

**THE ATTORNEY GENERAL OF THE STATE OF NEW YORK
BUREAU OF CONSUMER FRAUDS AND PROTECTION**

In the Matter of

EQUIFAX SERVICES, INC.

**ASSURANCE OF DISCONTINUANCE
PURSUANT TO EXECUTIVE LAW
SECTION 63(15)**

I. Definitions.

For purposes of this Assurance of Discontinuance, the following definitions shall apply:

1. Equifax means Equifax Services Inc., a foreign corporation authorized to do business in New York. Its principal place of business is located at 1600 Peachtree Street N.W., Atlanta, Georgia 30309. Equifax operates an Employment Services Division (ESD) in New York and elsewhere which prepares investigative consumer reports for employer clients.
2. NYFCRA refers to the New York Fair Credit Reporting Act (general business law, article 25), as amended or as it may hereafter be amended.
3. New York State's anti-discrimination laws refer to executive law §§296 and 296-a, as amended or as such sections may hereafter be amended.
4. New York City's Human Rights Law refers to §8-101 et seq. of the Administrative Code of the City of New York as amended or as it may hereafter be amended.
5. Investigative consumer report refers to such term as defined in general

business law §380-a(d).

II. Factual Findings and Conclusions.

Pursuant to the provisions of Executive Law §63(12), the Attorney General of the State of New York conducted an inquiry into certain business practices of Equifax regarding its investigative consumer reporting operations. Based on this inquiry, the Attorney General has concluded:

1. During 1991, Equifax, through its ESD, processed approximately 16,000 investigative consumer reports for New York based employer clients. At least 3,300 of these reports involved New York consumers. Included in this number were approximately 600 such reports on New York consumers who were employees of Pan American World Airlines and who had applied for employment with Delta Airlines.
2. In the course of preparing investigative consumer reports, Equifax, through its ESD, when requested to do so by its employer clients, conducts interviews of personal references of prospective employees primarily through telephone contacts.
3. Until January 1992, Equifax's ESD prepared for use by its staff and its staff used a form entitled "Reference Source Interview Guide" (attached as exhibit A) to aid in conducting such personal reference interviews. In January, 1992, Equifax's ESD implemented the use of a revised "Reference Source Interview Guide" form (attached as exhibit B) which it continues to use at present.
4. Until January, 1992, in the course of preparing investigative consumer reports,

Equifax's ESD solicited information from personal references concerning particular job applicants, including whether the reference was aware of (a) any psychological problems or disabilities, (b) any physical problems or disabilities, (c) any habitual use of "illegal drugs", (d) any habitual and excessive use of alcohol, (e) any arrests, and (f) any activity in community service organizations.

5. Since January, 1992, in the course of preparing investigative consumer reports, Equifax's ESD solicited information from personal references concerning particular job applicants as to whether the reference was aware of (a) any psychological problems, (b) any physical problems, (c) any disabilities, (d) any present drug use, (e) any present excessive use of alcohol, (f) any convictions or pending criminal cases, and (g) any club membership.

6. For its Delta project during 1991, Equifax's ESD used a modified version of its "Reference Source Interview Guide" (see "Delta Personal Reference Interview Guide" form attached as exhibit C) which similarly provided for its staff to ask personal references concerning the job applicant about what they know of (a) any psychological or physical problems or disabilities, (b) any drug use or excessive use of alcohol, (c) any arrests or convictions, and (d) whether the applicant is active in any community service organization.

7. The Attorney General believes that if the aforestated inquiries (other than the inquiry pertaining to convictions and pending criminal cases) were made by a potential employer of a job applicant they would constitute an unlawful discriminatory practice under New York State and New York City anti-

discrimination laws.

8. The Attorney General believes that by making the aforesaid inquiries, Equifax may have aided and abetted its employer clients in violation of the state and local anti-discrimination laws.

9. Further, upon the request of a job applicant who has been the subject of an investigative consumer report, Equifax must disclose to such job applicant the information in its files on such consumer as provided in §380-d.

10. In a number of instances, consumers who were the subjects of investigative consumer reports prepared by Equifax requested a copy of such report from Equifax and, in such instances, Equifax failed to provide the consumers, in accordance with §380-d, with a copy of the Reference Source Interview Guide where such guide was used by Equifax's ESD staff to record responses of personal references, although it stated that it did provide a complete copy of the report which Equifax furnished to its client. Consequently, the Attorney General believes that Equifax engaged in conduct violative of the NYFCRA.

III. Assurance.

IT NOW APPEARS that Equifax is willing to enter into this Assurance of Discontinuance for settlement purposes only and without admitting that it violated the law, and the Attorney General is willing to accept this Assurance of Discontinuance pursuant to Executive Law §63(15) in lieu of commencing a statutory proceeding.

IT IS HEREBY AGREED by Equifax, its officers, agents, assigns, employees including specifically its ESD, that except for U.S. Department of Energy related reports prepared in connection with access authorization and security clearance to certain facilities as required by the Nuclear Regulatory Commission pursuant to its power under the Atomic Energy Act, 42 U.S.C. §2011 et seq., Equifax

- (1) will comply with NYFCRA §380-d. Specifically, Equifax will furnish to consumers who request copies of investigative reports the information contained in the consumer's file at the time of the request for disclosure, including, as provided in §380-d, a copy of the Reference Source Interview Guide, if any, used by Equifax's ESD staff to record responses of personal references;
- (2) will retain a copy of the Reference Source Interview Guide, or similar form used in compiling an investigative report to record information obtained from personal references, for at least six months from the date such report is completed and provided to the employer client;
- (3) will implement, utilize and maintain reasonable procedures to comply with New York State's and New York City's anti-discrimination laws by not asking personal references of job applicants inquiries which, if made by employers concerning prospective employees, would constitute unlawful discriminatory practices under the aforesated laws;
- (4) will not inquire of personal references whether, regarding a job applicant, they are aware of any psychological problems or disabilities, physical problems or disabilities, habitual use of "illegal drugs", habitual and excessive use of alcohol,

arrests not then pending, and whether the applicant is a member of any club other than business and professional clubs; and

(5) within 90 days of the date of this Assurance, will amend its "Reference Source Interview Guide" or any similar form it provides to its staff interviewers to be used in connection with pre-employment personal reference checks to comply with the provisions of this Assurance.

IT IS FURTHER AGREED that Equifax will pay the Attorney General \$10,000 as costs of this inquiry.

IT IS FURTHER AGREED that Equifax will file a written compliance report on or before September 30, 1992, indicating that it has fully complied with the terms of this Assurance of Discontinuance and the steps it has taken in this regard.

WHEREFORE, the following signatures are affixed hereto this day of
, 1992:

ROBERT ABRAMS
Attorney General of the
State of New York

Bureau of Consumer
Frauds & Protection

JOHN W. CORWIN
Assistant Attorney General in Charge

→ **STEPHEN MINDELL**
Assistant Attorney General
Director of Consumer Advocacy

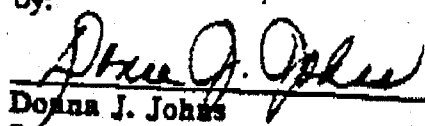
HERBERT ISRAEL
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SANFORD M. COHEN
Assistant Attorney General in Charge

SHELLEY B. MAYER
Assistant Attorney General

EQUIFAX SERVICES, INC.
by:


Donna J. Johns
Senior Vice President


THOMAS H. MAGIS
Vice President and General Counsel