

Press Release

CFPB Takes Action Against Herbies Auto Sales for Unlawful Lending Practices

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Subprime "Buy Here Pay Here" Dealer Hid Finance Charges, Deceived Consumers

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) today took action against Herbies Auto Sales, a buy-here pay-here used car dealer, for abusive financing schemes, hiding auto finance charges and misleading consumers. Herbies will pay \$700,000 in restitution to harmed consumers, with a suspended civil penalty of \$100,000.

"Buying a car is often one of the most important purchases a consumer makes, so the experience needs to be fair and above-board," said CFPB Director Richard Cordray. "But concealing finance charges and the real cost of credit, as Herbies did here, is unlawful and unacceptable."

Y King S Corp., which does business as Herbies Auto Sales, is located in Greeley, Colo. Herbies operates as a subprime, buy-here, pay-here dealer, which is a dealer that both sells the car and originates the auto loan without selling that loan to a third party. From at least 2012 through May 2014, the company offered financing to about one thousand people each year.

Herbies unlawfully advertised a misleadingly low 9.99 percent annual percentage rate (APR), without disclosing a required warranty, a payment reminder device and other credit costs as finance charges. This ruse helped Herbies convince consumers that they would get the 9.99 percent APR instead of the much higher rate actually charged. Also, Herbies engaged in abusive practices.

Herbies violated the Truth in Lending Act and the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act. Specifically, the company:

- **Hid finance charges and advertised a far lower APR than consumers received:** Herbies lied to consumers about finance charges and APRs in marketing materials, including on showroom window displays, and in Truth-in-Lending Act disclosures. Hidden finance charges included \$1,650 for a required repair warranty and \$100 for a required GPS payment reminder device.
- **Hid finance charges that stemmed from a refusal to negotiate car prices:** Herbies refused to negotiate prices with credit customers, but did negotiate with cash customers. The resulting

finance charge should have been included in the disclosed cost of credit.

- **Used abusive practices:** Herbies' financing scheme lured consumers with misleading advertising and then kept them in the dark about the true cost of financing the cars they were buying. This took advantage of consumers' inability to protect their interests in selecting or using Herbies' financing, among other things.

Enforcement Action

Under the Consumer Financial Protection Act, the CFPB is authorized to take action against institutions engaged in unfair, deceptive or abusive acts or practices, or that otherwise violate federal consumer financial laws. Under the consent order, Herbies is required to:

- **Provide \$700,000 in redress to harmed consumers:** Herbies must provide \$700,000 in restitution for consumers who financed cars with Herbies after January 1, 2012, except those whose accounts were charged off due to default. Herbies must submit a timeline to the Bureau for making restitution to consumers. Herbies is also subject to a civil penalty of \$100,000, which is suspended as long as redress is paid.
- **Stop deceiving consumers during financing process:** Herbies must not misrepresent interest rates, finance charges, or amounts financed, or any other fact material to consumers concerning the financing of any motor vehicle.
- **Post automobile prices:** Herbies must clearly and prominently post the purchase price on all automobiles for sale when offering auto financing.
- **Provide certain financing information in advance:** Herbies must give consumers certain information about the financing offer, including the actual APR, price of the car, and all finance charges, and get a signed acknowledgment from consumers that they received the required information before or at the time financing is offered.

The full text of the CFPB's Consent Order is available at:

http://files.consumerfinance.gov/f/201601_cfpb_consent-order_y-kings-corp-also-doing-business-as-herbies-auto-sales.pdf 

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.

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