "the complaint seeks injunctive relief, an accounting of all consumers for whom the company provided financing, restitution, damages, disgorgement, civil penalties, and payment of costs. We cannot predict the eventual scope, duration or outcome of this lawsuit at this time. As a result, we are unable to estimate the reasonably possible loss or range of reasonably possible loss arising from this litigation.

"The company intends to vigorously defend itself in this matter," Credit Acceptance added in the filing.

According to the news release from the AG and the CFPB, they said Credit Acceptance misstated key terms on contract agreements, including the principal and interest amounts, and did not disclose thousands of dollars in credit charges.

Officials recapped their investigation found that while Credit Acceptance's contracts in New York claimed an annual percentage rate (APR) of 22.99% or 23.99%, they said they found the finance company charged more than 38% APR on average.

"And on numerous occasions charged more than 100 percent APR," officials said.

As a result of what officials attributed to the interest rate, the CFPB and the attorney general said nearly 90% of New York contract holders became delinquent on their payments at some point, "often leading to additional fees that added to the cost of their already expensive car loans.

"More than half of New York borrowers failed to repay their loans by the terms of the loan agreements, with 44 percent of New York borrowers experiencing repossession at some point," officials continued in the news release.

The CFPB and the attorney general then offered an instance of why they brought this lawsuit.

"As an example of CAC's typical business practices, one consumer, who supports two minor children, signed up for a CAC loan requiring her to pay more than $13,000, despite the dealer needing only $5,614 to sell her the car. After she paid more than $7,600 to CAC, they repossessed her vehicle, sold it at auction, and sued her for more than $7,500," they said.

"The lawsuit alleges that CAC projected, down to the penny, how much money it could extract from borrowers through loan payments, late fees, repossession and auction, debt collection, and wage garnishment, without considering a consumer's ability to repay their loan," officials continued. "CAC then offered to split the projected collections with its affiliated dealers. Through this practice, CAC ensured that as long as it collected the projected amount, both CAC and the dealer would profit — even if the borrower ended up in delinquency, default, or had the vehicle repossessed."

The news release mentioned how Credit Acceptance involved dealerships and investors in its activities triggering the legal action.

"In addition, the lawsuit alleges that CAC cut deals with its affiliated dealerships and assisted them in misleading consumers by including costly add-on products in their purchases," officials said. "Despite receiving repeated complaints that its dealers fraudulently told consumers that these products were required and that dealers even included the products without the consumer's consent, CAC took no action to stop this. Instead, CAC continued to incentivize its dealers to push these products and actually adopted e-signing practices that made it easier for dealers to include the products with little or no notice to consumers.

“The final step in CAC’s deception was to unload a large proportion of the loans onto unsuspecting investors, packaging the consumer loans into securities,” officials continued. “In creating, marketing, and selling these securities, CAC represented to initial purchasers, rating agencies, and investors who purchased the securities that the underlying loans complied with applicable law. However, these representations were false, and the lawsuit alleges that CAC’s statements constituted securities fraud under New York’s Martin Act.”

In its filing with the SEC, Credit Acceptance recapped the subpoenas and civil investigative demands the finance company has received from both the New York attorney general and the CRFB. Credit Acceptance said it pushed back multiple times against what the CFPB sought through these demands, using the opportunity through a Notice and Opportunity to Respond and Advise (NORA) letter, “disputing that it had committed any violations.”

Credit Acceptance closed its SEC filing by reiterating, “We cannot predict the eventual scope, duration or outcome of the lawsuit at this time. As a result, we are unable to estimate the reasonably possible loss or range of reasonably possible loss arising from the lawsuit. The Company intends to vigorously defend itself in this matter.”

James, the New York AG, and CFPB director Rohit Chopra each elaborated why they’re taking this legal action.

“CAC claimed to help low-income New Yorkers purchase cars, but instead, drove them straight into debt,” James said in the news release. “CAC steered hardworking New Yorkers toward financial ruin by tricking them into unaffordable, high-interest auto loans while cutting backroom deals with dealers to protect their own profits. These predatory actions hurt innocent people and left them with mountains of debt. I thank the CFPB for their partnership to stop this harm and protect everyday New Yorkers.”

Chopra added, “Credit Acceptance obscured the true cost of its loans to car buyers, leading to severe financial distress for borrowers and subjecting them to aggressive debt collection tactics on loans its own systems predicted that borrowers can’t afford to repay. The CFPB’s action with the New York Attorney General seeks to end Credit Acceptance’s unlawful practices and makes consumers whole.”

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