

LANDLORDS' AUTOMATED BLACKLISTS

By Simson L. Garfinkel

Alice Arias lost everything she had because of an erroneous computer match.

The UD Registry Inc. in Van Nuys, Cal., maintains a database of every Southern California eviction filing and ruling that has taken place in the past seven years. The database is marketed to landlords. For \$6.25 UDR will search its database and report whether a prospective tenant has had legal problems with former landlords. For an additional \$8.25, the company will throw in a TRW or a Trans Union credit report.

The theory is that if a tenant has caused financial loss to one landlord, the tenant is likely to do it again. The purpose of UDR is to keep people who have been evicted from one apartment from finding another. But problem tenants aren't the only people who are homeless.

In 1979 Arias applied for an apartment for herself and her four sons in a federally subsidized building. She was on the waiting list for six years, after which her application was rejected. "They ran a credit check on me. They denied me, saying that I had been evicted for nonpayment of rent and that I owed my landlord \$1300," she said.

That's when Alice Arias learned there was another Alice Arias living in Montebello.

"We have the same name. I lived on Bradley. She lived on Bradeley." The other Arias, who lived with her four daughters, was in UDR's computer as a problem tenant.

Tenant screening services like UDR have sprung up all around the U.S. in the past ten years. Like UDR, many have small armies of scouts that travel from courthouse to courthouse armed with portable computers to take down the day's eviction filings and rulings. At night, the portables transmit the data to a central computer and update the database.

From 1985 to 1987, every building Arias applied to rejected her -- not surprisingly, considering that more than 90 percent of Southern California's landlords use UDR, according to Harvey Saltz, the company's owner. Since she couldn't find an
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apartment, Arias was forced to pay \$600 a month for a hotel room. She put her possessions into storage. But Arias' \$455 monthly disability check couldn't cover expenses. One day she went to pay her bill and learned that all of her possessions had been sold for \$312 --- the back storage fees. Arias lost more than \$15,000 worth of furniture and clothing, plus countless personal items that were simply thrown out.

Harvey Saltz said what happened to Arias was her own fault; she had tried to outwit UDR's computer by changing her Social Security number. "She isn't exactly lily white," Saltz said. Because people sometimes lie about identifying information, UDR's computer is programmed to register a hit on near matches. That's why Arias who lived on Bradley matched Arias who lived on Bradeley.

Ruth Cisneros is another one of UDR's victims. Seven years ago, Cisneros' landlord of three months wanted her out. "I don't want you here and that's that," Cisneros said the landlord told her.

The landlord sued to have Cisneros evicted, but a judge said the suit was groundless and threw it out. At the end of the year, Cisneros' landlord had a change of heart and renewed the lease. The cycle repeated twice more until the building was sold in early 1987. The only real effect that the suits had was to put a notation in UDR's computer that somebody had tried to get Cisneros evicted.

California is the only state that regulates tenant screening services. Under California's Consumer Credit Reporting Act, companies may not report unlawful detainer actions in which the tenant is victorious. Arias, Cisneros, and six other people have filed against UDR alleging that the company has violated the law. UDR has responded by filing objections. Cisneros v. UD Registry, C645123 (Sup. Ct., Los Angeles).

Iris D. Cotto, of Springfield, Mass., has filed a similar suit against Landlord Reports Computer Service and JSE Corp., an apartment management company. Cotto alleges that a computer mismatch prevented her from obtaining housing and that Landlord Reports and JSE did not follow the Fair Credit Reporting Act, the federal law that regulates third-party consumer reporting like this. Cotto v. Jenney, 87-0056-F (W.D. Mass.)

Services are operating statewide in California, New Jersey, and Rhode Island, and also in Denver, Columbus, Kansas City, Mo., Hartford, Conn., Houston, Dallas, San Antonio, Minneapolis-St. Paul, Tulsa, Philadelphia, and Washington, D.C. Telecheck operates a nationwide service called RentCheck. It is impossible to know how many others there are, because no form of public filing or notification is required.

Services typically gather their data from two sources: courts and landlords.

There are nearly as many different approaches to court reporting as there are screening services. Some report only the content of court calendars --- they will tell a landlord if a prospective tenant is involved in a court case, but they may not know the disposition of the case. Some services type into portable computers short summaries of the case, while others type in the full text. One service photocopies records and feeds them into a computer with an optical scanner. Apartment Owners' Information Exchange, based in Plainfield, N.J., microfilms court records and maintains an index on computer.

Screening services also solicit information on tenants from landlords and keep
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it in a database sometimes called a "fly-by-night" file. A typical entry in such a file might be that a tenant left an apartment with \$300 worth of damage or failed to pay the last two months' rent. Some fly-by-night files include lifestyle information -- that a tenant played the radio loudly, for instance, and bothered other people in the building. Screening services trust the landlord's word for information in the fly-by-night file and, for the most part, do not require any kind of supporting documentation.

There are always new sources of information. Landlord Credit Data Services of Pawtucket, R.I., clips New England newspaper articles that involve violent crime or drugs and enter the names mentioned into its database. RentCheck in Denver uses its parent company TeleCheck's database of bounced checks. Landlord Reports Computer Service of Springfield, Mass., incorporates information from rental applications such as sources of income and Social Security numbers. Some services validate name spellings and address changes from automobile license registration files. One database operator said that he will occasionally call friends working in out-of-state police departments to search individuals on the FBI's National Crime Information Center or other computerized police systems.

With the exception of California, tenant screening services operate in an environment that is totally unregulated. David Grimes, an attorney with the division of credit practices of the Federal Trade Commission since 1973, said the FTC hasn't taken a position on whether or not tenant screening services are subject to the FCRA or not. [The act covers "any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties."] "The act doesn't specifically address the tenant screening services. We're not aware of any case law that decides the issue either," Grimes said.

There are currently two legislative efforts to regulate tenant screening services: one in U.S. Congress and one in Massachusetts.

Rep. Charles Schumer, D-N.Y., has reintroduced a bill to bind tenant screening services to the terms of the Fair Credit Reporting Act. Schumer's bill, HR 3672, would also forbid screening services from reporting:

- If a tenant is or has been a member or involved in any tenants' organization or other activity on behalf of tenants;
- If a consumer ever notified a state or local agency about a landlord's safety or sanitation violation;
- If a tenant ever requested maintenance for a property;
- If a tenant withheld rent, provided the action was lawful and carried out in accordance with legal procedures;
- If a tenant was a prevailing party in an eviction action; or any court actions more than a year old.

The Massachusetts bill, S 458, is identical to one that failed by a tie vote in the 1987 legislative session (H 5566). It is similar to Schumer's, except that it would prevent services from reporting eviction actions. It would require a service to mail to the tenant a copy of any report requested by a landlord. Neither the federal or Massachusetts bills would restrict fly-by-night files.