



March 7, 2011

Via Electronic Filing

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex D)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: In the Matter of SettlementOne Credit Corporation, File No. 082 3208
In the Matter of ACRAnet, Inc., File No. 092 3088
In the Matter of Statewide Credit Services, File No. 092 3089

To Whom It May Concern:

The National Association of Professional Background Screeners (“NAPBS” or “Association”) appreciates the opportunity to comment on the Federal Trade Commission’s (“FTC” or “Commission”) proposed consent orders in the above referenced matters.

NAPBS is a trade association representing the interests of nearly 700 consumer reporting agencies and affiliated members in the employment, tenant and background screening industry. The Association exists to promote ethical business practices, promote compliance with the Fair Credit Reporting Act (“FCRA”) and foster awareness of issues related to consumer protection and privacy rights within the background screening industry. NAPBS provides relevant programs and training aimed at empowering members to better serve clients and to maintain standards of excellence in the background screening industry.

At the heart of proposed consent orders is the requirement that the named respondents establish and maintain a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers, including the security, confidentiality, and integrity of personal information accessible to end users.

NAPBS has two major concerns stemming from the proposed consent orders and the Commissioners’ statement. First would be the imposition of new obligations for consumer reporting agencies that provide consumer data to end-users, by holding resellers “responsible for downstream data protection failures.” Second would be the statement that the FTC will seek civil penalties against resellers of consumer reports “who do not take adequate measures to fulfill their obligation to protect information contained in consumer

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reports, as required by the Fair Credit Reporting Act.” Our concern with the latter statement being that it implies consumer reporting agencies do not take seriously the statutory requirement that consumer reports only be used for a permissible purpose pursuant to FCRA.

NAPBS’ member companies are defined as consumer reporting agencies under the FCRA and our membership includes resellers of consumer reports. The Association strongly supports robust protection of sensitive consumer information and the protection of such data is critical to our industry, as personal data is what we deal in. We also vigorously support the requirement that consumer reports should only be used for permissible purposes, as required by the FCRA. Current law requires that consumer reporting agencies have reasonable procedures to safeguard data provided to end-users; and, that consumer reports be provided only to a person which the consumer reporting agency has reason to believe has a permissible purpose for the report.

The joint statement by the Commissioners’ indicating that the FTC holds resellers “responsible for downstream data protection failures” by end-users of consumer reports is overly broad and leads us to believe that the FTC will, moving forward, bring enforcement actions focused on resellers which would impose on them statutory obligations which go beyond current requirements. If that is the case, consumer reporting agencies could always, either individually or jointly, be held liable for end-users’ and others information security programs and practices. Consumer reporting agencies go to great lengths to secure and test their own information security systems and it would be unreasonable and costly to require that they also do the same for end-users, particularly when the law already requires end-users to have in place information security policies and procedures.

No consumer reporting agency is attempting to shirk their legal obligations relative to consumer’s data and security of such. However, at some point responsibility must rest with the culpable party who either had their own internal security failure and/or misused consumer data in a manner that is not permissible under the law. NAPBS therefore asks of the Commission how far down the line a consumer reporting agency is responsible for others malfeasance or misdeeds. We object to the Commission holding resellers “responsible for downstream data protection failures.” This is an unacceptable imposition upon consumer reporting agencies to police end-users. The Commission should hold resellers responsible for consumer information and access to that information within their control, but the Commission should also hold end-users responsible for their own data security and for the requirement that consumer reports be used pursuant to a permissible purpose.

In conclusion, NAPBS is concerned with the overly broad nature of the Commissioners’ statement, and that such could impose new standards and liability on consumer reporting agencies relative to their end-users.

We appreciate the opportunity to provide these comments.

Regards,

/s/ Laura Randazzo

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Chair, Board of Directors

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