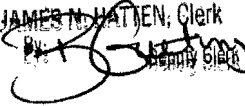


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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

JUN 24 2011

JAMES M. HATTEN, Clerk
By: 

UNITED STATES OF AMERICA

Plaintiff,

v.

**TELETRACK, INC.,
a corporation,**

Defendant.

Civil Action No.

1 11-CV-2060

**COMPLAINT FOR CIVIL PENALTIES, INJUNCTIVE, AND OTHER
EQUITABLE RELIEF**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("FTC" or "Commission"), for its Complaint alleges that:

1. Plaintiff brings this action under sections 5(a), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b), and 56(a); and section 621(a) of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §1681s(a), to obtain monetary civil penalties, and injunctive or other relief from Defendant for engaging in violations of the FCRA, 15 U.S.C. §§1681-1681x.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and 15 U.S.C. §§ 45(a), 53(b), 56(a), and 1681s.

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

PLAINTIFF

4. This action is brought by the United States of America on behalf of the Federal Trade Commission. The Commission is an independent agency of the United States government given statutory authority and responsibility by, *inter alia*, the FTC Act, *as amended*, 15 U.S.C. §§ 41-58, and the FCRA, 15 U.S.C. §§ 1681-1681x. The Commission is charged, *inter alia*, with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair and deceptive acts or practices in or affecting commerce; and the FCRA, which imposes duties upon consumer reporting agencies.

DEFENDANT

5. Defendant Teletrack, Inc. (“Teletrack” or “Defendant”) is a Georgia corporation with its principal place of business at 5550-A Peachtree Parkway, Suite 600, Norcross, GA 30092. Defendant transacts or has transacted business in this district.

THE FAIR CREDIT REPORTING ACT

6. The FCRA was enacted in 1970, became effective on April 25, 1971, and has been in force since that date. The Fair and Accurate Credit Transactions Act amended the FCRA in December 2003.

7. Section 621 of the FCRA, 15 U.S.C. § 1681s, authorizes the Commission to use all of its functions and powers under the FTC Act to enforce compliance with the FCRA by all persons subject thereto except to the extent that enforcement specifically is committed to some other governmental agency, irrespective of whether the person is engaged in commerce or meets any other jurisdictional tests set forth by the FTC Act.

8. Teletrack is now and has been a “consumer reporting agency” as that term is defined in section 603(f) of the FCRA, 15 U.S.C. §1681a(f). That section defines a “consumer reporting agency” as

any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Teletrack regularly sells in interstate commerce information on consumers that it assembles for the purpose of furnishing consumer reports to third parties, as described further below.

DEFENDANT'S BUSINESS PRACTICES

9. Teletrack sells consumer reports and other services to businesses that primarily serve non-traditional credit consumers, such as payday lenders, rental purchase stores, and non-prime auto lenders. Teletrack's clients use these reports to make decisions about whether and on what terms to provide credit to consumers.

10. When requesting consumer reports from Teletrack, its clients provide Teletrack with personal information about consumers seeking to obtain credit, including but not limited to, name, home address, Social Security number, home phone number, name of employer, employer phone number, date of birth, email address, and driver's license state and number.

11. In addition to providing its clients with consumer reports based on the information described in paragraph 10, Teletrack adds the consumer's name, address, telephone number, date of birth, employer name, and employer telephone number, along with the fact that there has been a credit inquiry, into a marketing database.

12. Using the information from this marketing database, Teletrack sells to third parties lists of the names and addresses of consumers on whom there has been a credit inquiry by one of Teletrack's clients. For example, Teletrack sells lists of the names and addresses of consumers who sought payday loans from its storefront (as opposed to online) payday lender clients.

13. The marketing lists Teletrack sells are "consumer reports" as defined in section 603(d) of the FCRA, 15 U.S.C. §1681a(d). That section defines a "consumer report" as

any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (A) credit or insurance to be used primarily for personal, family, or household purposes; (B) employment purposes; or (C) any other purpose authorized under section 604.

Teletrack's marketing lists contain the names of consumers who were selected on the basis of certain credit inquiries, which bear on, among other things, a consumer's credit worthiness and are often used as a factor in determining a consumer's eligibility for credit.

14. Section 604 of the FCRA, 15 U.S.C. §1681b, prohibits consumer reporting agencies from furnishing consumer reports to third parties except for certain enumerated “permissible purposes.” Since at least 2007, in multiple instances, Teletrack has furnished consumer reports to third parties for the purpose of marketing, which is not a permissible purpose under the FCRA.

VIOLATIONS OF THE FAIR CREDIT REPORTING ACT

15. As described in Paragraphs 9 through 14, in multiple instances, Teletrack furnished consumer reports to persons who did not have a permissible purpose to obtain them.

16. By and through the acts and practices described in Paragraph 15 above, Teletrack has violated section 604 of the FCRA, 15 U.S.C. § 1681b.

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

THIS COURT’S POWER TO GRANT RELIEF

18. Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A), authorizes the Court to award monetary civil penalties in the event of a knowing violation of the FCRA, which constitutes a pattern or practice. Teletrack’s violations of the FCRA, as alleged in this Complaint, have been knowing and have

constituted a pattern or practice of violations. As specified by the Federal Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvements Act of 1996, Pub. L. 104-134, § 31001(s)(1), 110 Stat. 1321-373, the Court is authorized to award a penalty of not more than \$2,500 per violation for violations occurring before February 10, 2009, and \$3,500 per violation for violations occurring on or after that date.

19. Each instance in which Teletrack has failed to comply with the FCRA constitutes a separate violation for the purpose of assessing monetary civil penalties under section 621 of the FCRA, 15 U.S.C. § 1681s. Plaintiff seeks monetary civil penalties for every separate violation of the FCRA.

20. Under section 621(a) of the FCRA, 15 U.S.C. § 1681s(a), and section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to grant injunctive and such other relief as the Court may deem appropriate to halt violations of the FTC Act and the FCRA.

PRAYER FOR RELIEF

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

(1) Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but

not limited to, temporary and preliminary injunctions;

(2) Enter judgment against Defendant and in favor of Plaintiff for each violation alleged in this Complaint;

(3) Enter a permanent injunction to prevent future violations of the FCRA and the FTC Act by Defendant;

(4) Award Plaintiff monetary civil penalties from Defendant for each violation of the FCRA alleged in this Complaint;

(5) Award Plaintiff the costs of bringing this action; and

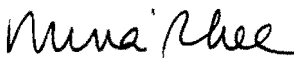
(6) Award Plaintiff such other and additional relief as the Court may deem just and proper.

Dated _____, 2011

FOR THE UNITED STATES OF
AMERICA:

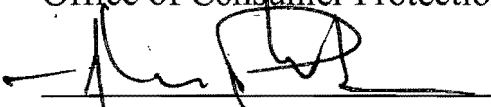
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