

February 25, 2016

Mr. Warren Buffett
3555 Farnam St
Omaha, NE 68131

Dear Mr. Buffett:

On behalf of the below-listed organizations, we write to bring your attention to problems associated with discriminatory lending practices in auto finance, and ask you to join in efforts to end them.

Racially motivated discretionary auto dealer markups are a growing problem in the industry. As you know, in dealer financing, the dealer works with lenders interested in buying the credit contract. While the lender's rate is based on the buyer's credit profile, the dealer is given the authority to increase that rate and keep some or all of the difference as compensation. The additional charge is included in the interest rate, making it invisible to the buyer.

Hidden car dealer interest rate markups are more heavily impacting African American and Latino car buyers for at least the past two decades. Data from various lawsuits and enforcement actions show that African American and Latino car buyers are routinely charged higher interest rates than their similarly-situated white counterparts.

In the mid-1990s, a series of successful lawsuits were brought against the largest auto finance companies for alleged discrimination. The data from those cases showed that African American and Latino car buyers were more likely to have their interest rates marked up and pay higher markups than similarly-situated white borrowers.

ABC's *20/20* and the *New York Times* reported on the problem nearly 15 years ago:

“On today's *20/20*, Arnold Diaz warns car buyers about the hidden charges car dealers may tack on during the purchase of a car.....there's troubling evidence that black customers may be twice as likely as whites to have their rate marked up — and by more. That evidence — included in thousands of pages of confidential documents that *20/20* and *The New York Times* went into a Tennessee court to obtain — shows that Nissan and GM dealers in that state routinely marked up rates for blacks, forcing them to pay between \$300 and \$400 more than whites.”¹

Thankfully, federal regulators are beginning to step up enforcement of anti-discrimination laws in auto lending. For instance:

- In December 2013, the Consumer Financial Protection Bureau (CFPB) and the Department of Justice (DOJ) entered into a settlement agreement with Ally Bank on a case alleging violations of the Equal Credit Opportunity Act. Ally agreed to pay \$98 million in fines and restitution. The data in that case showed that borrowers of color paid more in interest rates than white borrowers.
- In May of last year, Evergreen Bank agreed to change to a fixed compensation model in a settlement with DOJ due to borrowers of color paying more for motorcycle loans than similarly-situated white borrowers.

1 “Beware the Car Dealer's Secret,” ABC's *20/20*, October 27, 2000.

- In July of 2015, Honda Financial settled with the CFPB and the DOJ, agreeing to pay \$24 million in restitution, and agreed to significantly reduce dealer markup allowances.
- Just recently in February of 2016, the CFPB reached a settlement with Toyota Motor Credit, whose practices resulted in thousands of borrowers of color paying higher interest rates than white borrowers. Toyota Motor Credit will pay up to \$21.9 million in restitution to affected borrowers.

While we welcome and applaud efforts of federal regulators to rein in this discriminatory practice, we urge responsible auto dealers to move immediately to end the practice on their own.

As you have publicly stated, we need to end discrimination in any number of settings. We are writing to you to respectfully request that you join us and openly condemn this discriminatory practice and help lead the way to a fair, open and transparent marketplace.

Unfortunately, the nation's largest auto dealer trade association, the National Auto Dealers Association, has responded with a campaign to defend this discriminatory practice, jeopardizing the good will that auto dealers may have in their communities. As you have said, "It takes twenty years to build a reputation and five minutes to ruin it." As a leader in the financial sector and as the owner of the Van Tuyl Group – one of the nation's largest new car dealership chains – your leadership on this issue would have a market-wide impact. We therefore call on you to set an example and ask your dealers to move away from discretionary dealer interest rate markups.

We appreciate your attention to this important matter and look forward to hearing from you.

Sincerely,

Americans for Financial Reform
Center for Responsible Lending
Color of Change
Consumer Action
Consumers for Auto Reliability and Safety
The Greenlining Institute
Insight Center for Community Economic Development
Leadership Conference on Civil and Human Rights
League of United Latin American Citizens
NAACP
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low-income clients)
National Council of La Raza
National Fair Housing Alliance
National Urban League
U.S. PIRG
The William C. Velasquez Institute

CC:

The Honorable Richard Cordray, Director, Consumer Financial Protection Bureau
The Honorable Loretta Lynch, Attorney General, Department of Justice
Ms. Patrice Ficklin, Assistant Director, Fair Lending, Consumer Financial Protection Bureau
Ms. Vanita Gupta, Principal Deputy Assistant Attorney General, Department of Justice