

Pennsylvania AG Settles With Snap for \$11.4 Million: The Importance of Compliance for Consumer Finance Companies Operating in the Virtual Marketplace

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Background

On May 15, Pennsylvania Attorney General Michelle Henry (AG Henry) announced an \$11.4 million settlement against Snap Finance LLC and its affiliates (Snap RTO LLC, Snap Second Look LLC, and Snap Finance Holdings, LLC) (Snap) for alleged violations of Pennsylvania consumer protection laws relating to personal property lease-purchase (aka “rent-to-own”) transactions. The case focused on several aspects of Snap’s lease-purchase transactions, including: (1) the manner in which it described the transactions; (2) how it communicated amounts owed by consumers; and (3) its debt collection practices. Pennsylvania’s AG office has been a more active regulator in the lease-purchase space and therefore the settlement provides a keen insight into some best practices to mitigate regulatory and litigation risk for consumer finance companies operating in the virtual marketplace.

The Case

In May 2020, AG Henry filed suit against Snap, alleging that Snap violated Pennsylvania’s Unfair Trade and Consumer Protection Law, Rental-Purchase Agreement Act, Goods and Services Installment Sales Act, and Fair Credit Extension Uniformity Act by purportedly taking advantage of low-income consumers who were unable to fund large purchases outright. Specifically, AG Henry alleged that Snap advertised its rent-to-own agreements as “100-day cash payoff” transactions, when in reality, consumers entered into 12-month agreements that had effective interest rates as high as 152 percent.

Importantly, AG Henry focused on Snap’s web-based portal, which AG Henry alleged permitted merchant representatives to fraudulently sign the agreements on behalf of the consumers, without their consent or knowledge. AG Henry also alleged that, once the consumers were locked into the 12-month agreements, Snap concealed the true balances owed and engaged in deceptive collection practices.

The Settlement Terms

Of the \$11.4 million settlement, Snap will pay \$7,300,000 as restitution to Pennsylvania consumers, \$200,000 in civil penalties, \$750,000 in attorneys’ fees and \$3,150,000 in delinquent account write-offs for the benefit of Snap customers.

In addition, Snap agreed to numerous injunctive terms, including to:

- not use the slogan “cash payoff” in consumer-facing advertisements;
- not describe lease-purchase transactions as “loans” or “credit” and to otherwise avoid terms such as “finance” or “financing;”
- separately and specifically disclose the total of payments, cost of lease services and cash price that represent *sales tax*;
- not represent or imply that nonpayment will result in seizure, attachment or sale of property that is subject to the debt unless the action is lawful **and** Snap actually intends to take such action;
- not collect any amounts unless expressly authorized by the agreement creating the payment obligation or permitted by law;
- disclose balances owed on calls and in the customer portal;
- not represent that paper copies cannot be provided;
- not represent or imply that the merchandise cannot be returned directly to Snap;
- not acquire a closed-end-credit agreement from a merchant seller if it knows or has reason to know the seller did not comply with the Goods and Services Installment Sales Act;
- fully comply with E-SIGN and the state analog, including by demonstrating that the customer can receive disclosures by the intended electronic means;
- conduct an annual review of merchant policies and training materials to ensure compliance and updating as necessary; and
- perform third-party audits of Snap’s business practices, including of Snap’s virtual “application flow,” annually for five years.

Key Takeaways

The Snap settlement is another example of the additional scrutiny that state and federal regulators are paying to consumer finance and personal property leasing companies in the virtual ecommerce space. The settlement shows that regulators will continue to require companies to:

- (1) make robust and clear disclosures to consumers before contract execution including in the virtual “application flow” and during the life of the transaction;
- (2) avoid any misleading marketing, including as to the substantive nature (i.e., lease vs. credit) of the transaction;
- (3) keep consumers updated on their balances via telephone and the virtual account portal so that consumers may make informed financial decisions;

- (4) comply with all aspects of the governing statutes and laws, including by never charging amounts that are not expressly permitted; and
- (5) have controls in place to ensure that any partner retailers fully comply with applicable laws.

CONTACTS

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