

SOUTHERN MARYLAND CREDIT BUREAU, INC.

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Complaint

IN THE MATTER OF

SOUTHERN MARYLAND CREDIT BUREAU, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5(a)
OF THE FEDERAL TRADE COMMISSION ACT AND THE FAIR CREDIT
REPORTING ACT

Docket C-3101. Complaint, Jan. 26, 1983—Decision, Jan. 26, 1983

This consent order requires a La Plata, Md. consumer reporting agency, among other things, to cease failing to require customers, such as private investigative agencies, detectives or attorneys, who do not extend credit in the normal course of their business, to certify the purpose for which information is sought; that use of the data will be restricted to that purpose; and that the customer understands that anyone obtaining credit information under false pretenses is subject to a fine and/or imprisonment under Federal law. Respondent is further required to compile a list of detectives and attorneys from the yellow pages of the telephone book in the area where the requesting party does business, and to consult the list to determine whether certification must be provided. Additionally, the firm must require prospective customers to identify themselves and comply with certification requirements; and to withhold credit reports from parties it has reason to believe would use the information for improper purposes.

Appearances

For the Commission: *Charlyn J. Buss.*

For the respondent: *Robert T. Barbour, Barbour, Zverina & Myer,*
La Plata, Md.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*, as amended, the Fair Credit Reporting Act, Public Law 91-508, 15 U.S.C. 1681 *et seq.*, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, hereinafter referred to as the "Commission," having reason to believe that Southern Maryland Credit Bureau, Inc., a corporation, hereinafter referred to as "respondent," has 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 as follows:

PARAGRAPH 1. For the purposes of this Complaint and the accompanying Consent Order to cease and desist, the terms *consumer*, *consumer report*, and *consumer reporting agency* are defined as set forth in Section 603 of the Fair Credit Reporting Act.

PAR. 2. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its sole office and place of business located at 211 North U.S. Route 301, P.O. Box 220, La Plata, Maryland.

PAR. 3. Respondent, in the ordinary course and conduct of business, is and has been regularly engaged in the practice of assembling or evaluating information bearing on consumers' creditworthiness, credit standing, and credit capacity for the purpose of furnishing, for monetary fees, consumer reports to third parties. These reports contain information including but not limited to credit histories obtained from creditors and consumer reporting agencies, public record information, and employment information and records. Creditors and others use the information contained in these reports for the purpose of establishing the consumer's eligibility for credit and other business transactions to be used primarily for personal, family, or household purposes. Respondent is thus a consumer reporting agency, as defined by the Fair Credit Reporting Act.

PAR. 4. Respondent, from its office in La Plata, Maryland, causes consumer reports to be distributed through the mail to its customers located in other States of the United States, and in the ordinary course and conduct of its business regularly sends and receives substantial numbers of communications including consumer reports across state lines through the means and facilities of interstate commerce. Respondent thus maintains a substantial course of trade in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act. Accordingly, the Commission has jurisdiction over the subject matter of this proceeding and over respondent, as provided by Section 621 of the Fair Credit Reporting Act and by the Federal Trade Commission Act.

PAR. 5. All of the acts and practices alleged herein took place in the ordinary course and conduct of respondent's business and have occurred subsequent to April 25, 1971, the effective date of the Fair Credit Reporting Act.

PAR. 6. Subsequent to April 25, 1971,

1. With respect to one or more users of its reporting service as of April 25, 1971, respondent failed to require such user or users to certify the purposes for which the information about consumers was sought and that the information would be used for no other purposes; and

2. With respect to each new prospective user of its reporting service, respondent failed to make reasonable efforts to verify the identity of and the uses certified by each such new user prior to furnishing consumer reports to the user. By and through these practices respondent-

ent failed to maintain procedures required by Section 607(a) of the Fair Credit Reporting Act.

PAR. 7. Subsequent to April 25, 1971,

1. Respondent contracted to provide consumer reports to one or more private investigators, who do not, in the ordinary course of business, regularly extend credit or provide insurance for personal, family or household purposes;

2. Respondent through investigation would have had reasonable grounds for believing that such user or users in such instances may not have had a permissible purpose for receiving consumer reports pursuant to Section 604 of the Fair Credit Reporting Act;

3. Respondent furnished consumer reports to such user or users without obtaining, at the time of each request for a consumer report, a written or oral certification of the specific purpose(s) for which each report was sought and that the report would be used for no other purpose; and

4. In a number of instances, respondent provided consumer reports to a private investigative agency which obtained the information as part of investigations of individuals in connection with divorce cases, child custody proceedings, personal injury litigation, or other circumstances where furnishing consumer reports is impermissible under Section 604 of the Fair Credit Reporting Act.

PAR. 8. Respondent's failures to comply with the provisions of the Fair Credit Reporting Act listed in Paragraphs Six and Seven above constitute violations of that Act and, by virtue of Section 621 of that Act, constitute violations 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of the Fair Credit Reporting Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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 Southern Maryland Credit Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 211 North U.S. Route 301, P.O. Box 220, in the City of La Plata, State of Maryland.

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

ORDER

Definitions: For the purpose of this order the terms *consumer*, *consumer report*, and *consumer reporting agency* are defined as set forth in Section 603 of the Fair Credit Reporting Act, Public Law 91-508, 15 U.S.C. 1681a (1976).

It is ordered, That Southern Maryland Credit Bureau, Inc., a corporation, its successors, assigns, officers, agents, representatives, and employees shall forthwith cease and desist from failing to maintain reasonable procedures required by Section 607(a) of the Fair Credit Reporting Act designed to limit the furnishing of consumer reports to the purposes specified under Section 604 of the Fair Credit Reporting Act. Such procedures shall include but are not limited to those set forth below.

Respondent shall cease and desist from:

1. Failing to require any user such as a private investigative agency or detective, who does not, in the ordinary course of business, regularly extend credit or insurance for personal, family, or household use, to certify either in writing at the time of each request or orally at the time of the request, confirming in writing within ten business days after each oral request:

(a) the specific purpose or purposes for which the reports are sought;

(b) that the information will be used for no other purpose; and
(c) that the user understands that Federal law provides that a person who obtains information 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.

2. Failing to consult a listing of all detectives, private investigative agencies, and attorneys found in the current yellow pages of the telephone book of the area where the user conducts business or a similar listing of detectives, private investigative agencies and attorneys, to determine whether a user should comply with the requirements of Paragraph 1.

3. Failing to require all prospective users of information to identify themselves, and certify the purposes for which the information is sought and that the information will be used for no other purpose.

4. Furnishing a consumer report to any person if the respondent has reasonable grounds for believing that the consumer report will not be used for a purpose listed in Section 604.

It is further ordered, That the respondent herein 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.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate structure 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 respondent shall forthwith distribute a copy of this order to each of its officers, agents, representatives and employees.

IN THE MATTER OF

HEATCOOL, INCORPORATED

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-3102. Complaint, Feb. 1, 1983—Decision, Feb. 1, 1983*

This consent order requires a Eugene, Oregon manufacturer and seller of plastic storm windows, among other things, to cease making false or unsubstantiated representations concerning the insulating properties of Heatcool plastic storm windows or any insulating or energy savings device. Further, the company must: (1) notify its distributors that Heatcool plastic storm windows do not insulate better than comparable glass windows and that the window's insulating value is R-1.93; and, (2) include this information in all advertising and promotional literature for a period of one year. The company must also recall promotional and advertising materials which misrepresent the insulating value of Heatcool storm window systems.

Appearances

For the Commission: *Donald Cooper* and *Randall Brook*.

For the respondent: *T.R. Russell, Butler, Hush, Gleaves & Swearingin*, Eugene, Ore.

COMPLAINT

The Federal Trade Commission, having reason to believe that Heatcool, Incorporated ("Heatcool") violated Section 5 of the Federal Trade Commission Act, as amended, issues this complaint and alleges:

PARAGRAPH 1. This action is brought in the public interest.

PAR. 2. Heatcool is an Oregon corporation with its principal office and place of business located at Box 2196, Eugene, Oregon.

PAR. 3. Heatcool manufactures and sells storm windows made from a plastic film, LLumar. Sales of the windows are either made directly or through distributors. Heatcool's business is in and affects interstate commerce.

PAR. 4. Heatcool sells its storm windows based on their thermal insulating value, or "R-value." The R-value is a measure of resistance to heat flows, with higher R-values indicating greater insulating power. A value of R-1 means that the material insulates as well as one inch of wood. A value of R-9 means that the material insulates as well as 9 inches of wood. Standard scientific references indicate that a system of a glass window together with a glass storm window has an insulating value of R-1.93.