

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovac

Edith Ramirez
Julie Brill

_____)
In the Matter of)
)
FAJILAN AND ASSOCIATES, INC.)
also d/b/a STATEWIDE CREDIT SERVICES,)
a corporation,)
)
and)
)
ROBERT FAJILAN,)
individually and as an officer of)
the corporation.)
)
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Fajilan has formulated, directed, or controlled the acts or practices of Statewide, including the various acts or practices alleged in this complaint. His principal office or place of business is the same as Statewide.

3. The acts and practices of respondents as alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. Statewide contracts with the three nationwide consumer reporting agencies, Equifax, Experian, and TransUnion (“nationwide CRAs”) to obtain consumer reports that it assembles and merges into a single “trimerge report.” The trimerge reports contain sensitive consumer information such as full name, current and former addresses, Social Security number, date of birth, employer history, credit account histories and information, and even account numbers. Much of this sensitive information is not publicly available. These “trimerge reports” are “consumer reports” as defined in Section 603(d) of the FCRA, 15 U.S.C. § 1681a(d).
5. Respondents sell these trimerge reports to mortgage brokers and others to determine consumers’ eligibility for credit. In creating and selling the trimerge reports to end user clients, respondent Statewide is a “consumer reporting agency” as that term is defined in Section 603(f) of the FCRA, 15 U.S.C. § 1681(f).
6. Respondent Statewide is a “financial institution” as that term is defined by Section 509(3)(A) of the GLB Act, 15 U.S.C. § 6809(3)(A), and is therefore subject to the requirements of the Safeguards Rule.

RESPONDENTS’ COURSE OF CONDUCT

7. Statewide furnishes its end user clients with trimerge reports through an online portal. It issues credentials to its clients, which consist of a user name and password. The end user clients use these credentials to access Statewide’s online portal and receive trimerge reports.
8. From at least October 2006, respondents have engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security for consumers’ personal information. Among other things, respondents failed to:
 - a. develop and disseminate information security policies for Statewide and its end user clients;
 - b. assess the risks of allowing end users with unverified or inadequate security to access consumer reports through Statewide’s portal;

protect the security, confidentiality, and integrity of customer information by developing a comprehensive written information security program that contains reasonable administrative, technical, and physical safeguards that include: (1) designating one or more employees to coordinate the information security program; (2) identifying reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information, and assessing the sufficiency of any safeguards in place to control those risks; (3) designing and implementing information safeguards to control the risks identified through risk assessment, and regularly testing or otherwise monitoring the effectiveness of the safeguards' key controls, systems, and procedures; (4) overseeing service providers and requiring them by contract to protect the security and confidentiality of customer information; and (5) evaluating and adjusting the information security program in light of the results of testing and monitoring, changes to the business operation, and other relevant circumstances. 16 C.F.R. §§ 314.3, 314.4.

14. As described in Paragraphs 7 through 12, respondents failed to implement reasonable security policies and procedures to protect sensitive consumer information, and have thereby engaged in violations of the Safeguards Rule by, among other things:
 - a. failing to design and implement information safeguards to control the risks to customer information;
 - b. failing to regularly test or monitor the effectiveness of its existing controls and procedures;
 - c. failing to evaluate and adjust the information security program in light of known or identified risks; and
 - d. failing to develop, implement, and maintain a comprehensive information security program.

VIOLATIONS OF THE FCRA

15. Section 604 of the FCRA, 15 U.S.C. § 1681b, prohibits a consumer reporting agency from furnishing a consumer report except for specified "permissible purposes." As described in Paragraph 10, in multiple instances, respondents furnished consumer reports to hackers that did not have a permissible purpose to obtain a consumer report. By and through the acts and practices described in Paragraphs 7 through 12, respondents have violated Section 604 of the FCRA, 15 U.S.C. § 1681b.
16. Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a), requires every consumer

reporting agency to maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under Section 604 of the FCRA, 15 U.S.C. § 1681b. As described in Paragraphs 7 through 12, respondents failed to maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under Section 604 of the FCRA. By and through the acts and practices described in Paragraphs 7 through 12, respondents have violated Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a).

17. Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a), prohibits a consumer reporting agency from furnishing a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a permissible purpose. As described in Paragraphs 10 through 12, in numerous instances, respondents furnished consumer reports under circumstances in which they had reasonable grounds for believing that the reports would not be used for a permissible purpose. By and through the acts and practices described in Paragraphs 10 through 12, respondents have violated Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a).
18. By their violations of Sections 604 and 607(a) of the FCRA, and pursuant to Section 621(a) thereof, 15 U.S.C. § 1681s, respondents have engaged in unfair and deceptive acts and practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE FTC ACT

19. As described in Paragraphs 7 through 12, respondents have not employed reasonable and appropriate measures to secure the personal information they maintain and sell. Respondents' failure to employ reasonable and appropriate security measures to protect consumers' personal information has caused or is likely to cause substantial injury to consumers that is not offset by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. This practice was, and is, an unfair act or practice in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

THEREFORE, the Federal Trade Commission this __ day of _____, ____, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary