

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Civil Case No.

4:04 cv 361 RH/wes

v.

SPRINT CORPORATION,
SPRINT COMMUNICATIONS COMPANY L.P.,
CAROLINA TELEPHONE AND TELEGRAPH COMPANY,
CENTRAL TELEPHONE COMPANY,
CENTRAL TELEPHONE COMPANY OF TEXAS,
CENTRAL TELEPHONE COMPANY OF VIRGINIA,
SPRINT MINNESOTA, INC.,
SPRINT MISSOURI, INC.,
SPRINT-FLORIDA, INCORPORATED,
THE UNITED TELEPHONE COMPANY OF PENNSYLVANIA,
UNITED TELEPHONE COMPANY OF EASTERN KANSAS,
UNITED TELEPHONE COMPANY OF INDIANA, INC.,
UNITED TELEPHONE COMPANY OF KANSAS,
UNITED TELEPHONE COMPANY OF NEW JERSEY, INC.,
UNITED TELEPHONE COMPANY OF OHIO,
UNITED TELEPHONE COMPANY OF SOUTHCENTRAL KANSAS,
UNITED TELEPHONE COMPANY OF TEXAS, INC.,
UNITED TELEPHONE COMPANY OF THE CAROLINAS,
UNITED TELEPHONE COMPANY OF THE NORTHWEST,
UNITED TELEPHONE COMPANY OF THE WEST, and
UNITED TELEPHONE-SOUTHEAST, INC.,

Defendants.

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER
EQUITABLE RELIEF AND MONETARY CIVIL PENALTIES**

Plaintiff, the United States of America, acting upon notification and authorization to the

OFFICE OF CLERK
U.S. DISTRICT CT
NORTHERN DIST. F.L.A.
TALLAHASSEE, FLA.

04 SEP -9 AM 9:16

RECEIVED

Attorney General by the Federal Trade Commission ("Commission"), for its complaint alleges that:

1. Plaintiff brings this action under Sections 5(a), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 56(a), Section 621(a) of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681s(a), and Section 704(c) of the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. § 1691c(c), to obtain monetary civil penalties and injunctive and other relief for defendants' violations of the FCRA, 15 U.S.C. §§ 1681-1681u, and the ECOA, 15 U.S.C. §§ 1691-1691f, and its implementing Regulation B, 12 C.F.R. § 202.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 1691c(c).

3. Venue in the United States District Court for the Northern District of Florida is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b-c) and 1395(a).

DEFENDANTS

4. Defendant Sprint Corporation ("Sprint Corp.") is a Kansas corporation with its principal place of business at 6200 Sprint Parkway, Overland Park, Kansas 66251. Sprint Corp. is a holding company and the ultimate parent of Sprint Communications Company, L.P. and of the defendant operating subsidiary corporations identified in Paragraph 6. At all times material to this Complaint, Sprint Corp. has directed and controlled the acts and practices of defendant Sprint Communications Company, L.P., and has directed and controlled the acts and practices of the defendants identified in Paragraph 6 through its Local Telecommunications division.

including the acts and practices alleged herein. In connection with the matters alleged herein, Sprint Corp. has transacted business in this District.

5. Defendant Sprint Communications Company L.P. ("Sprint L.P.") is a Delaware limited partnership with its principal place of business at the same location as Sprint Corp. Sprint L.P. is the Sprint subsidiary directly responsible for operating Sprint's long distance telecommunications services. In connection with the matters alleged herein, Sprint L.P. has transacted business in this District.

6. Defendants Carolina Telephone and Telegraph Company, a North Carolina corporation, Central Telephone Company, a Delaware corporation, Central Telephone Company of Texas, a Texas corporation, Central Telephone Company of Virginia, a Virginia corporation, Sprint Minnesota, Inc., a Minnesota corporation, Sprint Missouri, Inc., a Missouri corporation, Sprint-Florida, Incorporated, a Florida corporation, The United Telephone Company of Pennsylvania, a Pennsylvania corporation, United Telephone Company of Eastern Kansas, a Delaware corporation, United Telephone Company of Indiana, Inc., an Indiana corporation, United Telephone Company of Kansas, a Kansas corporation, United Telephone Company of New Jersey, Inc., a New Jersey corporation, United Telephone Company of Ohio, an Ohio corporation, United Telephone Company of Southcentral Kansas, an Arkansas corporation, United Telephone Company of Texas, Inc., a Texas corporation, United Telephone Company of the Carolinas, a South Carolina corporation, United Telephone Company of the Northwest, an Oregon corporation, United Telephone Company of the West, a Delaware corporation, and United Telephone-Southeast, Inc., a Virginia corporation, are the Sprint subsidiaries directly responsible for operating Sprint's local telecommunications services throughout the United States, including Florida. These defendants have the same principal place of business as Sprint

Corp., except for United Telephone Company of Ohio, which has its principal office at 50 West Broad Street, Suite 3600, Columbus, Ohio, United Telephone Company of the Carolinas, with its principal place of business at 1122 Lady Street, Suite 1050, Columbia, South Carolina, and The United Telephone Company of Pennsylvania, which has its principal office at 2704 Commerce Drive, Harrisburg, Pennsylvania.

7. At all times material to this Complaint, defendants Sprint Corp., Sprint L.P., and the local operating subsidiaries identified in Paragraph 6 (hereinafter collectively referred to as "Sprint"), have provided local and long distance telephone service to consumers, as "consumer" is defined in Section 603(c) of the FCRA, 15 U.S.C. § 1681a(c).

8. At all times material to this Complaint, Sprint has been a "creditor," as that term is defined in Section 702(e) of the ECOA, 15 U.S.C. § 1691a(e), and Section 202.2(l) of Regulation B, 12 C.F.R. § 202.2(l).

SPRINT'S BUSINESS

9. At all times material to this Complaint, Sprint has provided local and long distance telephone service to consumers on a "credit" basis, as that term is defined in Section 202.2(j) of Regulation B, 12 C.F.R. § 202.2(j). Thus, Sprint provides its services in advance and bills consumers for payment after the services are provided.

10. Consumers who seek to obtain telephone service from Sprint are "applicants" and must complete an "application," as the terms "applicant" and "application" are defined in Sections 202.2(e) and 202.2(f) of Regulation B, 12 C.F.R. §§ 202.2(e) and 202.2(f), respectively. As part of the application process, Sprint conducts a credit review to determine the applicant's eligibility to obtain service on a credit basis. This procedure includes searching Sprint's internal files for information on the application and, if no internal credit information is

found, obtaining a "consumer report" on the applicant from a "consumer reporting agency," as those terms are defined in Sections 603(d), and 603(f), 15 U.S.C. §§ 1681a(d) and 1681a(f), respectively, of the FCRA.

11. Consumers whom Sprint determines, based on the credit review, are not approved for telephone service are either denied service entirely or are required to make an advance payment or deposit to obtain service.

12. Sprint has taken "adverse action," as that term is defined in Section 603(k) of the FCRA, 15 U.S.C. § 1681a(k), and Section 202.2(c) of Regulation B, 12 C.F.R. § 202.2(c), with respect to consumers to whom it has denied telephone service and with respect to consumers who have declined to accept service conditioned upon their making an advance payment or security deposit.

VIOLATIONS OF THE FCRA

13. Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a), requires any person who takes adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report to provide to the consumer: (1) notice of the adverse action taken; (2) the name, address, and telephone number of the consumer reporting agency from which the consumer report was obtained; (3) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; (4) notice of the consumer's right to obtain a free copy of the consumer report, within 60 days from notice of the adverse action, from the consumer reporting agency from which the report was obtained; and (5) notice of the consumer's right to dispute with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

14. In many instances, Sprint has taken adverse action with respect to consumers, as described in Paragraph 12, based in whole or in part on information contained in a consumer report but has failed to provide those consumers with any of the information required to be disclosed under Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a). In many other instances, Sprint has taken such adverse action against consumers but has given them notices that lacked information required to be disclosed under Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a). For example, some of those notices have failed to disclose (1) the consumer's right to obtain a free copy of his or her consumer report from the consumer reporting agency within 60 days, and (2) the consumer's right to dispute with the agency the accuracy or completeness of the consumer report.

15. By and through the acts and practices described in Paragraphs 9 through 14, Sprint has violated Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a).

16. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the alleged violations of the FCRA constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

17. The acts and practices described in Paragraphs 9 through 14 constitute a pattern or practice of knowing violations, as set forth in Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A).

VIOLATIONS OF THE ECOA AND REGULATION B

18. Plaintiff incorporates by reference Paragraphs 1 through 12.

19. Section 202.9(a) of Regulation B, 12 C.F.R. § 202.9(a), requires a creditor who takes adverse action with respect to an applicant to provide that applicant, within 30 days after receiving a completed application, with written notification that contains: (1) a statement of the

adverse action taken; (2) the name and address of the creditor; (3) a statement of the provisions of Section 701(a) of the ECOA, 15 U.S.C. § 1691(a); (4) the name and address of the federal agency that administers compliance of the ECOA with respect to the creditor; and (5) either a statement of the specific reasons for the adverse action taken or a disclosure of the applicant's right to receive a statement of specific reasons within 30 days, if the statement is requested within 60 days of the creditor's notification.

20. In many instances, Sprint has taken adverse action with respect to applicants either by denying them phone service or by requiring them to make a deposit or advance payment in order to obtain service, but has failed to provide those applicants within 30 days after receiving their completed applications any of the information required to be disclosed under Section 202.9(a) of Regulation B, 12 C.F.R. § 202.9(a). In many other instances, Sprint has taken such adverse action against applicants but has given them notices that lacked information required to be disclosed under Section 202.9(a) of Regulation B, 12 C.F.R. § 202.9(a). For example, some of those notices have failed to disclose (1) the Section 701(a) ECOA statement, explaining that it is unlawful to discriminate against any applicant with respect to any aspect of a credit transaction, and (2) the identify of the federal agency that administers compliance with the ECOA.

21. By and through the acts and practices described in Paragraphs 9 through 12 and Paragraphs 19 through 20, Sprint has violated Section 202.9(a) of Regulation B, 12 C.F.R. § 202.9(a), and Section 701(d) of the ECOA, 15 U.S.C. § 1691(d).

22. Pursuant to Section 704(c) of the ECOA, 15 U.S.C. § 1691c(c), Sprint's violations of the ECOA constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

23. Sprint has violated the ECOA and Regulation B as described above with knowledge as set forth in Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

CIVIL PENALTIES

FCRA VIOLATIONS

24. Each instance in which Sprint has failed to comply with Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a), constitutes a separate violation of the FCRA for the purpose of assessing monetary civil penalties.

25. Section 621(a) of the FCRA, 15 U.S.C. § 621(a), authorizes the Court to award monetary civil penalties of not more than \$2,500 per violation.

ECOA VIOLATIONS

26. Each instance in which Sprint has violated the ECOA and Regulation B as described above constitutes a separate violation of the ECOA for the purpose of assessing monetary penalties.

27. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), authorizes this Court to award a monetary civil penalty of not more than \$11,000 for each such violation of the ECOA and Regulation B.

INJUNCTION

Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction against Sprint's violations of the FCRA and the ECOA and Regulation B.

PRAYER FOR RELIEF

WHEREFORE, plaintiff requests that this Court, pursuant to 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 1681s, and 1691c, and pursuant to the Court's own equity powers:

- (1) Enter judgment against defendants and in favor of plaintiff for each violation charged in this complaint;

- (2) Enjoin defendants from violating any provision of the FCRA and the ECOA and Regulation B;
- (3) Award plaintiff monetary civil penalties from defendants for each violation of the FCRA and the ECOA and Regulation B alleged in this complaint; and
- (4) Award plaintiff such additional relief as the Court may deem just and proper.

Dated:

FOR THE UNITED STATES OF AMERICA:

Of Counsel:

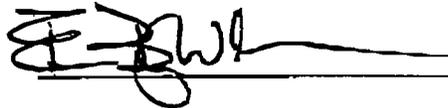
JOEL C. WINSTON
Associate Director for
Financial Practices

JEFFREY S. BUCHOLTZ
Acting Assistant Attorney General
Civil Division
United States Department of Justice

BRADLEY H. BLOWER
Assistant Director for
Financial Practices

GREGORY ROBERT MILLER
United States Attorney
Northern District of Florida

RONALD G. ISAAC
SANDRA FARRINGTON
ERIC IMPERIAL
Attorneys
Division of Financial Practices
Federal Trade Commission
Washington, D.C. 20580



Assistant United States Attorney
111 N. Adams Street, 4th Floor
Tallahassee, FL 32301-7736
(850) 942-8430
Bar No.: 604501

EUGENE M. THIROLF
Director
Office of Consumer Litigation



ELIZABETH STEIN
Attorney
Office of Consumer Litigation
Civil Division
U.S. Department of Justice
Washington, D.C. 20530
(202) 307-0486

Attorneys for Plaintiff
United States of America