



Office of Commissioner
Rebecca Kelly Slaughter

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**CONCURRING STATEMENT OF COMMISSIONER
REBECCA KELLY SLAUGHTER**

In the Matter of AppFolio, Inc.
Commission File No. 1923016
December 8, 2020

Credit agencies hold immense power over our lives: whether we get the job, whether we can buy the car, and in terms of housing they quite literally hold the keys. The Fair Credit Reporting Act (FCRA) strives to offset the harms inherent to this power imbalance by requiring consumer reporting agencies (CRAs) to follow reasonable procedures to ensure the maximum possible accuracy of consumer reports. Defendant AppFolio, Inc. (“AppFolio”) failed to follow reasonable procedures in preparing background screening reports that they sold to thousands of property-management companies. Too often, AppFolio’s reports contained outdated or flat-out incorrect information about applicants’ eviction history and criminal records. AppFolio’s careless practices directly resulted in qualified tenants being turned away from potential homes.

FCRA provides a clear consequence for violators in the form of civil penalties of up to \$4,063 per violation. The FTC’s proposed settlement with AppFolio includes a civil penalty amount of \$4.25 million, which represents a significant per-violation penalty. I have pushed for the Commission to use its current rules and civil penalty authority aggressively, and this action does both. Importantly, I have also emphasized the need for Commission resolutions to achieve both specific and general deterrence, and, on balance, I am convinced that the imposition of this penalty is likely to have that effect in this specific action. For these reasons, I support this resolution.

I write separately because this resolution does not help AppFolio’s existing victims. When families are unfairly denied an apartment, they lose time, money, and sometimes hope. Victims have to figure out what happened, dispute incorrect information, begin the search for housing all over again, and in some cases pay multiple application fees. Imagine the misfortune of a consumer who applied to several of the thousands of rental companies that used AppFolio’s subpar services—doors closing again and again. While today’s settlement hopefully achieves deterrence, AppFolio’s penalty payment benefits the U.S. Treasury, not its victims.

In future actions, when CRAs engage in practices that rob consumers of their time and

money, the Commission should insist that the CRAs pay them back.¹

¹ I also want to express support for the excellent points made by my colleague, Commissioner Chopra, regarding ways to improve this settlement and future settlements. I wholeheartedly agree that this settlement and future settlements could be strengthened by requiring more specific reporting metrics, public reporting, and increased compliance accountability among corporate leadership. In addition, I agree that the FTC should work with the Department of Justice to assess whether the facts involved in these types of cases also constitute illegal housing discrimination. I am skeptical, however, that efforts to partner with DOJ staff under its current leadership would have been fruitful in this case, but I am grateful for his proposal and hope that we implement it in future cases.