



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Division of Privacy and Identity Protection

**VIA FEDERAL EXPRESS  
SIGNATURE REQUESTED**

May 2, 2013

Brokers Data  
Alfred Diberadino  
103 Arbor Place Dr.  
Columbia, SC 29229-7532

Dear Mr. Diberadino:

This letter concerns recent test-shopping contacts with your company by non-attorney staff of the Federal Trade Commission (“FTC”), a federal agency that enforces consumer privacy laws, including the Fair Credit Reporting Act (“FCRA”).<sup>1</sup> These test-shopping contacts indicated that your company may be selling consumer information for use in determining eligibility for insurance, which may violate the FCRA. We want to make you aware of the requirements of this law so that you can ensure that your practices comply with it.

If you assemble or evaluate information on consumers and provide it to third parties so that they can establish consumers’ eligibility for insurance or adjust their insurance premiums, then you are a consumer reporting agency (“CRA”) that is required to comply with the FCRA.<sup>2</sup> Even if you place a disclaimer on your website indicating that your data must not be used to evaluate eligibility for insurance or other FCRA-covered purposes, you may still be a CRA. Regardless of any disclaimers, if you do not intend to be a CRA, you should have clear policies in place explaining the purposes for which you will and will not sell information, you should educate your employees and customer service representatives about the importance of not selling consumer information for FCRA purposes, and you should review all marketing materials to ensure that you are not marketing your products for use in evaluating eligibility for insurance or other FCRA purposes. If you are a CRA, the reports that you provide for these purposes are known as “consumer reports.”<sup>3</sup>

In the event that you are a CRA, the FCRA requires you to take several steps to ensure the fairness, accuracy, and confidentiality of the consumer reports that you provide. For example, you must take reasonable steps to ensure the maximum possible accuracy of the information in your consumer reports, and to ensure that each person to whom you provide a consumer report is in fact using the report to establish consumers’ eligibility for insurance.<sup>4</sup> Further, you must inform third parties who obtain consumer reports from you about their

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<sup>1</sup> 15 U.S.C. § 1681 *et seq.*

<sup>2</sup> *See* 15 U.S.C. § 1681a(f).

<sup>3</sup> 15 U.S.C. § 1681a(d).

<sup>4</sup> *See* 15 U.S.C. § 1681e(a), (b).

obligations under the FCRA.<sup>5</sup> For example, you must tell insurers that if they deny insurance based on the consumer reports you provide, they must provide the applicant with notice of that fact, along with information about the applicant's right to receive a free copy of his or her report from you, and to dispute information that the applicant believes is inaccurate. A model notice is available in 12 Code of Federal Regulations § 1022, Appendix N.

At this time, we have not evaluated your company's practices to determine whether they comply with the FCRA. However, we encourage you to review your products and services, as well as your policies, employee training, and other procedures for compliance. You may find the full text of the FCRA and more information about it on the FTC website at <http://business.ftc.gov/privacy-and-security/credit-reporting>.

The Commission reserves the right to take action against you based on past or future law violations; your practices also may be subject to laws enforced by other federal, state, or local law enforcement agencies. A violation of the FCRA may result in legal action by the FTC, in which it is entitled to seek injunctive relief and/or monetary penalties of up to \$3,500 per violation.<sup>6</sup>

If you have any questions, please call Laura Berger at (202) 326-2471 or Kristen Anderson at (202) 326-3209.

Sincerely,

Maneesha Mithal  
Associate Director

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<sup>5</sup> 15 U.S.C. § 1681e(d).

<sup>6</sup> *See, e.g., U.S. v. Teletrack, Inc.*, Case No. 1:11-CV-2060 (N.D. Ga. June 27, 2011) (consent agreement for civil penalties of \$1.8 million for violations of the FCRA).