

FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING ACTS

Docket C-2618. Complaint, Dec. 24, 1974—Decision, Dec. 24, 1974

Consent order requiring a Syracuse, N.Y., credit bureau, among other things to cease furnishing credit reports on consumers to persons it had no reason to believe intended to use the information for a permissible purpose; failing to disclose to properly identified consumers information in their files; failing to reinvestigate disputed information within a reasonable period of time; and imposing fees for making required disclosures or when conducting a reinvestigation.

Appearances

For the Commission: *Martin Gorman.*

For the respondents: *Wallace J. McDonald, Bond, Schoeneck & King,*
New York, N. Y.

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 Greater Syracuse, Inc., a corporation, and Richard W. Viale, 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 Greater Syracuse, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 107 University Building, Syracuse, N. Y.

Respondent Richard W. Viale 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 some time in the past have been, for monetary fees and/or dues, regularly engaged in the practice of assembling or evaluating consumer credit information 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. Respondents 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. Respondents in the ordinary course and conduct of their business as aforesaid are now, and subsequent to April 25, 1971 have been, engaged in the preparation, offering for sale, sale and distribution of information on consumers, including consumer reports, as defined in Section 603(d) of the Fair Credit Reporting Act.

PAR. 4. In the ordinary course and conduct of their business, as aforesaid, respondents have furnished, and are furnishing, consumer reports, as that term is defined in Section 603(d) of the Fair Credit Reporting Act, to persons whom they have no reason to believe intend to use the information for one of the permissible purposes set out in Section 604 of the Fair Credit Reporting Act, and respondents thereby were and are in violation of that Section of the Act.

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PAR. 5. In the ordinary course and conduct of their business, as aforesaid, respondents have been and are being requested by consumers, who properly identify themselves, to disclose information in their files on the consumers. In response to these requests, in certain instances, respondents fail to clearly and accurately disclose the nature and substance of all information, except medical information as the term "medical information" is defined in Section 603(i) of the Fair Credit Reporting Act, contained in their files, as the term "File" is defined in Section 603(g) of the Fair Credit Reporting Act, at the time of the request.

PAR. 6. By and through the use of the practices described in Paragraph Five above, respondents have violated and are violating the provisions of Section 609 of the Fair Credit Reporting Act.

PAR. 7. In the ordinary course and conduct of their business, as aforesaid, respondents, in certain instances, have failed to disclose the information in consumers' files pursuant to Section 609 of the Fair Credit Reporting Act when requested to do so by telephone or have discouraged such disclosures.

PAR. 8. By and through the use of the practice described in Paragraph Seven above, respondents have violated and are violating the provisions of Section 610 of the Fair Credit Reporting Act.

PAR. 9. In the ordinary course and conduct of their business as aforesaid, respondents, in certain instances:

- (1) have failed to reinvestigate items of information, the completeness or accuracy of which is disputed by the consumer;
- (2) have failed to record the current status of disputed information and to promptly delete information which can no longer be verified;
- (3) have failed to provide notification that an item of information has been deleted or corrected to recipients of previous reports (within the past two years for employment purposes and the past six months for any other purpose) when specifically requested to do so by the consumer.

PAR. 10. By and through the use of the practices described in Paragraph Nine above, respondents have violated and are violating the provisions of Section 611 of the Fair Credit Reporting Act.

PAR. 11. In the ordinary course and conduct of their business, as aforesaid, in certain instances where consumers within thirty days after receipt of a notification pursuant to Section 615 have made a request for disclosures or notification pursuant to Sections 609 and 611(d) respectively, respondents have imposed a charge on consumers for making the disclosures and notification, pursuant to Sections 609 and 611(d) of the Fair Credit Reporting Act.

PAR. 12. By and through the use of the practices described in Paragraph Eleven above, respondents have violated and are violating the provisions of Section 612 of the Fair Credit Reporting Act.

PAR. 13. In the ordinary course and conduct of their business, as aforesaid, respondents, in certain instances, have imposed a charge on consumers when conducting a reinvestigation of disputed information in a consumer's file pursuant to the requirements of Section 611(a) of the Fair Credit Reporting Act.

PAR. 14. By and through the use of the practice described in Paragraph Thirteen above, respondents have violated and are violating the provisions of Section 612 of the Fair Credit Reporting Act.

PAR. 15. The acts and practices set forth in Paragraph Three through Fourteen above, were and are in violation of the Fair Credit Reporting Act, and pursuant to Section 621(a) of that Act, said acts and practices constitute unfair or deceptive acts or practices in commerce in violation of Section 5(a) of 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 New York 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 Fair Credit Reporting Act and 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 sixty (60) 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 Greater Syracuse, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 107 University Building, Syracuse, N. Y.

Respondent Richard W. Viale is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporate respondent. 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 Greater Syracuse, Inc., a corporation, its successors and assigns, and its officer Richard W. Viale, 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 Section 603(d) of the Fair Credit Reporting Act (Pub. L. No. 91-508, 15 U.S.C. 1601, *et seq.*), shall forthwith cease and desist from:

1. Submitting consumer report information to persons whom respondents have no reason to believe intend to use the information for a permissible purpose as set out in Section 604 of the Act.

2. Failing to disclose to any consumer, upon request and proper identification, the nature and substance of all information (including claims information, but excluding medical information) in respondents' files on the consumer at the time of the request, in accordance with Section 609(a) of the Fair Credit Reporting Act.

3. Failing to make the disclosures required by Section 609 of the Fair Credit Reporting Act by telephone as required by Section 610 of the Act, or discouraging such disclosures.

4. Failing within ten working days to:

(a) reinvestigate any item of information, the completeness or accuracy of which is disputed by the consumer and record the current status of the information unless they have reasonable grounds to believe the dispute is frivolous or irrelevant, as required by Section 611(a) of the Act.

(b) delete any information which is found to be inaccurate or can no longer be verified, as required by Section 611(a) of the Act.

5. Failing to provide notification that an item of information has been deleted or corrected to recipients of previous reports (within the past two years for employment purposes and the past six months for any other purpose) when specifically requested to do so by the consumer, as required by Section 611(d) of the Act.

6. Imposing a charge on consumers for making disclosures pursuant to Section 609, and when furnishing consumer reports pursuant to Section 611(d), when requested by consumers within 30 days after receipt of a notification pursuant to Section 615 of some adverse action, in accordance with the requirements of Section 612 of the Fair Credit Reporting Act.

7. Imposing a charge on consumers when conducting a reinvestigation of disputed information in a consumer's files as required by Section 611(a) of the Fair Credit Reporting Act.

It is further ordered, That respondents herein shall deliver a copy of this order to cease and desist to all present and future personnel, including employees and representatives, engaged in the preparation of reports including consumer reports, and engaged in the disclosure and reinvestigation of all information in said 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 respondents, such as dissolution, assignment or sale, resulting 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 herein 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 this order.

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IN THE MATTER OF

PHILLIPS PETROLEUM COMPANY

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 8930. Complaint, May 15, 1973—Final Order, Dec. 27, 1974*

Consent order requiring a Bartlesville, Okla., distributor of petroleum, tires, batteries and automobile accessories, among other things to cease engaging in anticompetitive practices with respect to its lessee dealers. Further, with few exceptions allowed, respondent must offer its dealers leases with a term of not less than five years.

Appearances

For the Commission: *Martin A. Rosen* and *Richard L. Williams*.

For the respondent: *Lewis J. Ottaviani*, Bartlesville, Okla., *Robert A. Aitman* and *Carson M. Glass*, *Clifford, Warnke, Glass, McIlwain & Finney*, Wash., D.C.

COMPLAINT

The Federal Trade Commission having reason to believe that the Phillips Petroleum Company, a corporation, hereinafter sometimes referred to as respondent, has violated and is now violating the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C. Section 45), and it appearing that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

PARAGRAPH 1. For purposes of this complaint, the following definitions shall apply:

1. "Lessee dealer" means a tenant operating a gasoline service station under lease from Phillips Petroleum Company.
2. "Cancel or cancellation" means to terminate, invalidate or refuse to renew any lease of a lessee dealer for any reason whatsoever.
3. "TBA" means tires, batteries and accessories for automobiles.
4. "Petroleum products" means those products produced from petroleum and sold by lessee dealers.

PAR. 2. Respondent, Phillips Petroleum Company, ("Phillips"), is a corporation organized and doing business under the laws of the State of Delaware, with its principal place of business located in Bartlesville, Okla.

PAR. 3. Phillips Petroleum Company is a major oil company primarily engaged in the offering for sale, sale and distribution of petroleum and