

SUMMARY Legal & Compliance Summary Prepared for Fierce Auto Marketing

POLICIES | PROCEDURES for CREDIT REPAIR — NEW YORK

Industry Background

- o The Consumer Credit Protection Act of 1968 [*Pub.L. 90-321, 82 Stat. 146; May 29, 1968*] was a law pertaining to the proper use of consumer credit including the *Truth in Lending* section.
- o The Fair Credit Reporting Act (FCRA) [*Pub.L. 91-508, 84 Stat. 1114; Oct 26, 1970*] was a milestone law to protect a consumer's data in a digital age. Its key tenants would set the precedent on information privacy worldwide for the next 50 years.
- o During the 1980s Credit Repair companies emerged to challenge and remove negative inaccurate marks and boost client credit scores.

The National Need

- o A 2012 FTC Study concluded a significant number of sample consumer credit reports contained errors, resulting in lower credit scores, some resulting in loan turn downs. [*Section 319 of the Fair & Accurate Credit Transactions Act of 2003: Fifth Interim FTC Report to Congress Concerning the Accuracy of Information in Credit Reports; Dec. 2012*]
- o Some companies began to take advantage of consumers who didn't understand the complexities of credit scoring.

Federal Consumer Protection

- o Federal & State Laws were *passed* to address concerns regarding consumer credit and credit repair companies
- o The Credit Repair Organizations Act (CROA) is a federal law passed in 1996 to combat deceptive practices of certain companies offering credit repair under false pretenses causing material financial harm to consumers through their fees. [*15 U.S.C. §1679b*]
- o Main tenants included not making misleading statements or representations; and having a contract with a 3-day right of rescind. Enforcement shall be handled according to the Federal Trade Commission Act. [*15 U.S.C. §45(a)(1); of 1914*]

Additional State Protections— NEW YORK Regulations

- o Under the current New York State Law General Business (GBS) Article 28-BB "Credit Services Business," Sections 458 A-K it clearly defines actions of a credit repair company.
- o It prohibited the following: Requesting fees in advance of removing negative marks, or engaging in false, or misleading statements.
- o It also has specific requirements to be stipulated in the agreement including notice of cancelation, 3-day right of rescind, disclosure of buyer rights under the Fair Credit Reporting Act; description of services; and timeframe for their completion

Fierce Auto Marketing Compliance

- o The Credit Repair Organizations Act (CROA) sets tough compliance requirements on the industry; however, credit repair companies who follow the rules can hold banks, debt collectors and the credit reporting agencies accountable to consumer protection laws. [*thesimpledollar.com/if-a-credit-repair-company-does-this-its-breaking-the-law/*]
- o Fierce Auto Marketing's principals have been in the industry for *23 years* and has helped more than 100,000 clients repair their credit.
- o No formal complaints have ever been lodged against its principals about its *credit* repair process to the FTC or Better Business Bureau.
- o All the compliance concerns and litigatory actions listed on a federal *and* state level are in some way tied to the collection of fees.
- o Tort law is based on the plaintiff suffering "loss or harm." Generally, individuals don't seek legal remedies unless defrauded of money.
- o Since payment collection is the highest potential litigious compliance issue facing the credit repair industry, Fierce Auto Marketing removed client fees altogether... ZERO FEES = ZERO FINANCIAL HARM = ZERO *LIABILITY*.

Conclusion

- o "At this time, there are no loopholes to the meaningful regulation of credit repair organizations. Even though there have been attempts to evade the provisions of CROA and FCSOA, new legislation is not necessary to combat any attempts by scam artists to avoid the penalties of current laws—existing legislation is broad and encompassing so as to adequately protect the consuming public from such threats. Cooperation among the various regulators at the federal and state levels continues to improve so that enforcement agency partnerships and information sharing on cases is reaching synergistic levels." [*Florida Bar Journal; July/Aug 2003 Vol. LXXVII, No.7 "Credit Repair Organizations After Regulation: Wolves in Nonprofits' Clothing?"*]
- o The business model established by Fierce Auto Marketing protects the consumer from financial obligation, harm or injury because the consumer is never charged for their credit repair, and therefore receives the benefit of credit repair without cost. Furthermore, all other regulations and considerations are equally held true by Fierce Auto Marketing.

Car dealerships cannot run afoul of the current federal and state regulations by merely educating their customers about a free service designed to repair their valued customer's credit