

CL 19. DECISION

96 FTC 844 (80)

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11 CIR 8/12/82

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FEDERAL TRADE COMMISSION DECISIONS

Modifying Order

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IN THE MATTER OF

EQUIFAX INC.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING ACTS*Docket 8954. Final Order, Dec. 15, 1980—Modified Order, Oct. 18, 1982*

The FTC, in accordance with a decision rendered by the Court of Appeals for the Eleventh Circuit on June 18, 1982, has modified its Final Order in the Matter of Equifax Inc., issued on Dec. 15, 1980 (96 F.T.C. 844). The modified order, effective Oct. 18, 1982, deletes Paragraphs C and D of Part I of the Order, eliminating references concerning the amount of adverse information the company's employees generate about consumers.

MODIFIED ORDER TO CEASE AND DESIST

Respondent having filed in what is now the United States Court of Appeals for the Eleventh Circuit a petition for review of the Commission's cease and desist order issued on December 15, 1980; and the Court having rendered its decision setting aside in part the Commission's order:

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read:

I

It is ordered, That respondent Equifax 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 the collection, preparation, assembly, sale, or distribution of consumer reports, investigative consumer reports, and files, as "consumer report," "investigative consumer report," and "file" are defined in Section 603(d), (e) and (g) of the Fair Credit Reporting Act (Pub. Law No. 91-508, 15 U.S.C. 1681 *et seq.*) ("the Act") and interpreted in the opinion of the Commission which accompanied the cease and desist order issued on December 15, 1980 (except credit reports prepared by Credit Bureau, Inc. of Georgia, Credit Bureau of Montreal, Ltd., and Credit Marketing Services), shall cease and desist from:

A. Representing, directly or by implication, during the preparation of any report, that investigative personnel employed by Equifax are agents or employees of the company to which the consumer who is the subject of the report has applied for a benefit.

B. Submitting consumer reports who have previously received same consumer, unless: in respect of jurisdiction to issue such an order, instructions of the consumer to the contrary, or reason to believe the requester has a permissible purpose as set out in:

C. Including in a consumer report an annual salary of less than \$20,000, which indicates directly or indirectly the existence of items of adverse information prohibited by Section 605 of the Act, in language notifying the consumer of the reporting of adverse information in the consumer report to which this paragraph applies; and all such reports, regardless of whether they contain adverse information as reported; and provided further, that the explanation that the notification to which this paragraph applies is the existence of obsolete adverse information.

D. Misrepresenting to any person, concerning himself or herself, the rights to obtain disclosure by telephone.

E. Failing:

1. To make available to any person, concerning himself or herself, information by mail, at the consumer's option, to execute in connection with the Act to receive disclosure to which this Act and this order; and

2. To inform the consumer of the disclosure upon proper identification, any toll charge, or in person, which constitutes proper identification.

F. Failing to give disclosure to any consumer who has requested identification as required by the Act, and has paid or accepted payment under Section 612 of the Act.

G. Failing, when giving consumer information, to state the nature and substance of all information.

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EQUIFAX INC.

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Modifying Order

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ALLEGED VIOLATION OF THE
FEDERAL CREDIT REPORTING ACTS

Modified Order, Oct. 18, 1982

reversed by the Court of Appeals for the
modified its Final Order in the Matter
(96 F.T.C. 844). The modified order,
paras C and D of Part I of the Order,
amount of adverse information the
consumers.

REUSE AND DESIST

Now the United States Court of
petition for review of the
issued on December 15, 1980,
decision setting aside in part the

That the aforesaid order to
modified in accordance with the
appeals to read:

Equifax Inc., a corporation, its
agents, representatives, and
corporation, subsidiary, division,
the collection, preparation,
consumer reports, investigative
consumer report," "investigative
as in Section 603(d), (e) and (g)
b. Law No. 91-508, 15 U.S.C.
ordered in the opinion of the
case and desist order issued on
its prepared by Credit Bureau,
Montreal, Ltd., and Credit
desist from:

application, during the prepara-
personnel employed by Equifax
any to which the consumer who
for a benefit.

B. Submitting consumer report information to any of its custom-
ers who have previously received a consumer report regarding the
same consumer, unless: in response to the order of a court having
jurisdiction to issue such an order; in accordance with the written
instructions of the consumer to whom it relates; or respondent has
reason to believe the requester intends to use the information for a
permissible purpose as set out in Section 604 of the Act.

C. Including in a consumer report concerning employment at an
annual salary of less than \$20,000 any notice or other statement that
indicates directly or indirectly by means of boilerplate language the
existence of items of adverse information, the disclosure of which is
prohibited by Section 605 of the Act; *provided, however*, that
language notifying the customer of the statutory limitations on the
reporting of adverse information may be included in the type of
consumer report to which this paragraph applies if it is included in
all such reports, regardless of whether a particular consumer's file
contains adverse information which the statute prohibits from being
reported; and *provided further*, that it is accompanied by an
explanation that the notification is included in all reports of the type
to which this paragraph applies and is not intended to imply the
existence of obsolete adverse information which may not be reported.

D. Misrepresenting to any consumer who requests information
concerning himself or herself in respondent's files, the consumer's
rights to obtain disclosure by telephone under Section 610 of the Act.

E. Failing:

1. To make available to any consumer who requests information
concerning himself or herself in respondent's files, in person or by
mail, at the consumer's option, all forms which he or she must
execute in connection with the requirements of Section 610 of the
Act to receive disclosure to which the consumer is entitled under the
Act and this order; and

2. To inform the consumer: that he or she has the right to
disclosure upon proper identification, by telephone if he or she pays
any toll charge, or in person, at the consumer's option; and what
constitutes proper identification.

F. Failing to give disclosure required by Section 609 of the Act to
any consumer who has requested disclosure, has provided proper
identification as required by respondent under Section 610 of the
Act, and has paid or accepted any charges which may be imposed
under Section 612 of the Act.

G. Failing, when giving consumers disclosure, to disclose the
nature and substance of all information (excluding medical informa-

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FEDERAL TRADE COMMISSION DECISIONS

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tion as defined in Section 603(i) of the Act) in its files on the consumer at the time of the request, as required by Section 609 of the Act.

(H) Requiring a consumer, as a prerequisite to disclosing information from the consumer's file pursuant to Section 609 of the Act, to fill out or sign a form which authorizes respondent to conduct a reinvestigation of any item the consumer may dispute, or to transmit the results of such reinvestigation to persons to whom it has previously reported the disputed information or which authorizes any business, organization, professional person or anyone else to give full information and records about said consumer to respondent; or interposing any other similar condition or requirement which exceeds those specified in Section 610 of the Act.

I. Failing within a reasonable period of time to reinvestigate any item of information in a consumer's file, the completeness or accuracy of which is disputed by the consumer, unless it has reasonable grounds to believe the dispute is frivolous or irrelevant, as required by Section 611(a) of the Act.

J. Furnishing, directly or indirectly, other than for reports prepared solely for use in the business of insurance, medical information, as defined in Section 603(i) of the Act, obtained in response to a written authorization signed by a consumer, unless the authorization clearly identifies respondent as a recipient of the medical information.

II

It is further ordered, That respondent deliver a copy of this order to all present and future employees who are engaged in the preparation of consumer reports and investigative consumer reports or who are engaged in the disclosure or reinvestigation of information required by the Act.

It is further ordered, That respondent distribute a copy of this order to each of its operating divisions and subsidiaries.

III

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, 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 the order.

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It is further ordered, That n after service upon it of this on in writing, setting forth in de has complied with this order.

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INFORMATION
MONETARY SAVINGS
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the Act) in its files on the
required by Section 609 of the

requisite to disclosing informa-
tion to Section 609 of the Act, to
requires respondent to conduct a
manner may dispute, or to transmit
to persons to whom it has
information or which authorizes
any person or anyone else to give
information to consumer to respondent; or
condition or requirement which
of the Act.

period of time to reinvestigate any
person's file, the completeness or
the consumer, unless it has
dispute is frivolous or irrelevant,
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directly, other than for reports
business of insurance, medical
603(i) of the Act, obtained in
provided by a consumer, unless the
respondent as a recipient of the

must deliver a copy of this order
to persons who are engaged in the
investigative consumer reports
or reinvestigation of informa-

must distribute a copy of this
order and subsidiaries.

must notify the Commission at
proposed change in the corporate
management, or sale resulting in the
the creation or dissolution of
the corporation which may
result of the order.

EQUIFAX INC.

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Modifying Order

IV

*It is further ordered, That respondent 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.*