

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

Case Breakers
David Scott
1440 Coral Ridge Drive
Coral Springs, FL 33071

Dear Mr. Scott:

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”).¹ These test-shopping contacts indicated that your company may be selling consumer information for employment purposes, 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 employers so that they can screen or evaluate employees, then you are a consumer reporting agency (“CRA”) that is required to comply with the FCRA.² This is true even if you obtain this information from criminal background checks or other public records.³ Further, even if you place a disclaimer on your website indicating that your data must not be used for employment 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 to HR professionals or employers. If you are a CRA, the reports that you provide for these purposes are known as “consumer reports.”⁴

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

¹ 15 U.S.C. § 1681 *et seq.*

² *See* 15 U.S.C. § 1681a(f).

³ *See* Sum, Informal Staff Opinion Letter, Sept. 15, 1999 (“The ‘public record’ status of . . . information is irrelevant

