

IN THE MATTER OF
CHECKMATE INQUIRY SERVICE, INC., ET AL.

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

Docket C-2728. Complaint, Sept. 22, 1975-Decision, Sept. 22, 1975

Consent order requiring a New York City consumer credit reporting agency, among other things to cease failing to comply with the requirements of the Fair Credit Reporting Act pertaining to the reporting of information disputed by the consumer. Respondents are further required to retain evidence of compliance for a period of two years.

Appearances

For the Commission: *Salvatore F. Sangiorgi.*
For the respondents: *Pro se.*

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 Checkmate Inquiry Service, Inc., a corporation, and Samuel Berke, 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 Checkmate Inquiry Service, 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 29 E. 10th St., New York, N.Y.

Respondent Samuel Berke 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 Apr. 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. Respondents fail to:

A. Clearly and conspicuously disclose to the consumer his or her right to request that a consumer statement, codification, or summary thereof with respect to disputed information, be sent by respondents to persons designated by the consumer and who have received the disputed information within the previous two years for employment purposes or within the previous six months for any other purpose;

B. Furnish the consumer statement, codification or summary thereof to any persons specifically designated by the consumer and qualified under Section 611(d) of the Fair Credit Reporting Act to receive such information.

Therefore, respondents are in violation of Section 611(d) of the Fair Credit Reporting Act.

PAR. 5. When a dispute cannot be resolved and the consumer submits a brief statement of his or her version of the nature of the dispute, respondents fail to clearly note in subsequent consumer reports containing the information in question that it is disputed by the consumer and provide either the consumer statement or a clear and accurate codification or summary thereof.

Therefore, respondents are in violation of Section 611(c) of the Fair Credit Reporting Act.

PAR. 6. The acts and practices and omissions set forth in Paragraphs Four and Five are in violation of the Fair Credit Reporting Act and, pursuant to Section 621(a) of that Act, respondents have thereby violated 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 of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Checkmate Inquiry Service, 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 29 E. 10th St., New York, N.Y.

Respondent Samuel Berke 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 Checkmate Inquiry Service, Inc., a corporation, its successors and assigns, and its officer Samuel Berke, 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. Failing to explicitly disclose in writing to the consumer his or her right to request that a consumer statement with respect to disputed information be sent by respondents to persons designated by the consumer who have received the deleted or disputed information within two years for employment purposes or within six months for any other purpose. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

2. Failing to furnish any consumer statement, codification or summary thereof to any person designated by the consumer and qualified under Section 611(d) of the Fair Credit Reporting Act to receive such information. Such notification shall take place within five business days after the deletion or receipt of the consumer's request that the statement, codification or summary be sent.

3. Failing, whenever a statement of dispute has been filed, unless there are reasonable grounds to believe that the statement of dispute is frivolous or irrelevant, to clearly note in any subsequent consumer report containing the information in question that it is disputed by the consumer, and to provide either the consumer's statement or a clear and accurate codification or summary thereof.

It is further ordered, That respondents shall, at all times subsequent to the effective date of this order, maintain complete business records relative to the manner and form of their compliance with this order during the immediately preceding two-year period. Such records shall include all correspondence with consumers and consumer report applicants, policy directives, completely filled out interview reports, complaints from consumers and consumer report applicants, and other pertinent documents. Such records shall be kept in chronological order separate from the consumer files and shall be made available for inspection and photocopying by any authorized representative of the Federal Trade Commission upon reasonable notice at respondents' place of business or other properly designated location.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all employees now or thereafter engaged in the collecting, assembling, evaluating or furnishing of consumer information to third parties and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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, 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 this order.

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 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.
