

Complaint

IN THE MATTER OF

CREDIT BUREAU OF LORAIN, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FAIR CREDIT REPORTING ACTS

Docket C-2287. Complaint, Sept. 19, 1972—Decision, Sept. 19, 1972.

Consent order requiring a Lorain, Ohio, credit bureau among other things to cease violating the Fair Credit Reporting Act by failing to require users of consumer reports to identify themselves and certify in writing the purpose for which the information is sought and not used for any other purpose; failing to incorporate in "Membership Contracts" that information will be requested only for the members' exclusive use in connection with the extension of credit, employment, insurance, governmental use, or other legitimate business transaction involving the consumer; failing to require non-consumer credit customers to furnish required information; failing to forbid employees to obtain reports on themselves or associates; and failing to cease doing business with any user of the reports who does not follow the procedures specified by this order.

COMPLAINT

Pursuant to the provisions of the Fair Credit Reporting Act and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Credit Bureau of Lorain, Inc., a corporation, and Harry C. Koller, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Credit Bureau of Lorain, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 314 9th Street, Lorain, Ohio.

Respondent Harry C. Koller is an individual and is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including those hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for sometime in the past have been, for monetary fees and/or dues, regularly engaged in the practice of assembling or evaluating information on consumers for the purpose of furnishing to third parties consumer reports, as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act. Re-

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spendents regularly use a means or facility of interstate commerce for the purpose of preparing and furnishing said consumer reports. Therefore, respondents are a consumer reporting agency, as "consumer reporting agency" is defined in Section 603(f) of the Fair Credit Reporting Act.

PAR. 3. Subsequent to April 25, 1971, in the ordinary course and conduct of their business as a consumer reporting agency, respondents:

1. Failed, as to users of respondents' credit reporting service who were users or "members" prior to April 25, 1971, to establish procedures requiring said users to certify the purposes for which the information on consumers is sought and that the information will be used for no other purpose.

2. Failed to require prospective users who became "members" of respondents' service after April 25, 1971, to certify the purposes for which the requested information was sought.

Therefore, respondents failed to maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes specified under Section 604 of the Fair Credit Reporting Act, thereby violating Section 607 of the Fair Credit Reporting Act.

PAR. 4. In the ordinary course and conduct of respondents' business, as aforesaid, respondents contracted to provide their services to persons such as private legal counsel, who do not, in the ordinary course of business, regularly extend credit or insurance for personal, family or household use. Respondents knew, or should have known, that said persons may not have a permissible purpose for consumer reports pursuant to Section 604 of the Fair Credit Reporting Act. Despite such knowledge, respondents provided consumer reports to such persons when they had no permissible purpose for a report under Section 604 of the Act. Further, respondents failed to obtain from such persons, at the time of their request for the consumer reports, a written certification of the purpose for which the reports were sought. Accordingly, respondents failed to maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes specified under Section 604 of the Fair Credit Reporting Act, thereby violating Section 607 of the Fair Credit Reporting Act.

PAR. 5. Respondents' aforesaid failures to comply with the provisions of the Fair Credit Reporting Act constitute violations of that Act and, pursuant to Section 621 thereof, respondents have thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Cleveland Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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 respondents 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 respondents have 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 thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Credit Bureau of Lorain, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 314 9th Street, in the city of Lorain, State of Ohio.

Respondent Harry C. Koller is an individual and is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of said corporation, and his principal office and place of business is located at the above-stated address.

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

ORDER

It is ordered, That respondents Credit Bureau of Lorain, Inc., a corporation, its successors and assigns, and its officers, and Harry C. Koller, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any

corporation, subsidiary, division, or other device, in connection with the collecting, assembling or furnishing of consumer reports, as "consumer report" is defined in the Fair Credit Reporting Act (15 U.S.C. 1601 *et seq.*), shall forthwith cease and desist from:

1. Failing to require all prospective users of consumer reports to identify themselves and to certify, in writing, through a "Membership Contract" with the respondents, the purpose for which the information is sought and that the information will be used for no other purpose, in accordance with Section 607 of the Fair Credit Reporting Act.

2. Failing to require prospective users of consumer reports, who are not, in the ordinary course of business, regularly extending consumer credit and/or consumer insurance, to identify themselves and to certify, in writing, either at the time the prospective users seek each consumer report, or within ten (10) business days after an oral certification of a request for each consumer report, the purpose for which the information is sought and that the information will be used for no other purpose, in accordance with Section 607 of the Fair Credit Reporting Act.

3. Failing to incorporate the following statements on the face of all "Membership Contracts" between the respondents and the prospective users of consumer reports, with such conspicuousness and clarity as is likely to be read and understood by the prospective users of consumer reports:

1. Information will be requested only for the Members' exclusive use, and the Member certifies that inquiries will be made only for one or more of the following permissible purposes and no other:

a. In connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

b. In connection with employment purposes; or

c. In connection with the underwriting of insurance involving the consumer; or

d. In connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

e. In connection with a legitimate business need for the information in connection with a business transaction involving the consumer.

2. Member, who is not, in the ordinary course of business, regularly extending consumer credit and/or consumer insurance, agrees to inform the Credit Bureau of the purpose for which each report is sought, at the time each such report is ordered.

3. Reports on employees will be requested only by the Members' designated representatives. Employees will be forbidden to attempt to obtain reports on themselves, associates, or any other person except in the exercise of their official duties.

4. It is understood by the member that Public Law 91-508, § 619, states "Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than \$5,000 or imprisoned not more than one year, or both."

4. Failing to cease doing business with any prospective user or user of consumer reports who does not follow any of the oral or written procedures as specified by this order.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the assembling or evaluating of information on consumers for the purpose of furnishing to third parties consumer reports and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged, as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale, resultant in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained herein.

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IN THE MATTER OF

VIRGINIA CRAFTS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS