

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
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.)
_____)

DOCKET NO. C-4332

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Respondents named in the caption hereof, and the Respondents having been furnished thereafter with a copy of a draft Complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the Respondents with violation of the Federal Trade Commission Act, 15 U.S.C. § 45 *et seq*; the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq*; and the Commission’s Standards for Safeguarding Customer Information Rule, 16 C.F.R. Part 314, issued pursuant to Title V, Subtitle A of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809.

The Respondents and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), an admission by the Respondents of all the jurisdictional facts set forth in the aforesaid draft Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the Respondents have violated the Federal Trade Commission Act, the Fair Credit Reporting Act, and the Gramm-Leach Bliley

5. “Consumer report” shall mean as defined in Section 603(d)(1) of the FCRA, 15 U.S.C. § 1681a(d)(1).
6. Unless otherwise specified, “Corporate respondent” shall mean Statewide Credit Services, Inc. and its subsidiaries, divisions, affiliates, successors and assigns. “Individual respondent” means Robert Fajilan. “Respondents” means the Individual respondent and Corporate respondent, individually, collectively, or in any combination.
7. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that Corporate respondent and any business entity that Individual respondent, Robert Fajilan, controls, directly or indirectly, which collects, maintains, or stores personal information from or about consumers, shall, no later than the date of service of this order, establish and implement, and thereafter maintain, a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers, including the security, confidentiality, and integrity of personal information accessible to end users. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to Corporate respondent’s or the entity’s size and complexity, the nature and scope of Corporate respondent’s or the entity’s activities, and the sensitivity of the personal information collected from or about consumers. The information security program must include:

- A. the designation of an employee or employees to coordinate and be accountable for the information security program;
- B. the identification of material internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assessment of the suff

of the effectiveness of the safeguards' key controls, systems, and procedures;

- D. the development and use of reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from the Corporate respondent or the entity, and requiring service providers by contract to implement and maintain appropriate safeguards; and
- E. the evaluation and adjustment of respondent's or the entity's information security program in light of the results of the testing and monitoring required by sub-Part C, any material changes to Corporate respondent's or the entity's operations or business arrangements, or any other circumstances that Corporate respondent or the entity know or have reason to know may have a material impact on the effectiveness of their information security program.

II.

IT IS FURTHER ORDERED that Corporate respondent and any business entity that Individual respondent, Robert Fajilan controls, directly or indirectly, and their officers, agents, representatives, and employees, shall not, directly or through any corporation, subsidiary, division, website, or other device, violate any provision of the Safeguards Rule, 16 C.F.R. Part 314. In the event that this Rule is hereafter amended or modified, respondents' compliance with that Rule as so amended or modified shall not be a violation of this order.

III

IT IS FURTHER ORDERED that Corporate respondent and any business entity that Individual respondent, Robert Fajilan, controls, directly or indirectly, in connection with the compilation, creation, sale, or dissemination of any consumer report shall:

- A. furnish such consumer report only to those with a permissible purpose as described in Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681b;
- B. maintain reasonable procedures to limit the furnishing of such consumer report to those with a permissible purpose and ensure that no consumer report is furnished to any person when there are reasonable grounds to believe that the consumer report will not be used for a permissible purpose, as required by Section 607(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681e(a).

IV.

IT IS FURTHER ORDERED that, Corporate respondent and any business entity that Individual respondent, Robert Fajilan, controls, directly or indirectly, which collects, maintains, or stores personal information from or about consumers, shall, in connection with their

compliance with Part I of this order, obtain initial and biennial assessments and reports (“Assessments”) from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. Each Assessment shall be

- A. for a period of five (5) years, a print or electronic copy of each document relating to compliance, including but not limited to documents, prepared by or on behalf of

- C. For any business that collects, maintains, or stores personal information from or about consumers, where Individual respondent, Robert Fajilan, is not a controlling person of the business, but he otherwise has responsibility, in whole or in part, for developing or overseeing the implementation of policies and procedures to protect the privacy, security, confidentiality, or integrity of personal information collected from or about consumers by the business, Individual respondent must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.
- D. Respondents must secure a signed and dated statement acknowledging receipt of this Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this section.

VII.

IT IS FURTHER ORDERED that Individual respondent Fajilan, for a period of ten (10) years from the date of entry of this Order, shall notify the Commission of the following:

- A. Any changes in Individual respondent’s residence, mailing address, and or telephone numbers, within ten (10) days of such a change;
- B. Any changes in Individual respondent’s business or employment status (including self-employment), and any changes in his ownership in any business entity, within ten (10) days of such a change. Such notice shall include the name and address of each business that respondent is affiliated with, employed by, created or forms, or performs services for; a detailed description of the nature of the business or employment; and a detailed description of the respondent’s duties and responsibilities in connection with such business or employment; and
- C. Any changes in Individual respondent’s name or use of any aliases or fictitious names, including “doing business as” names.

Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line FTC v. Fajilan and Associates, Inc.

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By the Commission.

Richard C. Donohue
Acting Secretary

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ISSUED: August 17, 2011