

Complaint

106 F.T.C.

IN THE MATTER OF  
WRIGHT-PATT CREDIT UNION, INC.

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-3171. Complaint, Oct. 21, 1985—Decision, Oct. 21, 1985*

This consent order requires a Fairborn, Ohio, credit union, among other things, to cease failing to tell consumers, when applications for credit are denied because of information contained in credit reports (including non-derogatory information), that the adverse action had been taken on the basis of such information; and provide the rejected credit applicants with the names and addresses of the credit bureaus that had submitted the reports. The order further bars the organization from failing to identify applications submitted between Sept. 1, 1983 and the date of issuance of the order, for which adverse action had been taken on the basis of information obtained from a consumer reporting agency, and to send to those rejected applicants who had not been given the legally-required disclosures, a copy of the notification letter attached to the order as Appendix A.

*Appearances*

For the Commission: *Eileen M. Harrington.*

For the respondents: *Robert G. Palmer, Palmer & Perdue, Columbus, Ohio.*

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 Wright-Patt Credit Union, 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 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 *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 Ohio with its principal office and place of business located at 2455 Executive Park Boulevard, City of Fairborn, State of Ohio. 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 information contained in consumer reports (including non-derogatory information such as insufficient positive information 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. 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 respondents with violations of the Federal Trade Commission Act and the Fair Credit Reporting Act; and

The respondent, its attorneys, 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 Acts, and that the 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 Wright-Patt Credit Union is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 2455 Executive Park Boulevard, in the City of Fairborn, State of Ohio.

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

## ORDER

*Definitions:* For the purpose 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 *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.

## I.

*It is ordered,* That respondent Wright-Patt Credit Union, 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 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 either wholly or partly because of information contained in a consumer report from a consumer reporting agency (including non-derogatory information such as 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 making the report.

2. Failing to review each application for consumer credit for which it took adverse action between September 1, 1983, and the date of service 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.

3. Failing, within sixty (60) days of the date of service herein of this order, for each application identified according to Paragraph 2 above, to send the applicant, as specified herein, a copy of the notice letter attached hereto as Appendix A and described herein. The letter shall bear the name and address of the applicant as shown on the application, the date of mailing, and the name Wright-Patt Credit Union, Inc. No information other than that required by this paragraph shall be included in the notice letter, nor shall any other material be sent to the applicant with the notice letter. The notice letter shall disclose the name and address of the consumer reporting agency that prepared the report used according to Paragraph 2 above, together with the specific, principal reason(s) for the adverse action based on this information. A notice letter need not be sent to any applicant whose application was identified pursuant to Paragraph 2 above, if the application file clearly shows that respondent Wright-Patt Credit Union, Inc. has previously sent the applicant an adverse action notification in response to the application that complied in all respects with the provisions of Paragraph 1 of this order.

## II.

*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.

## III.

*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

## IV.

*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.

## V.

*It is further ordered,* That respondent 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.

## ATTACHMENT A

Dear

A review of our records indicates that we denied a credit application you submitted sometime after September 1, 1983. At that time we may not have told you a source(s) of information we relied upon as federal law required.

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. We have agreed with the Federal Trade Commission to provide you this information at this time.

In denying your application, we relied upon information concerning your credit worthiness from the following consumer reporting agency or one or more third party sources:

Name \_\_\_\_\_

Address \_\_\_\_\_

You have the right to contact the agency listed above to obtain complete information concerning your credit bureau file. However, that agency does not know why credit was denied, since it did not make that decision. We denied your credit application for the following reason(s):

Decision and Order

106 F.T.C.

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Sincerely,

Wright-Patt Credit Union

IN THE MATTER OF  
HOSPITAL CORPORATION OF AMERICA

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

*Docket 9161. Complaint, July 30, 1982—Final Order, Oct. 25, 1985*

This final order requires the nation's largest for-profit hospital chain, based in Nashville, Tenn., to divest North Park Hospital and Diagnostic Center Hospital, both in Hamilton County, Tenn., and any medical office buildings associated with the hospitals. The divestitures must be to different acquirers and obtain Commission approval. Respondent is also required to terminate its management contract with Downtown General Hospital, also in Hamilton County, and divest related real estate to a Commission-approved acquirer. Further, respondent is required to obtain FTC approval for any future acquisitions of certain hospitals in the Chattanooga, Tenn., area or any hospital meeting conditions specified in the order.

*Appearances*

For the Commission: *M. Elizabeth Gee, Toby G. Singer, Garry R. Gibbs, Oscar M. Voss and Erika Wodinsky.*

For the respondents: *Peter J. Nickles, William D. Iverson, K. Gregory Tucker and Michael A. Roth, Covington & Burling, Washington, D.C. and Margaret C. Mazzone, John W. Wade, Jr., Donald W. Fish and Jean L. Byassee, in-house counsel, Nashville, Tenn.*

COMPLAINT

The Federal Trade Commission having reason to believe that Hospital Corporation of America, a corporation subject to the jurisdiction of the Commission, has acquired the stock or assets of corporations subject to the jurisdiction of the Commission, hereinafter described, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and having further reason to believe that respondent has engaged in unfair methods of competition in violation of 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 the provisions of Section 11 of the aforesaid Clayton Act, as amended, 15 U.S.C. 21, and Section 5(b) of the Federal Trade Commission Act, as amended, 15 U.S.C. 45(b), stating its charges as follows: