

them, and if there was anything wrong with him, he would stop me and he would discuss it and clear it up" (Crepeau 1759).

401. Field representatives discussed with each other the prevalence in their office of such practices as faking sources or other shortcuts (Hille 4517-18; Silar 3924; Buckley 1255, 1257; Monson 3254-55, 3260, 3287). Field representatives in their conversations also expressed the view that the job was virtually impossible (Wines 390; Dodson 3069-70, 3067-68). The existence of such conversations demonstrates a state of mind in branch offices likely to lead to infraction of Company policy such as the falsification of sources.¹⁶¹

402. Generally, field representatives did not fake sources in those instances where unfavorable or protective/decline information was developed (e.g., Monson 3302; Moxham 3515; Pollard 316, 356, 361; Feriante 4448-49 cf. Wallace 3014; Hille 4534-35).

403. Field representatives were subjected to conflicting pressures; namely, to produce a certain number of reports in a normal workweek and meet Time Service requirements and, at the same time, to produce protective/declinable information by careful interviewing and by asking a full range of questions (see Findings 315, 344, 354-55, 372-74; see also Findings 370, 371). [145]

404. Many field representatives were able to complete the caseload assigned within a normal workweek in accordance with Company procedures and to earn a full or partial bonus; certain of them put in some overtime in earning the bonus (e.g., Baranek 9703, 9698-99; Bender 7687-88, 7683-84; Getz 12348-49, 12397; Harroun 9512, 9506-07; Hilderbrand 12011-12; L. Jones 10454-55; C. Matthews 12788, 12795, 12803; Rawls 11065-66; Saltzgaber 11972-74, 11983-84).

405. A substantial number of field representatives, however, were unable to complete the work in either the normal workday or workweek in accordance with Company procedures. They compensated for such inability by contacting unqualified sources, faking sources, misstating time coverage, hurrying through interviews failing to ask a full range of questions, using the telephone in a manner not in accord with Company procedures, or working excessive overtime (Findings 377-94, 400).

406. Respondent instructed its field representatives:

Honesty—Fairness

Our business has been built upon integrity and character; nothing in it is mc

¹⁶¹ Another field representative felt he could falsify sources when he saw reports prepared by others with vague listings such as "resident" and an address (Pollard 358).

important. As a service company, the nature of our business makes it essential that we maintain and adhere to strict principles of honesty.

In many businesses, the term 'dishonesty' implies mishandling of money or merchandise. We sell a service—therefore, such actions, for example, as recording hours not worked and miles not driven, or listing sources not contacted, constitute dishonesty in our type of business. For obvious reasons, anyone found lacking in honesty, in our strictest sense of the word, cannot be retained as an employee. [146]

There is no room for prejudice in our work. The person on whom we report is entitled to scrupulous fairness on our part. This obligation is co-equal with our responsibility to our customers as well as to our Company. You are not being fair to them unless you are also fair to the subject.

(RX 102D.)

407. It was respondent's policy to terminate immediately all field representatives falsifying information such as sources during the course of an investigation (RX 102D; Jenkins 5778, Lieber 9015, Browning 6062, Baranek 9703, Dodson 3096-97, Pollard 358, Ledum 4717).¹⁶² This policy was communicated to respondent's field representatives and was generally carried out when such practices were detected (e.g., Tr. 4717, Shaffer 8389, Burk 10380, Getz 12349, Curtis 7152-53).¹⁶³

408. It is not possible for a manager or supervisor to determine whether all information was properly obtained and whether all sources listed were, in fact, interviewed simply by reading a report (A. Brown 7747, J. Curtis 7154, Freeman 10199, Hives 9735-36, J.F. Moore 10043-44, J. Moore 8842). Reading a number of reports prepared by a field representative may lead to a suspicion that there has been falsification. However, it is seldom possible to be certain from a reading of the reports alone. Vague source listings in a series of reports may raise a question as to whether all listed sources were, in fact, interviewed [147](Curtis 7154, Freeman 10199-200, J. Moore 8842, Brothers 7420-21, Lieber 9015-17). Reports consistently containing minimal amounts of information may raise the same question (Lieber 9015-16). And, respondent's management believes that the absence of protective and declinable information on a consistent basis may also indicate that sources have been falsified (Brothers 7420-21, Laugavitz 10328, Jenkins 5779-80). An excessive number of reopened cases (Jenkins 5778, Lieber 9016, Curtis 7153) may raise similar suspicions.

409. Respondent employs various measures such as the put-up stem (Curtis 7153, Lieber 9016), the regular review process in the office (Lieber 9015), and analyses of field representatives' cases

¹⁶² Two of the Commission witnesses testifying herein were terminated for that reason.

¹⁶³ There were some exceptions: see CX 1592A-H. In the Denver office, the discipline meted out depended directly on the degree of fabrication." In that office, falsification of time coverage, according to one of respondent's witnesses, apparently was not considered as serious as other infractions (Hilderbrand 12012-13).

covering such subjects as source listing, source selection and information content, to check the integrity of reports (Brothers 7375-77, J. Curtis 7146-47, Lieber 9034-35, Crawford 12568-69).

410. Performance reviews are conducted on trainees, and, periodically, on other field representatives and on an as-needed basis. They involve going on the street to recheck with the sources listed by field representatives in previously completed reports to determine that the sources were, in fact, contacted, that all the questions were asked, and that the reports accurately reflected the answers (Brothers 7377, Browning 6062-63, Curtis 7148, Jenkins 5701-02, Eldred 11202, Crawford 12568-69, Hilderbrand 12014). Performance reviews may be utilized when there is an indication the reports may have been falsified (Lieber 9016-17, Ross 9343-44). Performance reviews are a cost to the branch office (Bresnahan 567-68).¹⁶⁴ [148]

411. Respondent failed to effectively police falsification of sources by certain of its field representatives.¹⁶⁵ Its supervision must be deemed ineffective.

412. A substantial number of field representatives have falsified information such as sources (Finding 405). The widespread nature of this practice and the fact that such facts were committed by field representatives knowing they risked termination for such infractions compels the inference that a substantial number of field representatives were unable to complete the job assigned to them in a normal workday in accordance with respondent's instructions.

413. Such inability resulted from the fact that particular field representatives were given more cases than they could complete in accordance with Company procedures in the particular areas where they worked or under the conditions prevalent in the offices and areas to which they were assigned. Such inability led to shortcuts such as faking. Thus, respondent's investigative procedures may result and have resulted in inaccurate reporting. Certain field representatives taking shortcuts, such as falsifying sources or utilizing unqualified sources, may have been ill-suited for the job because of lack of competence, disorganization or personal problems. This evidences only that respondent has hired a substantial number of employees unable to cope with the workload and the working conditions generated by respondent's compensation system and other policies. Inaccurate reporting is likely where considerable

¹⁶⁴ Normally, it is computed on an hourly basis at the normal hourly investigative rate (Tr. 567).

¹⁶⁵ *E.g.*, faking sources 10 to 20 percent of the time on a circuit run (Tr. 3515). Faking sources 2 to 3 times a month (Tr. 3298-99); not interviewing sources listed about 75 percent of the time (Tr. 3063); listing sources not seen in 30 percent of the cases (Tr. 4514-15); listing outside sources not seen 40 percent of the time in those instances where a direct interview with the insured was obtained (Tr. 2870); faking sources on the order of one out of 15 cases (Tr. 356); faking by a long-time field representative known to management as "consistently sporadic in his work habits" (Tr. 455, 458, 460-61; RX 483A).

numbers of field representatives are unable to meet the requirements of respondent's system for whatever reason, notwithstanding the fact that others with more ability or more favorably situated are able to cope. [149]

C. Respondent's Computations Pertaining to Reasonableness of Compensation Procedures

(1) Respondent's 1969 and 1973 Product Cost and Effort Studies

414. Respondent has, from time to time, made product cost and effort or time studies to determine the effort required to complete various types of reports in different parts of the country (Burge 5012-13).

415. Analysts in respondent's research department used data from such studies for two major purposes:

1. To compute profitability by type of report, and
2. To develop standard cost estimates for proposed new reports. (RX 566 III-5.)

416. Time studies were conducted in 1967, 1969, and 1973 (Bruns 13912-14; RX 566).¹⁶⁶

417. The 1969 time study had a goal of timing 5,000 reports and, in fact, 3,619 timings were completed in that study (Bruns 13914, Deibig 13614-15). Analysts conducting the study spent approximately 222 man-days in making observations in the field (RX 566 I-1). One hundred seventy field representatives out of a population of 6,031 were timed in the 1969 study (RX 566 II-11).

418. The scope of the 1973 study was more limited than the 1969 study. It included observations of approximately 1,500 individual reports. Analysts conducting the study spent approximately 151 man-days in making observations in the field (RX 566 I-1-I-2). Eighty-eight field representatives out of a total population of 5,145 were timed in the 1973 study (RX 566 II-11). [150]

419. The timers or analysts who conducted the 1969 and 1973 studies observed each field representative selected for inclusion in the studies for one full day. The procedures involved in such observations included the following major steps:

The analyst worked with the manager of the office where he was to conduct observations to determine which field representatives were to be observed . . . The analyst met the field representative at the beginning of his day's work. He

¹⁶⁶ Since 1973, respondent has conducted timings in 1975 and 1976 (Deibig 13878).

then observed his activities throughout the day and timed each of the field representative's tasks with a stopwatch.

The analyst entered the stopwatch timings and other pertinent information on standard forms
(RX 566 I-5.)

420. For the 1969 study, respondent sought to select a representative group of offices per region, including larger metropolitan branch offices, smaller branch offices in the country and suboffices (Bruns 13938). Some consideration was also given to selecting offices not timed in 1967 (Bruns 13969).

421. In 1973, the branch offices to be timed were selected by respondent's employee James Deibig, who broke down all branch offices then existing into three categories: large, medium and small. Selections were made from the three categories, with an attempt to secure a geographic mix of all three types (Deibig 13623-24).¹⁶⁷ The study, however, was cut short and a number [151] of the branch offices and suboffices originally scheduled for timing were not timed. Respondent's witness responsible for selecting the cross section of offices was unable to state how many were dropped (Deibig 13631, 13866).

422. Field representatives chosen for timing were not chosen on a random sampling basis (RX 566 II-8-II-9).¹⁶⁸ Since random sampling was not used, the data obtained in the study cannot be relied upon on a purely theoretical statistical basis to make predictions about total population (Brown 14172-73, 14214).

423. Respondent described the procedures for selecting field representatives as follows in its exhibit, RX 566:

General guidelines were provided to the study analysts for requesting field representatives to be made available for timing by each branch office visited. The final decision as to which individuals would be timed was left to the analyst and the branch office manager.

. . . The study procedures specified that advance notice was to be given to the offices to be visited regarding the types of reports that should be covered in the timings. The analysts had been instructed to request individuals to be timed who would provide maximum coverage of the basic report types. The procedures specified that they were to avoid timing field representatives whose reporting standards reflected subsidies provided by the Company, and that they [152] should attempt to obtain timings for a cross-section of field representatives by length of service and by level of performance. These guidelines would tend to exclude from the study field representatives working primarily special, nonbasic reports. The guidelines would

¹⁶⁷ To cut down on driving time for the timers, an attempt was made to line up the three to four suboffices that the timers would visit each week within an hour's driving time of each other (Deibig 13878).

¹⁶⁸ For a sample to be random, the procedures used to select the sample from the total population must assure that each element in the population will have an equal chance of being selected for inclusion in the sample (RX 566 II-9).

Initial Decision

96 F.T.C.

also exclude high and low-performing representatives, since only trainees and management-level representatives have subsidized reporting standards. (RX 566 II-8.)

424. In fact, the field representatives to be timed were selected by the branch office managers (Tr. 13887, 14050).

425. Some of the more prevalent reports timed in 1969 were the regular life report, life NORS written, life NORS non-written, intermediate life, streamlined life, special narrative life, automobile, streamlined automobile, ballpoint pen auto, personnel selection, double rate personnel selection, and triple rate personnel selection (Deibig 13533).

426. In selecting cases to be timed in 1973, respondent's employee, James Deibig, listed 85 services which constituted "almost 90 percent of the total revenues produced by Retail Credit at that time." He excluded from these "target cases" those on which numerous samplings had been obtained in the 1969 study and provided tally sheets to the timers so that a minimum of 30 timings could be completed on each report scheduled for timing. Although regular life and regular auto cases were not targeted, timings of such cases were completed in 1973 due to "the nature of those two reports." (Deibig 13624-25).

427. On the basis of the 1973 study, respondent computed the following average effort in minutes required to complete its basic life and auto reports: [153]

	<i>No. Cases Completed</i>	<i>Average Effort (Minutes)*</i>
Life	188	28.750
Auto	275	31.317
Normal Report Time (weighted average of Life and Auto)		30.275

(RX 566 III-7.)¹⁶⁹

(2) Evaluation of the 1969 and 1973 Time Studies by Arthur Andersen & Co. (The Andersen Study)

428. Arthur Andersen & Co. (Andersen), respondent's outside auditing firm (Woodham 14094), was retained to review the procedures utilized by respondent in its time studies to gain an understanding of those procedures and to prepare a report giving

¹⁶⁹ Arthur Andersen & Co. recomputed the effort necessary to complete those reports and determined that respondent's computation had overstated the average effort per report. Its computation showed an average of 26.64 minutes and 28.75 minutes, respectively for the basic life and auto reports (RX 566 IV-14). The Andersen study (see Tr.), after adjustment, relied upon 191 observations of the regular life report and 273 of the regular auto report (RX 566 V-8, IV-15).

