

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CERTEGY CHECK SERVICES, INC., a
Delaware corporation,

Defendant.

Civil Action No. _____

**STIPULATED FINAL JUDGMENT AND ORDER FOR CIVIL PENALTIES,
PERMANENT INJUNCTION, 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”), filed its complaint for a permanent injunction, civil penalties, and other equitable relief, pursuant to Sections 5(a), 5(m)(1)(A), 13(b), 16(a)(1), and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), 56(a)(1), and 57b; and section 621(a) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681s(a). Defendant has been represented by the attorney whose name appears hereafter. Defendant has waived service of the Summons and Complaint. Plaintiff and Defendant stipulate to the entry of this Stipulated Final Judgment and Order for Civil Penalties, Permanent Injunction, and Other Equitable Relief (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2. The Complaint states claims upon which relief may be granted against Certegy, a consumer reporting agency (“CRA”), under the FTC Act, 15 U.S.C. §§ 45(a) and 57b; sections 607(b), 611 (*et seq.*), and 612(a)(2) of the FCRA, 15 U.S.C. §§ 1681e(b), 1681i (*et seq.*), and 1681j (a)(2), as amended by sections 211 and 312 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. No. 108-159, 117 Stat. 1952 (2003) and by sections 1061 and 1088 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. 111-203, 124 Stat. 1376 (2010) (codified in scattered sections of 12 U.S.C.); and the streamlined process for requesting annual file disclosures from nationwide specialty consumer reporting agencies, 16 C.F.R. § 610.3, recodified at 12 C.F.R. § 1022.137; and the reasonable policies and procedures concerning the accuracy and integrity of furnished information, 16 C.F.R. § 660.3, recodified at 12 C.F.R. § 1022.42.

3. Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.

4. The parties waive all rights to appeal or otherwise challenge or contest the validity of this Order.

5. Defendant waives any claim it may have against the Commission, its employees, representatives, or agents that relate to the matter stated herein.

6. Plaintiff and Defendant, by and through their counsel, have agreed that the entry of this Order resolves all matters of dispute between them arising from the Complaint in this action, up to the date of entry of this Order.

7. Defendant waives any claim it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and Defendant agrees to bear its own costs and attorneys' fees.

8. Entry of this Order is in the public interest.

DEFINITIONS

For the purpose of this Order:

1. "Defendant" shall mean Certegy Check Services, Inc. ("Certegy"), its operating companies, and its successors and assigns.

2. The definitions set forth in the FCRA, 15 U.S.C. § 1681a, *et seq.*, shall apply, including but not limited to:

- a. "Person" shall mean any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.
- b. "Consumer" shall mean an individual.
- c. "Consumer Report" shall mean any written, oral, or other communication of any information by a CRA 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 (1) credit or insurance to be used primarily for personal, family, or household purposes; (2) employment purposes; or (3) any other purpose authorized under section 604 of the FCRA, 15 U.S.C. § 1681b. For exclusions, *see* section 603(d)(2) of the FCRA, 15 U.S.C. § 1681a(d)(2), a copy of which is attached as Exhibit 1.

- d. "Consumer Reporting Agency" or "CRA" shall mean 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.
- e. "File," when used in connection with information on any consumer, shall mean all of the information on that consumer recorded and retained by a CRA regardless of how the information is stored.
- f. "Nationwide specialty consumer reporting agency" shall mean a CRA that compiles and maintains files on consumers on a nationwide basis relating to (1) medical records or payments; (2) residential or tenant history; (3) check writing history; (4) employment history; or (5) insurance claims.

ORDER

I. CIVIL PENALTY

IT IS ORDERED that judgment in the amount of three million five hundred thousand dollars (\$3,500,000) is entered in favor of Plaintiff against Defendant as a civil penalty, pursuant to section 621(a) of the FCRA, 15 U.S.C. § 1681s(a).

Defendant is ordered to pay Plaintiff by making payment to the Treasurer of the United States of three million five hundred thousand dollars (\$3,500,000) within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiff.

II. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. If Defendant is in default of payment under Section I, which default continues for ten (10) days beyond the due date of payment, then the judgment amount, together with interest computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, minus any payments previously made, becomes immediately due.

B. Defendant relinquishes dominion and all legal and equitable right, title, and interest in all funds transferred pursuant to this Order and may not seek the return of any funds.

C. The facts as alleged in the Complaint filed in this action will be taken as true, without further proof, in any subsequent civil litigation filed by or on behalf of the Commission to enforce its rights to any payment or monetary judgment pursuant to this Order.

III. PROHIBITED BUSINESS ACTIVITIES

IT IS FURTHER ORDERED that Certegy, and its officers, agents, servants, employees, and all persons or entities in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with Certegy's activities as a CRA, are hereby permanently restrained and enjoined from:

A. Failing to comply with section 607(b) of the FCRA, 15 U.S.C. § 1681e(b), a copy of which is attached as Exhibit 2, including by failing to adequately track the handling and resolution of consumer disputes;

B. Failing to comply with section 611 of the FCRA, 15 U.S.C. § 1681i, a copy of which is attached as Exhibit 3, including by:

1. Requiring the consumer to contact a third party in order to resolve a dispute if Certegy can obtain sufficient information itself;

2. Failing to complete reinvestigations within thirty days or, if Certegy receives information from the consumer during that thirty-day period that is relevant to the reinvestigation, within forty-five days;

3. Failing to provide, before the expiration of the five-business-day period beginning on the date on which Certegy receives notice of a dispute from any consumer, notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that Certegy has received from the consumer;

4. After conducting a reinvestigation of any information disputed by a consumer and finding that an item of information is inaccurate, incomplete, or cannot be verified, failing to:

- i. promptly delete or modify an item of information from the consumer's file, as appropriate, and
- ii. promptly notify the furnisher of that information when the information has been modified or deleted from the consumer's file.

5. Failing to provide written notice to a consumer, within five business days of making such a determination, when Certegy terminates a reinvestigation as frivolous or irrelevant based on the consumer's failure to provide sufficient information to investigate the disputed information;

6. Failing to maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to a reinvestigation; and

7. Failing to provide written notice to a consumer of the results of a reinvestigation not later than five business days after the completion of the reinvestigation;

C. Failing to comply with section 612(a)(2) of the FCRA, 15 U.S.C. § 1681j(a)(2) and 12 C.F.R. § 1022.137, copies of which are attached as Exhibits 4 and 5, including by:

1. Failing to collect only as much personal information as is reasonably necessary to properly identify the consumer; and

2. Failing to provide consumers with copies of their consumer reports within 15 days after receipt of a request; and

D. Failing to comply with 12 C.F.R. § 1022.42, a copy of which is attached as Exhibit 6, including by failing to establish and implement written policies and procedures regarding the accuracy and integrity of information relating to consumers that is furnished to CRAs.

IV. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this Order:

A. Defendant, within seven (7) days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For three (3) years after entry of this Order, for any business that Defendant is the majority owner or controls directly or indirectly, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have decision-making authority with respect to the conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days

of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Defendant delivered a copy of this Order, Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

V. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant make timely submissions to the Commission:

A. One hundred eighty (180) days after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury. Defendant must: (1) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission or Plaintiff may use to communicate with Defendant; (2) identify all of Defendant's businesses by all of their names, telephone numbers, and physical and postal addresses for each primary business location, as well as their email and Internet addresses; (3) describe the activities of each business, including the products and services offered and the means of consumer reporting; (4) describe in detail whether and how Defendant is in compliance with each Section of this Order; and (5) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following: (1) any designated point of contact; or (2) the structure of Defendant or any entity that Defendant has any ownership interest in or directly or indirectly controls that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary or parent that engages in any acts or practices subject to this Order.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *U.S. v. Certegy Check Svcs, Inc.*

VI. RECORDKEEPING PROVISIONS

IT IS FURTHER ORDERED that Defendant must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, Defendant, in connection with providing consumer reports, must create and retain the following records:

A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. Consumer complaints regarding Defendant's compliance with the FCRA, whether received directly or indirectly, such as through a third party, and any response; and other consumer complaints received through a third party, and any response;

D. Copies of all training materials and written policies and procedures that relate to Defendant's activities in consumer reporting or Defendant's compliance with the provisions of this Order;

E. Consumer dispute files that include correspondence between customers and Defendant, and correspondence between Defendant and furnishers of disputed information, sufficient to demonstrate compliance with section 611 of the FCRA, 15 U.S.C. § 1681i, a copy of which is attached as Exhibit 3; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

VII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of Commission or Plaintiff, Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69, provided that Defendant, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this Court seeking an order including one or more of the protections set forth in Rule 26(c).

B. For matters concerning this Order, the Commission and Plaintiff are authorized to communicate directly with Defendant. Defendant must permit representatives of the Commission and Plaintiff to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission and Plaintiff may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

VIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO ORDERED:

Dated this _____ day of _____, 2013

UNITED STATES DISTRICT JUDGE

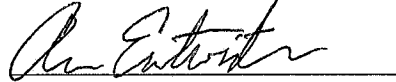
The parties, by their respective counsel, hereby consent to the terms and conditions of the Stipulated Order as set forth above and consent to the entry thereof.

**FOR THE PLAINTIFF
UNITED STATES OF AMERICA:**

STUART F. DELERY
Assistant Attorney General
Civil Division
United States Department of Justice

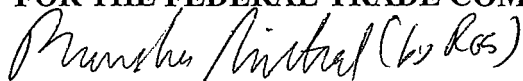
MAAME EWUSI-MENSAH FRIMPONG
Deputy Assistant Attorney General
Civil Division

MICHAEL S. BLUME
Director
Consumer Protection Branch

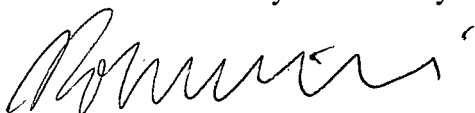


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FOR THE FEDERAL TRADE COMMISSION:



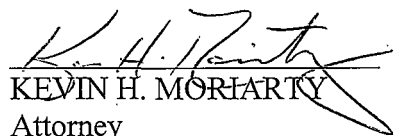
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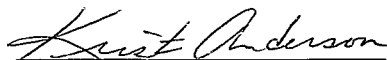
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FOR THE DEFENDANT:



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President
Certegy Check Services, Inc.



D. Jean Veta
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Exhibits:

1. Section 603(d)(2) of the FCRA, 15 U.S.C. § 1681a(d)(2)
2. Section 607(b) of the FCRA, 15 U.S.C. § 1681e(b)
3. Section 611 of the FCRA, 15 U.S.C. § 1681i
4. Section 612(a)(2) of the FCRA, 15 U.S.C. § 1681j(a)(2)
5. Streamlined process for requesting annual file disclosures from nationwide specialty consumer reporting agencies, 12 C.F.R. § 1022.137
6. Reasonable policies and procedures concerning the accuracy and integrity of furnished information, 12 C.F.R. § 1022.42

Exhibit 1

§ 603. Definitions; rules of construction [15 U.S.C. § 1681a]

...

(d) Consumer report.

...

(2) *Exclusions.* Except as provided in paragraph (3), the term "consumer report" does not include

- (A) subject to section 624, any
 - (i) report containing information solely as to transactions or experiences between the consumer and the person making the report;
 - (ii) communication of that information among persons related by common ownership or affiliated by corporate control; or
 - (iii) communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons;
- (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;
- (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of

the name and address of the person to whom the request was made, and such person makes the disclosures to the consumer required under section 615 [§ 1681m]; or

- (D) a communication described in subsection (o) or (x) among such persons;

Exhibit 2

§ 607. Compliance procedures [15 U.S.C. § 1681e]

...

(b) *Accuracy of report.* Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

Exhibit 3

§ 611. Procedure in case of disputed accuracy [15 U.S.C. § 1681i]

(a) Reinvestigations of Disputed Information

(1) Reinvestigation Required

- (A) *In general.* Subject to subsection (f), if the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly, or indirectly through a reseller, of such dispute, the agency shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (5), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer or reseller.
- (B) *Extension of period to reinvestigate.* Except as provided in subparagraph (c), the 30-day period described in subparagraph (A) may be extended for not more than 15 additional days if the consumer reporting agency receives information from the consumer during that 30-day period that is relevant to the reinvestigation.
- (C) *Limitations on extension of period to reinvestigate.* Subparagraph (B) shall not apply to any reinvestigation in which, during the 30-day period described in subparagraph (A), the information that is the subject of the

reinvestigation is found to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

(2) Prompt Notice of Dispute to Furnisher of Information

(A) *In general.* Before the expiration of the 5-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer or a reseller in accordance with paragraph (1), the agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer or reseller.

(B) *Provision of other information.* The consumer reporting agency shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer or the reseller after the period referred to in subparagraph (A) and before the end of the period referred to in paragraph (1)(A).

(3) Determination That Dispute Is Frivolous or Irrelevant

(A) *In general.* Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure

by a consumer to provide sufficient information to investigate the disputed information.

(B) *Notice of determination.* Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

(C) *Contents of notice.* A notice under subparagraph (B) shall include

- (i) the reasons for the determination under subparagraph (A); and
- (ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(4) *Consideration of consumer information.* In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1)(A) with respect to such disputed information.

(5) *Treatment of Inaccurate or Unverifiable Information*

(A) *In general.* If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall—

- (i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the reinvestigation; and
 - (ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.
- (B) Requirements Relating to Reinsertion of Previously Deleted Material
 - (i) *Certification of accuracy of information.* If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.
 - (ii) *Notice to consumer.* If any information that has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing not later than 5 business days after the reinsertion or, if authorized by the consumer for that purpose, by any other means available to the agency.
 - (iii) *Additional information.* As part of, or in addition to, the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing not later than 5 business days after the date of the reinsertion

- (I) a statement that the disputed information has been reinserted;
 - (II) the business name and address of any furnisher of information contacted and the telephone number of such furnisher, if reasonably available, or of any furnisher of information that contacted the consumer reporting agency, in connection with the reinsertion of such information; and
 - (III) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.
- (C) *Procedures to prevent reappearance.* A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).
- (D) *Automated reinvestigation system.* Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to that consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies.
- (6) Notice of Results of Reinvestigation

- (A) *In general.* A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.
- (B) *Contents.* As part of, or in addition to, the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing before the expiration of the 5-day period referred to in subparagraph (A)
- (i) a statement that the reinvestigation is completed;
 - (ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;
 - (iii) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the business name and address of any furnisher of information contacted in connection with such information and the telephone number of such furnisher, if reasonably available;
 - (iv) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and
 - (v) a notice that the consumer has the right to request under subsection (d) that the consumer reporting agency furnish notifications under that subsection.

- (7) Description of reinvestigation procedure. A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iii) by not later than 15 days after receiving a request from the consumer for that description.
 - (8) Expedited dispute resolution. If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (5)(A) by the deletion of the disputed information by not later than 3 business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1)(A), then the agency shall not be required to comply with paragraphs (2), (6), and (7) with respect to that dispute if the agency
 - (A) provides prompt notice of the deletion to the consumer by telephone;
 - (B) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with subparagraph (C), a statement of the consumer's right to request under subsection (d) that the agency furnish notifications under that subsection; and
 - (C) provides written confirmation of the deletion and a copy of a consumer report on the consumer that is based on the consumer's file after the deletion, not later than 5 business days after making the deletion.
- (b) *Statement of dispute.* If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

- (c) *Notification of consumer dispute in subsequent consumer reports.* Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.
- (d) *Notification of deletion of disputed information.* Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) of this section to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information.
- (e) Treatment of Complaints and Report to Congress
- (1) *In general.* The Bureau shall –
- (A) compile all complaints that it receives that a file of a consumer that is maintained by a consumer reporting agency described in section 603(p) contains incomplete or inaccurate information, with respect to which, the consumer appears to have disputed the completeness or accuracy with the consumer reporting agency or otherwise utilized the procedures provided by subsection (a); and
- (B) transmit each such complaint to each consumer reporting agency involved.

- (2) *Exclusion.* Complaints received or obtained by the Bureau pursuant to its investigative authority under the Consumer Financial Protection Act of 2010 shall not be subject to paragraph (1).
 - (3) *Agency responsibilities.* Each consumer reporting agency described in section 603(p) that receives a complaint transmitted by the Bureau pursuant to paragraph (1) shall –
 - (A) review each such complaint to determine whether all legal obligations imposed on the consumer reporting agency under this title (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint;
 - (B) provide reports on a regular basis to the Bureau regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints; and
 - (C) maintain, for a reasonable time period, records regarding the disposition of each such complaint that is sufficient to demonstrate compliance with this subsection.
 - (4) *Rulemaking authority.* The Bureau may prescribe regulations, as appropriate to implement this subsection.
 - (5) *Annual report.* The Bureau shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an annual report regarding information gathered by the Bureau under this subsection.
- (f) Reinvestigation Requirement Applicable to Resellers

- (1) *Exemption from general reinvestigation requirement.* Except as provided in paragraph (2), a reseller shall be exempt from the requirements of this section.
- (2) *Action required upon receiving notice of a dispute.* If a reseller receives a notice from a consumer of a dispute concerning the completeness or accuracy of any item of information contained in a consumer report on such consumer produced by the reseller, the reseller shall, within 5 business days of receiving the notice, and free of charge –
 - (A) determine whether the item of information is incomplete or inaccurate as a result of an act or omission of the reseller; and
 - (B)
 - (i) if the reseller determines that the item of information is incomplete or inaccurate as a result of an act or omission of the reseller, not later than 20 days after receiving the notice, correct the information in the consumer report or delete it; or
 - (ii) if the reseller determines that the item of information is not incomplete or inaccurate as a result of an act or omission of the reseller, convey the notice of the dispute, together with all relevant information provided by the consumer, to each consumer reporting agency that provided the reseller with the information that is the subject of the dispute, using an address or a notification mechanism specified by the consumer reporting agency for such notices.
- (3) *Responsibility of consumer reporting agency to notify consumer through reseller.*
Upon the completion of a reinvestigation under this section of a dispute

concerning the completeness or accuracy of any information in the file of a consumer by a consumer reporting agency that received notice of the dispute from a reseller under paragraph (2) –

(A) the notice by the consumer reporting agency under paragraph (6), (7), or (8) of subsection (a) shall be provided to the reseller in lieu of the consumer; and

(B) the reseller shall immediately reconvey such notice to the consumer, including any notice of a deletion by telephone in the manner required under paragraph (8)(A).

(4) *Reseller reinvestigations.* No provision of this subsection shall be construed as prohibiting a reseller from conducting a reinvestigation of a consumer dispute directly.

Exhibit 4

§ 612. Charges for certain disclosures [15 U.S.C. § 1681j]

(a) Free Annual Disclosure

(2) *Timing.* A consumer reporting agency shall provide a consumer report under paragraph (1) not later than 15 days after the date on which the request is received under paragraph (1).

Exhibit 5

12 C.F.R. § 1022.137. Streamlined process for requesting annual file disclosures from nationwide specialty consumer reporting agencies.

(a) *Streamlined process requirements.* Any nationwide specialty consumer reporting agency shall have a streamlined process for accepting and processing consumer requests for annual file disclosures. The streamlined process required by this part shall:

- (1) Enable consumers to request annual file disclosures by a toll-free telephone number that:
 - (i) Provides clear and prominent instructions for requesting disclosures by any additional available request methods, that do not interfere with, detract from, contradict, or otherwise undermine the ability of consumers to obtain annual file disclosures through the streamlined process required by this part;
 - (ii) Is published, in conjunction with all other published numbers for the nationwide specialty consumer reporting agency, in any telephone directory in which any telephone number for the nationwide specialty consumer reporting agency is published; and
 - (iii) Is clearly and prominently posted on any Web site owned or maintained by the nationwide specialty consumer reporting agency that is related to consumer reporting, along with instructions for requesting disclosures by any additional available request methods; and
- (2) Be designed, funded, implemented, maintained, and operated in a manner that:

- (i) Has adequate capacity to accept requests from the reasonably anticipated volume of consumers contacting the nationwide specialty consumer reporting agency through the streamlined process, as determined in compliance with paragraph (b) of this section;
- (ii) Collects only as much personal information as is reasonably necessary to properly identify the consumer as required under the FCRA, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations; and
- (iii) Provides clear and easily understandable information and instructions to consumers, including but not necessarily limited to:
 - (A) Providing information on the status of the consumers request while the consumer is in the process of making a request;
 - (B) For a Web site request method, providing access to a “help” or “frequently asked questions” screen, which includes more specific information that consumers might reasonably need to order their file disclosure, the answers to questions that consumers might reasonably ask, and instructions whereby a consumer may file a complaint with the nationwide specialty consumer reporting agency and with the Bureau; and
 - (C) In the event that a consumer requesting a file disclosure cannot be properly identified in accordance with the FCRA, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations, providing a statement that the consumers identity

cannot be verified; and directions on how to complete the request, including what additional information or documentation will be required to complete the request, and how to submit such information.

(b) *Requirement to anticipate.* A nationwide specialty consumer reporting agency shall implement reasonable procedures to anticipate, and respond to, the volume of consumers who will contact the nationwide specialty consumer reporting agency through the streamlined process to request, or attempt to request, file disclosures, including developing and implementing contingency plans to address circumstances that are reasonably likely to occur and that may materially and adversely impact the operation of the nationwide specialty consumer reporting agency, a request method, or the streamlined process.

(1) The contingency plans required by this section shall include reasonable measures to minimize the impact of such circumstances on the operation of the streamlined process and on consumers contacting, or attempting to contact, the nationwide specialty consumer reporting agency through the streamlined process.

(i) Such reasonable measures to minimize impact shall include, but are not necessarily limited to:

(A) To the extent reasonably practicable under the circumstances, providing information to consumers on how to use another available request method;

(B) To the extent reasonably practicable under the circumstances, communicating, to a consumer who attempts but is unable to make

a request, the fact that a condition exists that has precluded the nationwide specialty consumer reporting agency from accepting all requests, and the period of time after which the agency is reasonably anticipated to be able to accept the consumers request for an annual file disclosure; and

(C) Taking all reasonable steps to restore the streamlined process to normal operating status as quickly as reasonably practicable under the circumstances.

(ii) Measures to minimize impact may also include, as appropriate, collecting request information but declining to accept the request for processing until a reasonable later time, provided that the consumer is clearly and prominently informed, to the extent reasonably practicable under the circumstances, of when the request will be accepted for processing.

(2) A nationwide specialty consumer reporting agency shall not be deemed in violation of paragraph (a)(2)(i) of this section if the toll-free telephone number required by this part is unavailable to accept requests for a reasonable period of time for purposes of conducting maintenance on the request method, provided that the nationwide specialty consumer reporting agency makes other request methods available to consumers during such time.

(c) *High request volume and extraordinary request volume—*

(1) *High request volume.* Provided that the nationwide specialty consumer reporting agency has implemented reasonable procedures developed in accordance with paragraph (b) of this section, entitled “requirement to anticipate,” a nationwide

specialty consumer reporting agency shall not be deemed in violation of paragraph (a)(2)(i) of this section for any period of time during which a streamlined process request method or the nationwide specialty consumer reporting agency experiences high request volume, if the nationwide specialty consumer reporting agency:

- (i) Collects all consumer request information and delays accepting the request for processing until a reasonable later time; and
- (ii) Clearly and prominently informs the consumer of when the request will be accepted for processing.

(2) *Extraordinary request volume.* Provided that the nationwide specialty consumer reporting agency has implemented reasonable procedures developed in accordance with paragraph (b) of this section, entitled “requirement to anticipate,” a nationwide specialty consumer reporting agency shall not be deemed in violation of Paragraph (a)(2)(i) of this section for any period of time during which a streamlined process request method or the nationwide specialty consumer reporting agency experiences extraordinary request volume.

(d) *Information use and disclosure.* Any personally identifiable information collected from consumers as a result of a request for annual file disclosure, or other disclosure required by the FCRA, made through the streamlined process, may be used or disclosed by the nationwide specialty consumer reporting agency only:

- (1) To provide the annual file disclosure or other disclosure required under the FCRA requested by the consumer;

- (2) To process a transaction requested by the consumer at the same time as a request for annual file disclosure or other disclosure;
 - (3) To comply with applicable legal requirements, including those imposed by the FCRA and this part; and
 - (4) To update personally identifiable information already maintained by the nationwide specialty consumer reporting agency for the purpose of providing consumer reports, provided that the nationwide specialty consumer reporting agency uses and discloses the updated personally identifiable information subject to the same restrictions that would apply, under any applicable provision of law or regulation, to the information updated or replaced.
- (e) *Requirement to accept or redirect requests.* If a consumer requests an annual file disclosure through a method other than the streamlined process established by the nationwide specialty consumer reporting agency in compliance with this part, a nationwide specialty consumer reporting agency shall:
- (1) Accept the consumers request; or
 - (2) Instruct the consumer how to make the request using the streamlined process required by this part.

Exhibit 6

12 C.F.R. § 1022.42. Reasonable policies and procedures concerning the accuracy and integrity of furnished information.

- (a) *Policies and procedures.* Each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.
- (b) *Guidelines.* Each furnisher must consider the guidelines in appendix E of this part in developing its policies and procedures required by this section, and incorporate those guidelines that are appropriate.
- (c) *Reviewing and updating policies and procedures.* Each furnisher must review its policies and procedures required by this section periodically and update them as necessary to ensure their continued effectiveness.