

Modifying Order

100 F.T.C.

IN THE MATTER OF
EQUIFAX INC.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING ACTS

Docket 8954. Final Order, Dec. 15, 1980—Modified Order, Oct. 18, 1982

The FTC, in accordance with a decision rendered by the Court of Appeals for the Eleventh Circuit on June 18, 1982, has modified its Final Order In the Matter of Equifax Inc., issued on Dec. 15, 1980 (96 F.T.C. 844). The modified order, effective Oct. 18, 1982, deletes Paragraphs C and D of Part I of the Order, eliminating references concerning the amount of adverse information the company's employees generate about consumers.

MODIFIED ORDER TO CEASE AND DESIST

Respondent having filed in what is now the United States Court of Appeals for the Eleventh Circuit a petition for review of the Commission's cease and desist order issued on December 15, 1980; and the Court having rendered its decision setting aside in part the Commission's order:

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read:

I

It is ordered, That respondent Equifax Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the collection, preparation, assembly, sale, or distribution of consumer reports, investigative consumer reports, and files, as "consumer report," "investigative consumer report," and "file" are defined in Section 603(d), (e) and (g) of the Fair Credit Reporting Act (Pub. Law No. 91-508, 15 U.S.C. 1681 *et seq.*) ("the Act") and interpreted in the opinion of the Commission which accompanied the cease and desist order issued on December 15, 1980 (except credit reports prepared by Credit Bureau, Inc. of Georgia, Credit Bureau of Montreal, Ltd., and Credit Marketing Services), shall cease and desist from:

A. Representing, directly or by implication, during the preparation of any report, that investigative personnel employed by Equifax are agents or employees of the company to which the consumer who is the subject of the report has applied for a benefit.

B. Submitting consumer report information to any of its customers who have previously received a consumer report regarding the same consumer, unless: in response to the order of a court having jurisdiction to issue such an order; in accordance with the written instructions of the consumer to whom it relates; or respondent has reason to believe the requester intends to use the information for a permissible purpose as set out in Section 604 of the Act.

C. Including in a consumer report concerning employment at an annual salary of less than \$20,000 any notice or other statement that indicates directly or indirectly by means of boilerplate language the existence of items of adverse information, the disclosure of which is prohibited by Section 605 of the Act; *provided, however*, that language notifying the customer of the statutory limitations on the reporting of adverse information may be included in the type of consumer report to which this paragraph applies if it is included in all such reports, regardless of whether a particular consumer's file contains adverse information which the statute prohibits from being reported; and *provided further*, that it is accompanied by an explanation that the notification is included in all reports of the type to which this paragraph applies and is not intended to imply the existence of obsolete adverse information which may not be reported.

D. Misrepresenting to any consumer who requests information concerning himself or herself in respondent's files, the consumer's rights to obtain disclosure by telephone under Section 610 of the Act.

E. Failing:

1. To make available to any consumer who requests information concerning himself or herself in respondent's files, in person or by mail, at the consumer's option, all forms which he or she must execute in connection with the requirements of Section 610 of the Act to receive disclosure to which the consumer is entitled under the Act and this order; and

2. To inform the consumer: that he or she has the right to disclosure upon proper identification, by telephone if he or she pays any toll charge, or in person, at the consumer's option; and what constitutes proper identification.

F. Failing to give disclosure required by Section 609 of the Act to any consumer who has requested disclosure, has provided proper identification as required by respondent under Section 610 of the Act, and has paid or accepted any charges which may be imposed under Section 612 of the Act.

G. Failing, when giving consumers disclosure, to disclose the nature and substance of all information (excluding medical informa-

tion as defined in Section 603(i) of the Act) in its files on the consumer at the time of the request, as required by Section 609 of the Act.

H. Requiring a consumer, as a prerequisite to disclosing information from the consumer's file pursuant to Section 609 of the Act, to fill out or sign a form which authorizes respondent to conduct a reinvestigation of any item the consumer may dispute, or to transmit the results of such reinvestigation to persons to whom it has previously reported the disputed information or which authorizes any business, organization, professional person or anyone else to give full information and records about said consumer to respondent; or interposing any other similar condition or requirement which exceeds those specified in Section 610 of the Act.

I. Failing within a reasonable period of time to reinvestigate any item of information in a consumer's file, the completeness or accuracy of which is disputed by the consumer, unless it has reasonable grounds to believe the dispute is frivolous or irrelevant, as required by Section 611(a) of the Act.

J. Furnishing, directly or indirectly, other than for reports prepared solely for use in the business of insurance, medical information, as defined in Section 603(i) of the Act, obtained in response to a written authorization signed by a consumer, unless the authorization clearly identifies respondent as a recipient of the medical information.

II

It is further ordered, That respondent deliver a copy of this order to all present and future employees who are engaged in the preparation of consumer reports and investigative consumer reports or who are engaged in the disclosure or reinvestigation of information required by the Act.

It is further ordered, That respondent distribute a copy of this order to each of its operating divisions and subsidiaries.

III

It is further ordered, That respondent 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 the order.

IV

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Complaint

100 F.T.C.

IN THE MATTER OF

ASSOCIATION OF INDEPENDENT DENTISTS

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3097. Complaint, Oct. 22, 1982—Decision, Oct. 22, 1982*

This consent order requires a Colorado dental association to cease, among other things, inhibiting competition by restricting or advising member dentists against the truthful advertising of their services. The order bars the association and its members from coercing any third-party payer into altering the terms and conditions of any dental health care plan. Further, the association must timely repeal any provision of its by-laws which are inconsistent with the prohibitions contained in the order; mail a copy of the order together with a letter specifying the changes made to the by-laws to every member; and provide all future members with a copy of the order.

Appearances

For the Commission: *Steven T. Kessel.*

For the respondent: *Thomas E. Jagger, Pueblo, Colo.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended (15 U.S.C. 41 *et seq.*), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the named respondent has violated the provisions of Section 5 of the Federal Trade Commission Act and 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. Respondent Association of Independent Dentists is a corporation organized and existing under the laws of the State of Colorado, with its mailing address at P.O. Box 1924, Pueblo, Colorado.

PAR. 2. Respondent is an association of dentists practicing in Pueblo County, Colorado, which is organized in order to, among other things, preserve and promote the private dental practices of its individual members. Respondent is not affiliated with any other dental society or professional association.

PAR. 3. Members of respondent are engaged in the business of providing dental services to patients for a fee. Except to the extent that competition has been restrained as herein alleged, members of respondent have been and are now in competition among themselves