

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

Commissioners: Robert Pitofsky
Mary L. Azcuenaga
Janet D. Steiger
Roscoe B. Starek, III
Christine A. Varney

In the Matter of)	DOCKET NO. C-3760
BRUNO’S, INC.,))
a corporation.)	DECISION AND ORDER
)	

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Dallas Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of Section 615(a) of the Fair Credit Reporting Act and Section 5(a) of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Bruno's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business located at 800 Lakeshore Parkway, Birmingham, Alabama 35235.

2. The acts and practices of the respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

For the purpose of this Order, the terms "consumer," "consumer report," and "consumer reporting agency" shall be defined as provided in Sections 603(c), 603(d), and 603(f), respectively, of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681a(c), 1681a(d), and 1681a(f).

I.

IT IS ORDERED that respondent Bruno's, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any application for employment, do forthwith cease and desist from failing, whenever employment is denied either wholly or partly because of information contained in a consumer report from a consumer reporting agency, to disclose to the applicant for employment at the time such adverse action is communicated to the applicant (a) that the adverse action was based wholly or partly on information contained in such a report and (b) the name and address of the consumer reporting agency making the report. Respondent shall not be held liable for a violation of Section 615(a) of the Fair Credit Reporting Act if it shows by a preponderance of the evidence that at the time of the alleged violation it maintained reasonable procedures to assure compliance with Section 615(a) of the Fair Credit Reporting Act.

II.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall for at least five (5) years from the date of issuance of this Order, maintain and upon request make available to the Federal Trade Commission for inspection and copying, documents demonstrating compliance with the requirements of Part I of this Order, such documents to include, but not be limited to, all employment evaluation criteria relating to consumer reports, instructions given to employees regarding compliance with the provisions of this Order, all written notices or a written or electronically stored notation of the description of the form of notice and date such notice was provided to applicants pursuant to any provisions of this Order, and the complete application files for all applicants for whom consumer reports were obtained for whom offers of employment are not made or have been withheld, withdrawn, or rescinded based, in whole or in part, on information contained in a consumer report.

III.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this Order at least once per year for a period of five (5) years from the date of issuance of this Order, to all persons responsible for the respondent's compliance with Section 615(a) of the Fair Credit Reporting Act.

IV.

IT IS FURTHER ORDERED that respondent shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate structure of respondent such as dissolution, assignment, or sale resulting in the emergence of a successor operation, the creation or dissolution of subsidiaries or divisions, or any other change in the corporation which may affect compliance obligations arising out of the Order.

V.

IT IS FURTHER ORDERED that respondent shall, within sixty (60) days of service of this Order, file with the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

VI.

IT IS FURTHER ORDERED that this Order will terminate on July 29, 2017, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; **provided, however**, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this Order that terminates in less than twenty (20) years;
- B. This Order's application to any respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: July 29, 1997