

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
 Pamela Jones Harbour
 Jon Leibowitz
 William E. Kovacic
 J. Thomas Rosch

)	
)	DOCKET NO. C-4213
<i>In the Matter of</i>)	
)	DECISION AND ORDER
MILLIMAN, INC.,)	
a corporation.)	
)	

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Respondent named in the caption hereof, and the Respondent having been furnished thereafter with a copy of a draft Complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the Respondent with violation of the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq;

The Respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), an admission by the Respondent of all the jurisdictional facts set forth in the aforesaid draft Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provision as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the Respondent has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity

with the procedure described in Section 2.34 of its Rules, the Commission hereby issues its Complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Milliman, Inc., is a Washington corporation with its office and principal place of business at 1301 Fifth Avenue, Seattle, Washington.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions apply:

“*Respondent*” means Milliman, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees acting in such capacity on its behalf, directly or through any corporation, subsidiary, division or other device.

“*IntelliScript*” means respondent’s data aggregation service that provides individual medical profiles, including prescription drug purchase histories, to health and life insurance companies.

“*FCRA*” means the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, as the same from time to time may be amended or modified by statute or by regulations having the effect of statutory provisions.

The terms “*consumer*,” “*consumer report*,” and “*consumer reporting agency*,” shall be defined as provided in Sections 603(c), 603(d) and 603(f), respectively of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681a(c), 1681a(d) and 1681a(f).

“*Notice To Users*” is the notice referred to in Section 607(d) of the Fair Credit Reporting Act, 15 U.S.C. §1681e(d), 16 CFR 698, Appendix H.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the sale or dissemination of any medical profile generated by IntelliScript, or any other consumer report to any user or prospective user of such consumer report, shall, as required by Section 607(d) of the Fair Credit Reporting Act, 15 U.S.C. §1681e(d), provide to such users or prospective users a Notice To Users.

II

IT IS FURTHER ORDERED that respondent, in connection with the compilation, creation, sale, or dissemination of any medical profile generated by IntelliScript, or any other consumer report, shall:

- A. Maintain or continue to maintain reasonable procedures to limit the furnishing of such consumer report to those with a permissible purpose, as required by Section 607(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681e(a);
- B. Follow or continue to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individuals about whom the report relates, as required by Section 607(b) of the Fair Credit Reporting Act, 15 U.S.C. §1681e(b);
- C. Maintain or continue to maintain reasonable procedures to ensure compliance with Section 611 of the Fair Credit Reporting Act, 15 U.S.C. § 1681i, “Procedures in case of disputed accuracy;”
- D. Conduct or continue to conduct a reasonable reinvestigation in cases of disputed accuracy, as required by Section 611 of the Fair Credit Reporting Act, 15 U.S.C. § 1681i; and
- E. Comply or continue to comply with the Disposal of Consumer Report Information and Records Rule, 16 C.F.R. Part 682.

III.

IT IS FURTHER ORDERED that respondent shall, for five (5) years, maintain and upon request make available to the Federal Trade Commission for inspection and copying documents demonstrating compliance with the requirements of Parts I and II of this order.

IV.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future officers and directors, and to all current and future managers, employees, agents, and representatives having decision-making responsibilities with respect to IntelliScript or any other consumer report, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to such current personnel within thirty (30) days after the date of service of this order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that respondent and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as it is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

VI.

IT IS FURTHER ORDERED that respondent shall within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

VII.

This order will terminate on February 6, 2028, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as

though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: February 6, 2008