

IN THE MATTER OF
HOSPITAL AND HEALTH SERVICES CREDIT UNION
CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT AND THE
FAIR CREDIT REPORTING ACT

Docket C-3146. Complaint, Oct. 17, 1984—Decision, Oct. 17, 1984

This consent order requires an Ann Arbor, Michigan credit union, among other things, to cease failing to disclose, when rejecting a credit application or increasing the cost of credit, that the action is based partially or wholly on information contained in a consumer credit report; and provide the rejected applicant with the name and address of the reporting agency together with the specific principal reason(s) for the adverse action based on this information. The Order also requires the credit union to send to consumers who were denied credit between January 1, 1983 and the effective date of the Order, a letter containing required disclosures.

Appearances

For the Commission: *George T. O'Brien.*

For the respondent: *Thomas J. O'Connor, Zweig & Harkness, Southfield, Mich.*

COMPLAINT

Pursuant to the provisions of the Fair Credit Reporting Act 15 U.S.C. 1681, *et seq.* and the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.* and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Hospital and Health Services Credit Union, 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 in that respect as follows:

PARAGRAPH 1. For the purposes of this complaint and the accompanying order the following definitions are applicable:

A. The terms *consumer*, *consumer report*, *consumer reporting agency* and *person* shall be defined as provided in section 603 of the Fair Credit Reporting Act, 15 U.S.C. 1681a.

B. The term *no file response* shall be defined as a consumer report consisting of a response by a consumer reporting agency to respondent's request for information on a given credit applicant indicating

that the consumer reporting agency has no credit history information in its files under the name and other identifiers supplied by respondent.

C. The term *derogatory information* shall be defined as information in a consumer report furnished to respondent by a consumer reporting agency reflecting slowly paid or delinquent credit obligations, garnishment, attachment, foreclosure, repossession, bankruptcy, or suits or judgments.

D. The term *non-derogatory information* shall be defined as information in a consumer report, furnished to respondent by a consumer reporting agency, consisting of an insufficient number of accounts reported, the absence or presence of certain types of credit accounts, the presence of new credit accounts with credit histories too short to meet the respondent's criteria for granting credit or insufficient positive information to meet such criteria.

PAR. 2. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan with its principal office and place of business located at 959 Maiden Lane, Ann Arbor, Michigan. Respondent is a state chartered, federally insured credit union.

PAR. 3. Respondent, in the ordinary course and conduct of its business, uses information in consumer reports obtained from consumer reporting agencies in the evaluation of applications for credit to be used for personal, family or household purposes. In a substantial number of instances respondent denies credit applications from consumers applying for credit that they intend to use for personal, family or household purposes. The Commission has jurisdiction of the subject matter of this proceeding and of respondent, as provided by section 621 of the Fair Credit Reporting Act, 15 U.S.C. 1681s, and the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*

PAR. 4. Respondent, in the ordinary course and conduct of its business, obtains consumer reports from consumer reporting agencies. In a substantial number of instances subsequent to April 25, 1971, respondent has denied consumers credit for personal, family or household purposes based wholly or partly on derogatory or non-derogatory information contained in consumer reports, including an absence of sufficient favorable information contained in a consumer report or a "no file" response from the consumer reporting agency. In such instances, respondent has failed to disclose to the consumer at the time when such adverse action was communicated that the credit denial was based wholly or partly on information in a consumer report from a consumer reporting agency and to supply to the consumer the name and address of the consumer reporting agency making the report.

PAR. 5. By and through the use of the practices described in Paragraph Four, during the period from April 25, 1971 to the present respondent has violated and is violating the provisions of Section 615(a) of the Fair Credit Reporting Act, 15 U.S.C. 1681m(a).

PAR. 6. Respondent, in the ordinary course and conduct of its business, obtains information from persons other than consumer reporting agencies. Such persons include, but are not limited to, creditors listed as references on an application for consumer credit, as well as the landlord and the employer of the applicant. The information so obtained bears upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living. In a substantial number of instances subsequent to April 25, 1971, respondent has denied consumers credit for personal, family or household purposes based wholly or partly on such information obtained from such persons other than consumer reporting agencies. In these instances respondent has failed to disclose to the consumers at the time when adverse action was communicated, the fact that the credit was denied based wholly or partly on information obtained from a person other than a consumer reporting agency, and that they have the right to disclosure of the nature of such information upon written request.

PAR. 7. By and through the use of the practices described in Paragraph Six, during the period from April 25, 1971 to the present, respondent has violated and is violating section 615(b) of the Fair Credit Reporting Act, 15 U.S.C. 1681m(b).

PAR. 8. Pursuant to section 621(a) of the Fair Credit Reporting Act, 15 U.S.C. 1681s(a), the acts and practices set forth in this complaint as violations of the Fair Credit Reporting Act constitute unfair and deceptive acts and practices in or affecting commerce in violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

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 respondent with violation 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 Hospital and Health Services Credit Union is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 959 Maiden Lane, Ann Arbor, Michigan. Respondent is a state chartered, federally insured credit union.

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

For the purposes of this Order, the following definitions are applicable:

A. The terms *consumer*, *consumer report*, *consumer reporting agency* and *person* shall be defined as provided in section 603 of the Fair Credit Reporting Act, 15 U.S.C. 1681a.

B. The term *no file response* shall be defined as a consumer report consisting of a response by a consumer reporting agency to respondent's request for information on a given credit applicant indicating that the consumer reporting agency has no credit history information in its files under the name and other identifiers supplied by respondent.

C. The term *derogatory information* shall be defined as information in a consumer report furnished to respondent by a consumer reporting agency reflecting slowly paid or delinquent credit obligations, garnishment, attachment, foreclosure, repossession, bankruptcy, or suits or judgments.

D. The term *non-derogatory information* shall be defined as information in a consumer report, furnished to respondent by a consumer reporting agency, consisting of an insufficient number of accounts

reported, the absence or presence of certain types of credit accounts, the presence of new credit accounts with credit histories too short to meet the respondent's criteria for granting credit or insufficient positive information to meet such criteria.

It is ordered, That respondent Hospital and Health Services Credit Union, 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 any application by a consumer for credit that is primarily for personal, family or household purposes, do forthwith cease and desist from:

1. Failing, whenever credit for personal, family or household purposes involving a consumer is denied wholly or partly or the charge for such credit is increased wholly or partly because of any derogatory or non-derogatory information contained in a consumer report from a consumer reporting agency (including insufficient positive information or a "no-file response"), to disclose to the applicant at the time the adverse action is communicated to the applicant, a) that the adverse action was based wholly or partly on information contained in such a consumer report and b) the name and address of the consumer reporting agency that made the report.

2. Failing, whenever credit for personal, family, or household purposes involving a consumer is denied wholly or partly or the charge for such credit is increased wholly or partly because of information obtained from a third person other than a consumer reporting agency bearing upon the applicant's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, to disclose to the applicant at the time the adverse action is communicated to the applicant a) that the adverse action was based wholly or partly on information obtained from a third person other than a consumer reporting agency and b) either the nature of such information or the fact that the applicant has a right to learn the nature of such information, upon written request, in accordance with the provisions of Section 615(b) of the FCRA.

3. Failing to review each application for consumer credit for which it took adverse action between January 1, 1983, and the date of issuance of this Order, to identify each of those applications for which such adverse action was taken based wholly or partly upon information obtained from a consumer reporting agency or information obtained from a third person other than a consumer reporting agency bearing upon the applicant's credit-worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

4. Failing, within sixty (60) days of the date of issuance herein of

this Order, for each application identified according to paragraph 3 above, to send the applicant, as specified herein, a copy of the letter and notice attached hereto as appendices A and B and described herein. The letter shall bear the name and address of the applicant as shown on application, the date of mailing, and the name Hospital and Health Services Credit Union. No information other than that required by this paragraph shall be included in the letter or in the notice, nor shall any other material be sent to the applicant with the letter and notice. The letter and notice shall disclose:

(a) If the application that is the subject of the letter was denied wholly or partly because of information obtained from a consumer reporting agency, the name and address of that consumer reporting agency, together with the specific, principal reason(s) for the adverse action based on this information; and,

(b) if the application that is the subject of the letter was denied wholly or partly because of information obtained from any third party sources(s), the type of the sources(s) (e.g., employer, bank, landlord), together with the specific, principal reason(s) for the adverse action based on this information from each source.

A letter and notice need not be sent to any applicant whose application was identified pursuant to paragraph 3 above, if the application file clearly shows that respondent Hospital and Health Services Credit Union has previously sent the applicant an adverse action notification in response to the application that complied in all respects with the provisions of paragraphs 1 and 2 of this Order.

It is further ordered, That respondent shall maintain for at least three (3) years and upon request make available to the Federal Trade Commission for inspection and copying documents that will demonstrate compliance with the requirements of this Order. Such documents shall include, but are not limited to, all credit evaluation criteria instructions given to employees regarding compliance with the provisions of this Order, any notices provided to consumers pursuant to any provisions of this Order and the complete application file to which they relate.

It is further ordered, That respondent shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change 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 that may affect compliance obligations arising out of the Order.

It is further ordered, That respondent shall deliver a copy of this Order to cease and desist to all present and future employees engaged in reviewing or evaluating consumer reports or other third party

information in connection with applications for credit to be used for personal, family or household purposes, or engaged in preparing or furnishing notices to consumers as required by this Order.

It is further ordered, That respondent shall, within ninety (90) days after service upon it of this Order file with the Commission a report, in writing, setting forth in detail a full and complete description of how it has complied and is complying with the requirements of paragraphs 1, 2, 3 and 4 of this Order. Such report shall include, but is not limited to, a copy of each document used to instruct employees or agents of respondent regarding the requirements of these paragraphs, as well as a copy of each form letter used by respondent to comply with the requirements of these paragraphs and the number of applicants to whom the letter and notice required by paragraph 4 were mailed.

APPENDIX A

Dear _____:

According to our records, Hospital and Health Services Credit Union denied a credit application you submitted sometime after January 1, 1983. When we denied your application, we may not have told you the sources of information we relied upon, as federal law requires.¹

Under a Consent Order with the Federal Trade Commission, we have agreed to review your application file and give you this information now. Our review shows that we obtained information relating to your creditworthiness from a consumer reporting agency or from one or more third party sources. Each source we relied upon is noted on the attached notice, along with our principal reason(s) for declining your application based on the information each one provided.

Sincerely,

Hospital and Health Services Credit Union

¹ Whenever a creditor rejects a credit application, the Equal Credit Opportunity Act requires the creditor to tell the applicant the specific, principal reasons for its decision. The Fair Credit Reporting Act requires the creditor to tell the applicant whenever the reasons for its decision are based on information obtained from a credit reporting agency (such as a credit bureau) or from another third party (such as an employer). The Fair Credit Reporting Act also entitles the applicant to learn from the credit bureau what information is contained in his or her credit file and to learn from the creditor the nature of other third party information that the creditor relied on in rejecting the application.

APPENDIX B

NOTICE

I. If, in declining your application, we relied upon information obtained from a consumer reporting agency, the consumer reporting agency is identified below:

Name

Address

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You have the right to contact the agency listed above to obtain complete information concerning your credit bureau file.

Based on the information obtained from this agency, we declined your application for the following reason(s):

II. If, in declining your application, we relied upon information obtained from some third party source(s) other than a consumer reporting agency, we indicate below the source(s) of the information and the reason(s) it provided:

<u>Source(s)</u>	<u>Reason(s) for Denial</u>
☐ Your employer	
☐ Your bank	
☐ Your landlord	
☐ Other _____	

IN THE MATTER OF
CHEVRON CORPORATION
and
GULF CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT

Docket C-3147. Complaint, Oct. 24, 1984—Decision, Oct. 24, 1984

This consent order requires Chevron Corporation (formerly the Standard Oil Company of California) to divest within six months to a Commission-approved buyer(s) all of the Gulf Corporation assets listed in Schedule A, as well as any additional assets and businesses that the company wishes to include as part of the assets to be divested, or which the Commission determines is necessary to ensure that the divested properties remain ongoing, viable business enterprises. Chevron is also required to provide petroleum product exchanges or crude oil supply arrangements to prospective acquirers, if necessary to maintain the properties as ongoing viable enterprises engaged in the same businesses in which they are presently employed; and to maintain all of Gulf's oil and gas assets as a separate, viable business in accordance with the terms of the attached Agreement To Hold Separate, until required divestiture has been completed. The companies are additionally prohibited from acquiring, without prior Commission approval, any interest in certain types of business enterprises located in specified geographic areas for a period of ten years.

Appearances

For the Commission: *Robert B. Greenbaum, Robert W. Doyle, Jr., Daniel P. Ducore, James M. Giffin and Joan L. Heim.*

For the respondents: *Charles B. Renfrew*, in-house counsel, San Francisco, Cal. for respondent Chevron Corp. and *Samuel W. Murphy, Jr.*, in-house counsel, Pittsburgh, Pa. for respondent Gulf Corp.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent, Chevron Corporation, a corporation subject to the jurisdiction of the Federal Trade Commission, has acquired the stock or assets of respondent Gulf Corporation, in violation of Section 7 of the Clayton Act, as amended (15 U.S.C. 18), and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. 45), and that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, pursuant to Section 11 of the Clayton Act (15 U.S.C. 21) and