

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

**CECIL E. HOPKINS, individually)
and on behalf of a class of all others)
similarly situated,)
)
Plaintiff,)**

vs.)

Case No. 08-05052-CV-SW-GAF

**KANSAS TEACHERS COMMUNITY)
CREDIT UNION,)
)
Defendant/Third Party Plaintiff,)**

vs.)

**MARATHON ROTHSCHILD CREDIT)
UNION, et al.,)
)
Third Party Defendants.)**

ORDER APPROVING NOTICE

Presently before the Court is the parties’ Joint Notice of Filing of Proposed Class Notice. (Doc. #159). The parties have reached agreement as to the vast majority of the Proposed Class Notice’s (the “Class Notice”) (Doc. #159, Ex. 1) content, but minor points of contention have arisen that require a decision by the Court. *Id.* First, Plaintiff Cecil E. Hopkins (“Plaintiff”) suggests the addition of the following language in paragraph 5 on page 7 of the Class Notice:

The Kansas Teachers Community Credit Union may assert any claim that it believes it may have against you, including any claim for a deficiency in connection with your loan and/or repossession.

(Doc. #159, Ex. 2). Defendant Kansas Teachers Community Credit Union (“Defendant”) objects to the inclusion of such language because it might confuse or create a false impression Defendant

may only sue persons opting-out of the Class. (Doc. #159, Ex. 3).

After consideration, the Court finds Plaintiff's proposed language unnecessary and potentially misleading. Therefore, Plaintiff's request for such language is denied. Accordingly, the numbered list on page 7 of the Class Notice is to be amended to cease at number 4.

Second, Plaintiff claims Defendants seek to incorporate language into paragraph 8 on page 6 (under the section "If you wish to remain a member of the Class") suggesting that Defendant retains a right to pursue separate claims for a deficiency against a Class member if the Class member stays in the lawsuit. (Doc. #159, Ex. 2). Defendant, in its response, does not address this issue. Regardless, paragraph 8 contained in the Class Notice submitted to the Court already sufficiently addresses Defendant's potential right to assert deficiencies against Class members. No further information about Defendant's potential right to assert claims beyond the scope of the present action is necessary. Accordingly, the Court adopts paragraphs 1-8, as submitted, on pages 5-6 of the Class Notice.¹

Keeping the determinations made above in mind, the Court hereby **APPROVES** the parties' joint Class Notice. Accordingly, it is

ORDERED that the Notice attached hereto as Exhibit "A" be issued by Plaintiff within five (5) days of the date of this Order through use of direct mail sent to each proposed class member

¹Additionally, the Court made slight grammatical and stylistic changes throughout the Class Notice.

using the proposed class member's last known address and addresses updated by Class Counsel using third-party services, as previously requested by Plaintiff.

s/ Gary A. Fenner
Gary A. Fenner, Judge
United States District Court

DATED: March 24, 2010

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT FOR THE
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Defendant/Third Party Plaintiff,)**

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**MARATHON ROTHSCHILD CREDIT)
UNION, et al.,)
)
Third Party Defendants.)**

NOTICE OF CLASS ACTION LAWSUIT

**YOU MAY BE A MEMBER OF A CLASS ACTION LAWSUIT
IF YOU OBTAINED A MOTOR VEHICLE LOAN OR FINANCING FROM THE**

KANSAS TEACHERS COMMUNITY CREDIT UNION

**IN CONNECTION WITH THE
CENTRIX FINANCIAL PORTFOLIO MANAGEMENT PROGRAM**

A court authorized this Notice. This is not a solicitation from a lawyer.

Please read this Notice carefully and completely.

GENERAL INFORMATION

What is this Lawsuit About?

A class action lawsuit was commenced on March 13, 2008, by Mr. Cecil E. Hopkins (also referred to as the "Plaintiff") in the Circuit Court of Jasper County, Missouri, alleging violations

of Missouri law by the Kansas Teachers Community Credit Union, formerly known as the Kansas Teachers Credit Union, with respect to motor vehicle loans made to Missouri residents and repossessions occurring in connection with those loans. The lawsuit is now pending in the United States District Court for the Western District of Missouri, before the Honorable Gary A. Fenner. On February 18, 2010, the Court issued an order certifying this matter as a class action lawsuit.

The Plaintiff filed the lawsuit on his own behalf, and on behalf of a proposed Class of other persons (1) who obtained motor vehicle loans or financing from the Kansas Teachers Community Credit Union in connection with a “Portfolio Management Program” administered by Centrix Financial, LLC; and (2) who were issued Certificates of Title by the State of Missouri that identified the Kansas Teachers Community Credit Union as the “lienholder.”

In his lawsuit, the Plaintiff alleges, among other things, that the Kansas Teachers Community Credit Union violated certain provision of the Missouri Commercial Code, Mo. Rev. Stat., §§ 400.1-101, *et seq.*, after it repossessed his and the Class members’ motor vehicles by failing to send notices containing specific information as required by the Commercial Code.

Plaintiff also alleges that the Kansas Teachers Community Credit Union violated Missouri’s Merchandising Practices Act by the commission of a number of unlawful and deceptive practices in connection with its motor vehicle financing program and repossession activities, including the targeting of subprime borrowers and the assessment of hidden finance charges and fees in connection with the borrower loans, which were used to make undisclosed payments to Centrix Financial and the motor vehicle dealers and to purchase undisclosed insurance protecting it from borrower defaults.

Plaintiff also alleges that the conduct of the Kansas Teachers Community Credit Union was outrageous, willful, wanton, malicious, and otherwise showed a complete indifference to and conscious disregard of the rights of Plaintiff and the other members of the Class such that punitive damages are appropriate and warranted.

Who is the defendant in this Lawsuit?

The Kansas Teachers Community Credit Union (formerly known as the Kansas Teachers Credit Union) is the Defendant in this lawsuit.

The Kansas Teachers Community Credit Union expressly denies any wrongdoing as alleged by the Plaintiff and denies that the Plaintiff is entitled to any relief.

Are there other parties to this Lawsuit?

After being named as a Defendant in this lawsuit, the Kansas Teachers Community Credit Union sued the following associations and entities in a “third-party complaint”: Marathon Rothschild Credit Union, United Catholic Credit Union, Advancial Federal Credit Union, and the successor to Centrix Financial and a subsequent loan servicer, Peak5, now known as Flatiron

Financial. The Kansas Teachers Community Credit Union alleges that these third-party defendants are responsible to the Kansas Teachers Community Credit Union for part of any damages that the Kansas Teachers Community Credit Union is ordered to pay to the Plaintiff and the Class in this lawsuit.

Marathon Rothschild Credit Union, United Catholic Credit Union, Advancial Federal Credit Union, and Flatiron Financial are called “Third-Party Defendants” in this Lawsuit. Flatiron Financial has not appeared in this lawsuit or defended itself against the Third-Party Complaint filed by the Kansas Teachers Community Credit Union.

Marathon Rothschild Credit Union, United Catholic Credit Union, and Advancial Federal Credit deny that they are responsible to the Kansas Teachers Community Credit Union for any damages they are ordered to pay to the Plaintiff and the Class in this Lawsuit.

What relief does the Plaintiff seek?

The Plaintiff seeks to recover monetary damages and other relief from the Kansas Teachers Community Credit Union both for himself and for the Class members. The Plaintiff seeks the following potential relief for himself and the Class if the Lawsuit is successful:

- A statutory penalty under the Missouri Commercial Code equal to the sum of (a) the total Finance Charge or the sum of all interest that was to be paid in connection with the loan and (b) 10% of the motor vehicle purchase price;
- A refund of all down payments made in connection with the motor vehicle purchase;
- A refund of all principal and interest paid in connection with the motor vehicle loan;
- A refund of any amounts paid after repossession to satisfy any claimed deficiency on the loan by the Kansas Teachers Community Credit Union or Centrix Financial;
- An award of prejudgment interest;
- An award of punitive damages;
- An award of reasonable attorneys’ fees, litigation expenses, and court costs;
- A declaration that the Kansas Teachers Community Credit Union is not entitled to a deficiency in connection with the motor vehicle loan; and
- A Court Order requiring the Kansas Teachers Community Credit Union to remove or correct any derogatory credit reporting concerning the motor vehicle loan or repossession.

WHY ARE YOU RECEIVING THIS NOTICE?

Do not be alarmed. You have not been sued. This Notice is merely to tell you about this Class Action lawsuit, to alert you to the fact that you have been identified as a member of the Plaintiff Class, and to inform you of your rights and options as a member of the Class.

This Notice is being sent to you based upon information and records that indicate you may have obtained a motor vehicle loan or financing from the Kansas Teachers Community Credit Union in connection with a “Portfolio Management Program” administered by Centrix Financial and your motor vehicle was repossessed after an alleged default on the loan.

You are likely a member of the Class if the Certificate of Title for your motor vehicle was issued by the State of Missouri and your motor vehicle was repossessed while you were a Missouri resident. During the time you had your loan, you would have made any payments on your motor vehicle loan to companies called Centrix Financial, Peak5, or Flatiron Financial.

INFORMATION ABOUT THE CLASS ACTION

How is the Class defined?

By Order dated February 18, 2010, the United States District Court for the Western District of Missouri (the “Court”) certified (defined) the following Class of persons in this case (the “Class”):

All persons who

- 1) obtained a motor vehicle loan or financing from Defendant [Kansas Teachers Community Credit Union] in conjunction with the PMP (“Portfolio Management Program”) administered by Centrix Financial;
- 2) obtained a Missouri Certificate of Title for that motor vehicle identifying Defendant (Kansas Teachers Community Credit Union) as the lienholder; and
- 3) had said motor vehicle repossessed.

Who is the Class Representative?

As part of its certification order, the Court designated the named Plaintiff in this lawsuit, Mr. Cecil E. Hopkins, to act as the Representative of the Class.

Who is Counsel for the Class?

The Court has appointed R. Frederick Walters, J. Michael Vaughan, Kip D. Richards, and Garrett M. Hodes of the law firm Walters Bender Strohhahn & Vaughan, P.C., as Counsel for the

Class. The address of Class Counsel is:

Walters Bender Strohhahn & Vaughan, P.C.
2500 City Center Square
1100 Main Street
Kansas City, Missouri 64105
(816) 421-6620
(816) 421-4747 (Facsimile)
www.wbsvlaw.com

YOUR OPTIONS WITH RESPECT TO THIS LAWSUIT

You have a choice. You can remain a member of the Class *or* you have the right to exclude yourself from the Class. You may also enter an appearance in the action or you may seek to intervene directly in this lawsuit through your own independently-retained attorney at your own expense. Each of these choices has consequences, which you should understand before making your decision.

A. If you wish to remain a member of the Class

If you wish to remain a member of the Class and have your rights adjudicated in this lawsuit, you do not need to do anything at this time.

If you do not do anything and you choose to remain a member of the Class:

1. Your claims against the Kansas Teachers Community Credit Union will be adjudicated in this lawsuit;
2. Class Counsel and the Class Representative will represent your interests in this case. You will not be charged any fee for this representation. Class Counsel has agreed to handle the case on a “contingent” basis and to advance all costs and expenses on behalf of the Plaintiff and the Class. (See below, “What will it cost me to stay in the Class?”);
3. You may advise the Court at any time you believe your interests are not being fairly and adequately represented by either the Class Representative or Class Counsel;
4. As a member of the Class, you will be entitled to share in the monetary recovery sought by the Plaintiff and obtained by the Class, if any, and will also receive the benefit of any other relief that may be ordered by the Court;
5. Your ability to recover from the Kansas Teachers Community Credit Union will depend upon the results of this lawsuit. As a member of the Class, you will be bound by the judgment in this case and whatever happens in the case, either favorable or

unfavorable. If you choose to become a Class member and the Court finds against the Class, you will be barred from pursuing a separate lawsuit against the Kansas Teachers Community Credit Union;

6. In order to participate in any recovery, you may be required to verify any communications or monetary payments that you may have received from the Kansas Teachers Community Credit Union or Centrix Financial and any payments that you made on your motor vehicle loan. You should, therefore, preserve any papers related to your motor vehicle loan and repossession, including any communications that you received after your motor vehicle was repossessed;
7. You will also be entitled to notice of and an opportunity to be heard respecting any proposed settlement of the class claims; and
8. The Kansas Teachers Community Credit Union claims for some borrowers that their recovery should be reduced by some amount for any remaining deficiency claimed to exist. For this amount, please contact Class Counsel toll free at (877) 472-6620 or (816) 421-6620. Further, the Court has not determined whether the Kansas Teachers Community Credit Union will be able to reduce your recovery because of any claimed deficiency. However, the claimed deficiency, if any and no matter what the amount, will never be more than your recovery.

B. If you want to exclude yourself from the Class

If you do not want to be a member of the Class, you may request the Court to exclude you from the Class by signing and returning the attached *Exclusion Request Form* to Class Counsel at the following address:

Walters Bender Strohhahn & Vaughan, P.C.
Re: *Hopkins v. Kansas Teachers Community Credit Union*
2500 City Center Square
1100 Main Street
Kansas City, Missouri 64105

To be effective, the *Exclusion Request Form* must be complete, signed, and postmarked by Wednesday, May 12, 2010. The Court will exclude you from the Class if your proper *Exclusion Request Form* is postmarked by this date.

By making this election to be excluded from or “opt out” of the Class:

1. You will not share in any recovery that might be paid to the Plaintiff and the members of the Class as a result of a trial or settlement;
2. You will not be bound by any determinations or any judgment made in this lawsuit,

whether favorable or unfavorable, and will not be entitled to any relief awarded to the Class;

3. You will not be entitled to any further notice concerning these proceedings; and
4. You may pursue any claims that you have against the Kansas Teachers Community Credit Union and others at your own risk and expense by filing your own lawsuit.

C. If you want to enter an appearance in this action through your own counsel

If you do not file a timely request for exclusion, you have the right to enter an appearance through your own counsel, retained at your own expense. A Class Member who enters an appearance through counsel is not deemed as having intervened or as having sought to intervene in the lawsuit and will still be represented by Class Counsel.

If you wish to enter an appearance through counsel, your counsel must (i) file a *Notice of Appearance* with the Clerk of the Court, whose address is Charles Evans Whittaker Courthouse, 400 East 9th Street, Kansas City, Missouri 64106, no later than Wednesday, May 12, 2010, and (ii) serve a copy of the *Notice of Appearance* on Class Counsel (whose address is listed above), Counsel for Defendant Kansas Teachers Community Credit Union, counsel for the Third-Party Defendants and Flatiron Financial, using the addresses set forth below:

Counsel for Defendant Kansas Teachers Community Credit Union:

William E. Hanna
Marc D. McKay
STINSON MORRISON HECKER LLP
1201 Walnut, Suite 2900
Kansas City, Missouri 64106-2150

Counsel for Third-Party Defendants Marathon Rothschild Federal Credit Union and United Catholic Credit Union:

Les Rosenfeld
LEON KUZNETSKY, P.C.
9201 Ward Parkway, Suite 304
P.O. Box 8579
Kansas City, Missouri 64114

Counsel for Third-Party Defendant Advancial Federal Credit Union:

Thomas M. Martin
Joe Bant
LEWIS RICE & FINGERSH
1010 Walnut, Suite 500
Kansas City, Missouri 64106

Flatiron Financial:
c/o Corporation Service Company
1560 Broadway, Suite 2090
Denver, Colorado 80202

D. If you want to intervene in this lawsuit

If you do not wish to file a timely written request for exclusion, you may seek to intervene in the Lawsuit through counsel, retained at your own expense. Any request to intervene must comply with the Federal Rules of Civil Procedure and applicable law and must be filed no later than **Wednesday, May 12, 2010**.

You must also serve a copy of your motion to intervene on Class Counsel, Counsel for Defendant Kansas Teachers Community Credit Union, counsel for the Third-Party Defendants and Flatiron Financial, using the addresses set forth above according to the Federal Rules of Civil Procedure and applicable law.

FREQUENTLY ASKED QUESTIONS

WHAT WILL IT COST ME TO STAY IN THE CLASS?

If you do not elect to opt out and exclude yourself from the Class (or seek to intervene in the lawsuit through your own independently-retained attorney), you will be represented by Class Counsel. You will not be charged for this representation; and there is no out-of-pocket cost to any member of the Class regardless of the outcome. Class Counsel has agreed to handle the case on a “contingent” basis and to advance all attorneys’ fees, litigation expenses, and costs on behalf of the Plaintiff and the Class.

If this lawsuit is successful, Class Counsel will ask the Court to award them reasonable attorneys’ fees for their work, as well as an award of their litigation expenses and costs. The Court may order the Kansas Teachers Community Credit Union to pay such fees, costs, and expenses directly, or the Court may award such fees, cost, and expenses from a portion of any amounts recovered for the Plaintiff and the Class. In either instance, the Court will determine whether attorneys’ fees, litigation costs, and expenses will be awarded and, if so, what the amount of the attorneys’ fees, litigation costs, and expenses will be.

WHAT IF I HAVE PREVIOUSLY FILED FOR BANKRUPTCY?

If you are (or were) a Debtor in a Chapter 13 or Chapter 7 Bankruptcy proceeding that was filed after you obtained your motor vehicle loan or financing, then you need to send a copy of the *Notice of Class Action Lawsuit* to your bankruptcy attorney.

Your ability to recover damages and relief in this lawsuit may depend on the type of bankruptcy and when it was filed. Please call Class Counsel if you have questions concerning a

bankruptcy.

WHAT IF I HAVE MOVED SINCE I OBTAINED MY MOTOR VEHICLE LOAN AND FINANCING FROM THE KANSAS TEACHERS COMMUNITY CREDIT UNION?

If the address that you used when you obtained your loan and financing from the Kansas Teachers Community Credit Union has changed, or is expected to change in the future, or if you received this Notice at an address other than that listed on the envelope, you should send your new address to Class Counsel (identified above).

ARE THERE GOING TO BE FURTHER PROCEEDINGS IN THE LAWSUIT?

Further proceedings in this case will be conducted before the United States District Court for the Western District of Missouri in Kansas City. These proceedings may include the determination of motions for summary judgment, pretrial proceedings, trial, approval of any proposed settlement, and other aspects of this litigation. The Court has not yet scheduled a trial date in this matter.

WHERE CAN I GET MORE INFORMATION?

If you have any questions or would like more information please contact Class Counsel at (877) 472-6620, or at hopkins@wbsvlaw.com, or at www.wbsvlaw.com. You may also consult with your own attorney.

The pleadings and other records in this lawsuit may be reviewed and copied in the office of the Clerk of the United States District Court for the Western District of Missouri, Charles Evans Whittaker Courthouse, 400 East 9th Street, Kansas City, Missouri 64106. You may also request copies of pleading and other records from Class Counsel.

Please do not call the Judge, Clerk, or District Court about this Notice or Lawsuit. They will not be able to give you advice or answer your questions.

s/ Gary A. Fenner

Gary A. Fenner, Judge
United States District Court

DATED: March 24, 2010

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UNION, et al.,)**

Third Party Defendants.)

EXCLUSION REQUEST FORM

**NOTE: DO NOT COMPLETE OR MAIL THIS FORM IF YOU WISH TO REMAIN
A MEMBER OF THE CLASS.**

If you **do not wish to remain** in the Class, you may “opt out” and exclude yourself from the Class by completing and signing this form, and mailing it, postage prepaid, to:

Walters Bender Strohhahn & Vaughan, P.C.
Re: Hopkins v. Kansas Teachers Community Credit Union
2500 City Center Square
1100 Main Street
Kansas City, Missouri 6415

To be effective, the Exclusion Request Form must be completed, signed, and postmarked by Wednesday, May 12, 2010, and signed by all co-borrowers, if any.

REQUIRED INFORMATION

Name (of Borrower): _____
(Print or type)

Name (of Co-Borrower, if any): _____
(Print or type)

Current Address: _____

Yes, I/we wish to be EXCLUDED from the above class action lawsuit: _____ (must be checked)

Signature: _____

Date: _____

Signature: _____

Date: _____

Each person in whose name the loan was made must complete and sign this form to be excluded from the Class. (For example, if the loan was made to John and Jane Doe, both must sign and timely mail this form).