

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”).¹ 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.² 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 that their information should not be used for purposes not intended by you.

obligations under the FCRA.⁵ 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.⁶

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

⁵ 15 U.S.C. § 1681e(d).

⁶ 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).