

FILED RECEIVED
 ENTERED SERVED ON
COUNSEL/PARTIES OF RECORD
2004 JUL 13 P 10:23
CLERK US DISTRICT COURT
DISTRICT OF NEVADA
BY _____ DEPUTY

DANIEL G. BOGDEN
United States Attorney
By: ROGER W. WENTHE
Bar Number: 8920
Assistant United States Attorney
333 South Las Vegas Boulevard
Lloyd George Federal Building, Suite 5000
Las Vegas, Nevada 89101
(702) 388-6336

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA
Plaintiff,

v.

IMPERIAL PALACE, INC., d.b.a. IMPERIAL
PALACE CASINO; and
IMPERIAL PALACE OF MISSISSIPPI, INC.

Defendants.

CV-S-04-0963-RLH-PAL

CONSENT DECREE

WHEREAS Plaintiff, the United States of America, has commenced this action by filing the Complaint herein; Defendants have waived service of the Summons and Complaint; the parties have been represented by the attorneys whose names appear hereafter; and the parties have agreed to settlement of this action upon the following terms and conditions, without adjudication of any issue of fact or law and without Defendants admitting liability or fault for any of the matters alleged in the Complaint;

THEREFORE, on the joint motion of Plaintiff and Defendants, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction of the subject matter and of the parties.
2. The Complaint states a claim upon which relief may be granted against the Defendants under Sections 5(a)(1), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a)(1), 53(b) and 56(a) and under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §§ 1681-1681u.

DEFINITIONS

3. As used in this Consent Decree:
 - a. "Fair Credit Reporting Act" or "FCRA" refers to 15 U.S.C. §§ 1681-1681u, as amended;
 - b. "Adverse action," "consumer," "consumer report," "consumer reporting agency" and "employment purposes" mean the terms as defined in Section 603 of the FCRA, 15 U.S.C. § 1681a, as amended.

CIVIL PENALTIES

4. In settlement and release of all matters that are set forth in the Complaint, Defendants, and their successors and assigns, shall pay to Plaintiff a civil penalty, without any admission of liability, pursuant to Section 621(a) of the FCRA, 15 U.S.C. § 1681s(a), in the amount of \$325,000.00.
5. Defendants shall make the payment required by Paragraph 4 within ten (10) days of

the date of entry of this Consent Decree by electronic fund transfer in accordance with instructions provided by the Office of Consumer Litigation, Civil Division, U.S. Department of Justice, Washington, DC 20530, for appropriate disposition.

6. In the event of any default in payment, which default continues for ten days beyond the due date of payment, the entire unpaid penalty, together with interest, as computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable.

INJUNCTION

7. Defendants, their successors and assigns, and their officers, agents, servants, employees and attorneys, and all persons in active concert or participation with any one or more of them who receive actual notice of this Consent Decree by personal service or otherwise, are hereby enjoined, directly or through any corporation, subsidiary, division or other device, from the following:

- a. When using a consumer report for employment purposes, failing to provide to a consumer to whom the consumer report relates, before taking adverse action against the consumer based in whole or in part on information contained in the consumer report, (1) a copy of the consumer report, and (2) a description in writing of the consumer's rights under the FCRA;
- b. After taking adverse action against a consumer based in whole or in part on information contained in a consumer report, failing to provide to the consumer: (1) notice of the adverse action taken; (2) the name, address, and telephone number of

the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) 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; and (4) notice of the consumer's right to (A) obtain, under Section 612 of the FCRA, 15 U.S.C. § 1681j, within 60 days after receiving notice of the adverse action, a free copy of the consumer report from the consumer reporting agency from which the report was obtained, and (B) dispute, under Section 611 of the FCRA, 15 U.S.C. § 1681i, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency; and

- c. Failing otherwise to comply with Sections 604 and 615 of the FCRA, 15 U.S.C. §§ 1681b and 1681m, as they may be amended from time to time.

OTHER PROVISIONS

8. Defendants, and their successors and assigns, shall within thirty (30) days of the entry of this Consent Decree, provide a copy of this Consent Decree to (a) each of their officers, agents, servants, employees, and attorneys having decision-making authority with respect to the subject matter of this Consent Decree; and (b) to each of their officers, agents, servants, employees and attorneys who use consumer reports for employment purposes. Defendants shall secure from each such person a signed statement acknowledging receipt of a copy of this Consent Decree, and

shall, within ten (10) days of complying with this paragraph, file an affidavit with the Court and serve the Federal Trade Commission, by mailing a copy thereof to the Associate Director for Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, setting forth the fact and manner of its compliance, including the name and title of each person to whom a copy of the Consent Decree has been provided.

9. For a period of five (5) years from the date of entry of this Consent Decree, Defendants, their successors and assigns, shall provide a copy of this Consent Decree to each new officer, agent, servant, employee and attorney who uses consumer reports for employment purposes. Defendants shall secure from each such person a signed statement acknowledging receipt of a copy of this Consent Decree.

10. For a period of five (5) years from the date of entry of this Consent Decree, Defendants, their successors and assigns, shall maintain and make available to the Federal Trade Commission, within seven (7) days of the receipt of a written request, business records demonstrating compliance with the terms and provisions of this Consent Decree.

11. Defendants, their successors and assigns, shall notify the Associate Director for Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, at least thirty (30) days prior to any change in Defendants' business, including, but not limited to, merger, incorporation, dissolution, assignment, and sale, which results in the emergence of a successor corporation, the creation or dissolution of a subsidiary or parent, or any other change which may affect Defendants' obligations under this Consent Decree.

12. Defendants are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to

the Federal Trade Commission its taxpayer identifying numbers, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Defendants' relationship with the government.

13. This Court shall retain jurisdiction of this matter for the purposes of enabling any of the parties to this Consent Decree to apply to the Court at any time for such further order or directives as may be necessary or appropriate for the interpretation or modification of this Consent Decree, for the enforcement of compliance therewith, or for the punishment of violations thereof, or as justice may require.

JUDGMENT IS THEREFORE ENTERED in favor of Plaintiff and against Defendants, pursuant to all the terms and conditions recited above.

Dated this ___ day of _____, 2004.

UNITED STATES DISTRICT JUDGE

The parties, by their respective counsel, hereby consent to the terms and conditions of the Consent Decree as set forth above and consent to the entry thereof. Defendants waive any rights that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, amended by Pub. L. 104-121, 110 Stat., 847, 863-64 (1996).

FOR THE UNITED STATES OF AMERICA:

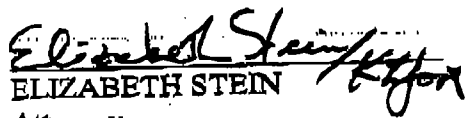
PETER D. KBISLER
Assistant Attorney General
Civil Division
U.S. Department of Justice

DANIEL G. BOGDEN
United States Attorney
District of Nevada




Assistant United States Attorney
333 South Las Vegas Boulevard
Lloyd George Federal Building, Suite 5000
Las Vegas, Nevada 89101
(702) 388-6336

EUGENE M. THIROLF
Director
Office of Consumer Litigation

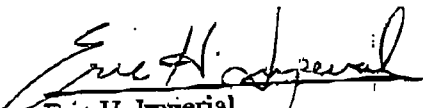


ELIZABETH STEIN
Attorney
Office of Consumer Litigation
Civil Division
U.S. Department of Justice
Washington, D.C. 20530
(202) 307-0486

FOR THE FEDERAL TRADE COMMISSION:


Joel C. Winston
Associate Director for Financial Practices


Ronald G. Isaac
Attorney



Eric H. Imperial
Attorney


Division of Financial Practices
Bureau of Consumer Protection
Federal Trade Commission
Washington, D.C. 20580
(202) 326-3231

FOR IMPERIAL PALACE, INC.:


Betty Engelstad
President

FOR IMPERIAL PALACE OF MISSISSIPPI, INC.:


Betty Engelstad
President


James H. Walton, Esq.
Nitz, Walton & Heaton, Ltd.
601 South Tenth Street, Suite 201
Las Vegas, Nevada 89101
(702) 474-4004
Attorney for Defendants

JUL-13-2004 TUE 09:39 AM

REASONS FOR SETTLEMENT

This statement accompanies the Consent Decree executed by defendants Imperial Palace, Inc., d.b.a. Imperial Palace Casino, and Imperial Palace of Mississippi, Inc. to settle an action for civil penalties and equitable relief based on defendants' violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

Pursuant to Section 5(m)(3) of the Federal Trade Commission Act, as amended (15 U.S.C. § 45(m)(3)), the Commission hereby sets forth its reasons for settlement by entry of a Consent Decree and injunction:

On the basis of the allegations contained in the attached Complaint, the Commission believes that the payment of a \$325,000 civil penalty by defendants constitutes an appropriate amount on which to base settlement. The civil penalty amount should ensure compliance with the law by defendants and others who might otherwise violate the Fair Credit Reporting Act. Further, the provisions enjoining defendants from violating the Fair Credit Reporting Act constitute an effective means to assure defendants' future compliance with the law. Additionally, with the entry of such a Consent Decree, the time and expense of litigation will be avoided.

For the foregoing reasons, the Commission believes that settlement with the defendants by entry of the attached Consent Decree is justified and well within the public interest.