

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairman
Jon Leibowitz
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

In the Matter of)
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) **DOCKET NO. C-4387**
EQUIFAX INFORMATION SERVICES LLC,)
a limited liability company.)
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_____)

COMPLAINT

The Federal Trade Commission, having reason to believe that Equifax Information Services LLC (“Equifax” or “Respondent”) has violated provisions of the Federal Trade Commission Act (“FTC Act”) and the Fair Credit Reporting Act (“FCRA”), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Equifax Information Services LLC is a limited liability company organized, existing, and doing business under the laws of the State of Georgia. Respondent is a wholly-owned subsidiary of Equifax Inc. and has its principal place of business at 1550 Peachtree Street, N.W., Atlanta, Georgia 30309.
2. The acts and practices of Respondent, as alleged herein, have been in or affecting commerce, as “commerce” is defined in section 4 of the Federal Trade Commission Act.
3. Equifax is, and at all times relevant to this complaint, has been a “consumer reporting agency” (“CRA”) as that term is defined in section 603(f) of the FCRA, 15 U.S.C. § 1681a(f). Equifax regularly sells in interstate commerce information on consumers that it assembles for the purpose of furnishing consumer reports to third parties.
4. Equifax sells “prescreened lists,” which are lists of consumers that meet certain pre-selected criteria such as consumers who were, among other things, 30, 60, or 90 days late on their mortgage payments. Such prescreened lists are “consumer reports” as defined in section 603(d) of the FCRA, 15 U.S.C. § 1681a(d). Information such as whether a consumer is 30, 60, or 90 days late on a mortgage payment bears on, among other things,

a consumer's credit worthiness and credit standing and is used or expected to be used as a factor in determining a consumer's eligibility for credit.

5. Section 604 of the FCRA, 15 U.S.C. § 1681b, prohibits consumer reporting agencies from furnishing consumer reports to any person other than those they have reason to believe have a specified "permissible purpose."
6. The only permissible purpose for using a prescreened list is to make a "firm offer of credit or insurance." A "firm offer" is one that will be honored (subject to certain exceptions) if the consumers continue to meet the pre-selected criteria used to select them for the offer. 15 U.S.C. § 1681a(l). Using prescreened lists to send solicitations for general marketing is not a permissible purpose.
7. Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a), requires CRAs to maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under section 604 of the FCRA, 15 U.S.C. § 1681b, including making reasonable efforts to verify the identity of each new prospective user of consumer report information and the uses certified by each prospective user prior to furnishing such user a consumer report.

RESPONDENT'S BUSINESS PRACTICES

8. From January 1, 2008 through early 2010, Equifax sold prescreened lists containing the consumer report information of millions of consumers to Direct Lending Source, Inc. or its affiliates, Bailey & Associates Advertising, Inc. and Virtual Lending Source, LLC (collectively "Direct Lending"). These lists included, among other things, consumers' credit scores and whether they were 30, 60, or 90 days late on their mortgage payments. In many instances, Direct Lending did not have a permissible purpose to obtain consumer reports under the FCRA but rather, Direct Lending used and sold these lists for the purpose of marketing products and services to consumers in financial distress.
9. Direct Lending sold the prescreened lists it obtained from Equifax to third parties, many of which did not have a permissible purpose to receive them under the FCRA. For example, it sold lists to marketers for the purpose of targeting consumers in financial distress for loan modification, debt relief, and foreclosure relief services.
10. Equifax did not maintain reasonable procedures to limit the furnishing of the prescreened lists it sold to Direct Lending so that prescreened lists would only be used for a permissible purpose. Equifax failed to investigate promptly or fully on certain occasions when it learned that Direct Lending was violating Equifax's internal policies relating to prescreening. Moreover, Equifax knew or should have known that in multiple instances Direct Lending resold the prescreened lists without identifying the end user to Equifax. Given Direct Lending's failures, Equifax had reason to believe that the entities to whom

its prescreened lists were being sold did not have a permissible purpose for obtaining the lists. Nonetheless, Equifax continued to sell prescreened lists to Direct Lending.

11. Equifax provided prescreened lists to Direct Lending through an online portal. Equifax also provided access to the portal to third parties in connection with Direct Lending's prescreening operations. Equifax did not make reasonable efforts to verify the identity of these entities, and accordingly could not ensure that these entities would only use the lists for a permissible purpose.
12. Equifax's failure to employ reasonable and appropriate measures to control access to the sensitive consumer financial information it maintains and sells for prescreening services resulted in prescreened lists being sold to a number of entities that were ultimately the subject of actions or warnings by law enforcement. Equifax's lack of reasonable procedures caused or is likely to cause substantial consumer injury that is not reasonably avoidable by consumers and is not outweighed by benefits to consumers or competition.

VIOLATIONS OF THE FCRA

13. As described in Paragraphs 8 through 12, in multiple instances, Respondent furnished consumer reports to persons that it did not have reason to believe had a permissible purpose to obtain a consumer report. By and through the acts and practices described in Paragraphs 8 through 12, Respondent has violated section 604(c) of the FCRA, 15 U.S.C. § 1681b(c).
14. As described in Paragraphs 8 through 12, Respondent has failed to maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under section 604(c) of the FCRA, has failed to make reasonable efforts to verify the identity of each new prospective user of consumer report information, and has failed to make reasonable efforts to verify the uses certified by each prospective user prior to furnishing such user a consumer report. By and through the acts and practices described in Paragraphs 8 through 12, Respondent has violated section 607(a) of the FCRA, 15 U.S.C. § 1681e(a).
15. By its violation of sections 604(c) and 607(a) of the FCRA, and pursuant to section 621(a), 15 U.S.C. § 1681s, Respondent has engaged in unfair and deceptive acts and practices in or affecting commerce in violation of section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE FTC ACT

16. As described in Paragraphs 8 through 12, in numerous instances, Respondent has failed to employ reasonable and appropriate measures to control access to the sensitive consumer financial information it maintains and sells for prescreening services.
17. Respondent's actions caused or were likely to cause substantial injury to consumers that was not offset by countervailing benefits to consumers or competition and was not reasonably avoidable by consumers. The acts and practices of Respondent as alleged in

this complaint constitute unfair acts or practices in or affecting commerce in violation of section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THEREFORE, the Federal Trade Commission this fifth day of March, 2013, has issued this complaint against the respondent.

By the Commission, Commissioners Leibowitz and Wright not participating.

Richard C. Donohue
Acting Secretary