

IN THE MATTER OF
FIRST AMERICAN REAL ESTATE SOLUTIONS, LLC

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

Docket C-3849. Complaint, Jan. 27, 1999--Decision, Jan. 27, 1999

This consent order, among other things, requires the respondent, a provider of consumer credit reports, to investigate information in the respondent's credit reports that consumers dispute and then either record the current status of the disputed information or delete it from the file. Within five business days after receiving a consumer dispute, the respondent must notify the furnisher of the information that the information is being disputed. The respondent must also maintain reasonable procedures to prevent the reappearance of information that has been deleted in future credit reports issued by respondent. In addition, the consent order requires that the respondent provide written notice to the consumer of the results of the reinvestigation of any disputed item and extend to the consumer the right to request that the respondent provide to any person designated by the consumer either a notice that the disputed item has been corrected or deleted, or a copy of the consumer's dispute statement.

Participants

For the Commission: *Thomas E. Kane, David Medine and Margaret Patterson.*

For the respondent: *Michael Meltzer, Miller, Nash, Wiener, Hager & Carlsen, Portland, OR.*

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that certain prior practices of First American CREDCO, Inc., a corporation, violated the provisions of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. 1681-1681u, as amended, as well as the provisions of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 45-58, as amended, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. First American CREDCO, Inc. is incorporated in the State of Washington and has its principal office or place of business at 5625 Ruffin Road, Suite 200, San Diego, California.
2. As of November 30, 1997, the consumer reporting business of First American CREDCO, Inc. was reorganized as an operating

division of First American Real Estate Solutions, LLC ("respondent"). For purposes of this complaint, "CREDCO" refers to First American CREDCO, Inc., prior to the reorganization, and to respondent after the reorganization.

3. Respondent is a limited liability company organized under the laws of California, with its principal office or place of business at 150 Second Avenue North, Suite 1600, St. Petersburg, Florida.

4. CREDCO is now and has been regularly engaged in the practice of assembling or evaluating consumer credit information. CREDCO assembles or evaluates such information in order to provide "consumer reports," as defined by § 603(d) of the FCRA, 15 U.S.C. 1681a(d), to third parties. Accordingly, CREDCO is a "consumer reporting agency," as defined by § 603(f) of the FCRA, 15 U.S.C. 1681a(f).

5. The acts and practices of CREDCO alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. 44.

CREDCO'S COURSE OF BUSINESS

Instant Merge Reports

6. One of CREDCO's consumer reporting products is its Instant Merge Report ("IMR").

7. IMRs blend consumer account information from at least two, and often all three, of the national consumer reporting agencies ("repositories"), Trans Union, Equifax, and Experian. When these repositories provide contradictory information for a particular consumer account, CREDCO's reporting system merges this contradictory information into a single, unified trade line. CREDCO does not verify the accuracy of the information contained in its IMRs before delivering the IMRs to its customers.

8. CREDCO sells its IMRs to mortgage lenders, lenders in the automotive and home equity markets, and landlords and property managers in the residential rental market. The IMRs are produced and delivered electronically via computer directly to the end-user in a matter of seconds. Once an IMR is created, CREDCO's computer system maintains it on file but prevents any corrections from being made to it.

Consumer Disputes

9. CREDCO has not typically reinvestigated information in MRs when consumers have disputed that information. Instead, CREDCO has referred such consumers to the repository or repositories from which CREDCO received the disputed information, so that the consumers could request that the repository or repositories reinvestigate the disputed information.

10. Even on the rare occasions when CREDCO has reinvestigated disputed information, CREDCO has not corrected or deleted information in its files found to be inaccurate or obsolete.

11. If a reinvestigation has not resolved a consumer's dispute about IMR information and the consumer has submitted a statement setting forth the nature of the dispute, CREDCO has not reported such disputes in future IMRs.

12. When CREDCO has learned through reinvestigation that IMR information is inaccurate or obsolete, CREDCO has not prevented the information from re-appearing in future IMRs.

CREDCO'S VIOLATIONS OF THE FCRA AND THE FTC ACT

13. In connection with its Instant Merge Reports, CREDCO has violated § 611 of the FCRA, 15 U.S.C. 1681i. CREDCO's violations include, but are not limited to:

- A. Failing to reinvestigate disputed information;
- B. Failing to correct or delete information in consumers' files that CREDCO has found to be inaccurate or obsolete, or whose accuracy can no longer be verified; and
- C. Failing to include in subsequent IMRs a notation that a consumer disputes an item and a statement by the consumer setting forth the nature of the dispute or a codification or summary of that statement.

14. CREDCO has violated § 607(b) of the FCRA, 15 U.S.C. 1681e(b), by failing to follow reasonable procedures to prevent information that CREDCO has found to be inaccurate or obsolete, or whose accuracy could not be verified, from appearing on subsequent IMRs.

15. The acts and practices set forth in this complaint as violations of the FCRA constitute unfair or deceptive acts or practices in

commerce in violation of § 5(a) of the FTC Act, 15 U.S.C. 45(a), pursuant to § 621(a) of the FCRA, 15 U.S.C. 1681s(a).

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of First American CREDCO, Inc., now a division of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft 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 the respondent with violation of the Fair Credit Reporting Act and the Federal Trade Commission 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 the respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 First American CREDCO, Inc. has violated the said Acts, and that a 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, and having considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, 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 First American Real Estate Solutions, LLC is a limited liability company organized under the laws of California, with

its principal office or place of business at 150 Second Avenue North, Suite 1600, St. Petersburg, Florida.

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

ORDER

DEFINITIONS

For the purposes of this order, the following definitions shall apply:

1. The term "*Fair Credit Reporting Act*" ("FCRA") refers to the Fair Credit Reporting Act, as amended by Public Law 104-208 (Sept. 30, 1996), 15 U.S.C. 1681-1681u, and as amended in the future.

2. The terms "*person*," "*consumer*," "*consumer report*," "*consumer reporting agency*," and "*file*," are defined as set forth in Sections 603(b), (c), (d), (f), and (g), respectively, of the FCRA, 15 U.S.C. 1681a(b), (c), (d), (f) and (g).

3. Unless otherwise specified, "*respondent*" shall mean First American Real Estate Solutions, LLC, a limited liability company, its successors and assigns, and its officers, agents, representatives, and employees.

I.

It is ordered, That respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the collection, preparation, assembly, maintenance, and furnishing of consumer reports and files, shall comply with Section 611 of the FCRA, 15 U.S.C. 1681i, including but not limited to the following provisions:

A. Subject to Section 611(a)(3), 15 U.S.C. 1681i(a)(3), if the completeness or accuracy of any item of information contained in a consumer's file at respondent is disputed by the consumer and the consumer notifies respondent directly of such dispute, respondent shall reinvestigate free of charge and record the current status of the disputed information or delete the information from the file, as required by Section 611(a)(1), 15 U.S.C. 1681i(a)(1);

B. As required by Section 611(a)(2), 15 U.S.C. 1681i(a)(2), but subject to Section 611(a)(3), 15 U.S.C. 1681i(a)(3),

1. Before the expiration of the five (5)-business-day period beginning on the date on which respondent receives notice of a dispute from a consumer in accordance with Section 611(a)(1), 15 U.S.C. 1681i(a)(1), respondent shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person; the notice shall include all relevant information regarding the dispute that respondent has received from the consumer; and

2. Respondent shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by respondent from the consumer after the five (5)-business-day period referred to in paragraph B.1. above and before the end of the thirty (30)-day period beginning on the date on which respondent receives the notice of the dispute directly from the consumer;

C. As required by Section 611(a)(4), 15 U.S.C. 1681i(a)(4), in conducting any reinvestigation under Section 611(a)(1), 15 U.S.C. 1681i(a)(1), with respect to disputed information in the file of any consumer, respondent shall review and consider all relevant information submitted by the consumer in the period described in Section 611(a)(1)(A) with respect to such disputed information;

D. As required by Section 611(a)(5)(C), 15 U.S.C. 1681i(a)(5)(C), respondent shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that has been deleted (other than information that has been reinserted after the person furnishing the information certifies that the information is complete and accurate, as required by Section 611(a)(5)(B)(i), 15 U.S.C. 1681i(a)(5)(B)(i));

E. Respondent shall provide written notice to the consumer of the results of the reinvestigation of any item disputed by the consumer under Section 611(a), 15 U.S.C. 1681i(a), not later than five (5) business days after the completion of the reinvestigation of the item, as required by Section 611(a)(6), 15 U.S.C. 1681i(a)(6), including but not limited to:

1. A notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information ("dispute statement"), as required by Section 611(a)(6)(B)(iv); and

2. A notice, as required by Section 611(a)(6)(B)(v), that the consumer has the right to request that respondent provide either a notification that the item has been corrected or deleted, or the consumer's dispute statement described in paragraph E.1. above or a codification or summary of that dispute statement, to any person specifically designated by the consumer who has received a consumer report that contained the deleted or disputed information

(a) Within two years prior to the consumer's request, for employment purposes; or

(b) Within six months prior to the consumer's request, for any other purpose;

F. If the reinvestigation under Section 611(a), 15 U.S.C. 1681i(a), does not resolve the consumer's dispute, respondent shall permit the consumer to file a dispute statement, as required by Section 611(b), 15 U.S.C. 1681i(b);

G. As required by Section 611(c), 15 U.S.C. 1681i(c), whenever a consumer files a dispute statement pursuant to paragraph I.F. above, respondent shall include the consumer's dispute statement, or a codification or summary of the dispute statement, in all subsequent consumer reports that respondent prepares concerning the consumer that contains the information in question, unless respondent has reasonable grounds to believe the dispute statement is frivolous or irrelevant; and

H. Respondent shall, at the request of the consumer, provide a notification, as required by Section 611(d), 15 U.S.C. 1681i(d), that a disputed item has been corrected or deleted, or the consumer's dispute statement or a codification or summary of that dispute statement, to any person specifically designated by the consumer who has received a consumer report that contained the deleted or disputed information

1. Within two years prior to the consumer's request, for employment purposes; or

2. Within six months prior to the consumer's request, for any other purpose.

II.

It is further ordered, That respondent and its successors and assigns shall for five (5) years maintain and upon request make available to the Federal Trade Commission for inspection and copying all business records demonstrating respondent's compliance with the terms and provisions of this order.

III.

It is further ordered, That respondent and its successors and assigns shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to such current personnel within thirty (30) days after the date of service of this order, and to such personnel hired after such date within thirty (30) days after the person assumes such position or responsibilities.

IV.

It is further ordered, That respondent and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in respondent that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the entity name or address. Provided, however, that, with respect to any proposed change in the entity about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

V.

It is further ordered, That respondent and its successors and assigns shall, within sixty (60) days after the date of service of this order, and, thereafter, within thirty (30) days of such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

VI.

This order will terminate on January 27, 2019, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- B. Any Part in this order that terminates in less than twenty (20) years;
- C. This order's application to any respondent that is not named as a defendant in such complaint; and
- D. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IN THE MATTER OF
GEOCITIES

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

Docket C-3850. Complaint, Feb. 5, 1999--Decision, Feb. 5, 1999

This consent order, among other things, prohibits GeoCities, a corporation that operates a World Wide Web site, from misrepresenting the purpose for which it collects or uses personal identifying information from or about consumers, including children. The consent order requires the respondent to: place a prominent privacy notice on its web sites; establish a system to obtain parental consent before collecting personal information from children; and notify individuals from whom it previously collected personal information and offer them an opportunity to have that information deleted. In addition, the order permits the respondent to collect or use personal information from children to the extent permitted by the Children's Online Privacy Protection Act of 1998, or by regulations or guides issued under that Act.

Participants

For the Commission: *Toby Levin, Dean Forbes, Martha Landesberg, C. Lee Peeler, Caroline Curtin and Louis Silversin.*

For the respondent: *Ronald Plessner, Piper & Marbury, Washington, D.C. and Bart Lazar, Seyfarth, Shaw, Fairweather & Geraldson, Chicago, IL.*

COMPLAINT

The Federal Trade Commission, having reason to believe that GeoCities, a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent GeoCities is a California corporation with its principal office or place of business at 1918 Main Street, Suite 300, Santa Monica, California.

2. Respondent has operated a World Wide Web ("Web") site located at <http://www.geocities.com>. This Web site is a virtual community consisting of consumers' personal home pages that are organized into 40 themed neighborhoods. Respondent "hosts" a personal home page by posting it to an address in the consumer's chosen neighborhood.