

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

In the Matter of)
)
)
FILIQUARIAN P UBLISHING, LLC;)
)
CHOICE LEVEL, LLC ; and)
)
JOSHUA LINSK,)
individually and as an officer)
of the companies,)
Respondents.)
_____)

DOCKET NO. C-4401

COMPLAINT

The Federal Trade Commission ("FTC" or "Commission"), having reason to believe that Filiquarian Publishing, LLC, Choice level, LLC, and Joshua linsk, individually, and as an officer of the companies, have violated the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681et seq, and Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45(a), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Filiquarian Publishing, LLC ("Filiquarian") is a Minnesota company with its principal office or place of business at 3722 Las V

4. 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.

RESPONDENTS' BUSINESS PRACTICES

5. Since at least 2010, respondent Filiquarian has operated a series of mobile applications ("apps") that it advised consumers could use to conduct "quick criminal background check for convictions" in specific states. Mobile apps offered by respondent Filiquarian include Alaska Criminal Records Search, Arizona Criminal Records Search, Arkansas Criminal Records Search, Connecticut Criminal Records Search, Indiana Criminal Records Search, Iowa Criminal Records Search, Minnesota Criminal Records Search, Orange County Criminal Records Search, Texas Criminal Records Search, Utah Criminal Records Search, Virginia Criminal Records Search, and Wisconsin Criminal Records Search.
6. Respondent Filiquarian represented that the apps would access hundreds of thousands of criminal records, and that users could conduct a search on potential employees. For example, respondent Filiquarian's mobile app, Texas Criminal Record Search, included the following representation:

"Are you hiring somebody and wanting to quickly find out if they have a record? Then Texas Criminal Record Search is the perfect app for you!" (b) (3), (b) (7)(C), (b) (7)(D)

10. Both respondents Fiqueria and Choice Level included a disclaimer in their "terms and conditions" stating that their respective products were not to be considered screening products for insurance, employment, loans, and credit applications, among other things. Respondents' disclaimer also stated that respondents were not compliant with the FCRA and any person using respondents' information for FCRA purposes "assumes sole responsibility for compliance with the Fair Credit Reporting Act and all/any other applicable laws."

APPLICATION OF THE FCRA

11. Under Section 603(f) of the FCRA, 15 U.S.C § 1681a(f), a company is a consumer reporting agency ("CRA") if it assembles or evaluates information on consumers for the purpose of furnishing "consumer reports" to third parties. According to Section 603(d) of the FCRA, 15 U.S.C § 1681a(d)(1), consumer reports are communications that include information relating to an individual's character, reputation, or personal characteristics and are used or expected to be used for employment, housing, credit, or other similar purpose.
12. Respondents regularly assembled criminal records into reports that they provided to 7017083.D000 74

16. Respondents have regularly furnished consumer reports to third parties without procedures to inquire into the purpose for which the user is buying the report. Thus, respondents have violated Section 604(a) of the FCRA, 15 U.S.C. § 1681b(a)
17. Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a), requires every CRA to maintain reasonable procedures to limit the furnishing of consumer reports for permissible purposes. The procedures require that the CRA, prior to furnishing a user with a consumer report, require the prospective user of the information to identify themselves to the CRA, certify the purpose for which the information is sought, and certify that the information will be used for no other purpose. The CRA must make a reasonable effort to verify the identity of each new prospective user and the user certified prior to furnishing such user a consumer report. In addition, Section 607(a) prohibits a CRA from furnishing a consumer report to any person it has reasonable grounds to believe will not use the consumer report for a permissible purpose.
18. Respondents failed to maintain reasonable procedures to limit the furnishing of consumer reports for permissible purposes. For example, respondents failed to require that prospective users of the reports identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. By failing to limit the furnishing of reports to those who had a permissible purpose to use such a report, respondents have violated Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a)
19. Section 607(b) of the FCRA, 15 U.S.C. § 1681e(b), requires CRAs to follow reasonable procedures to assure maximum possible accuracy of information concerning the individual about whom the report relates.
20. Respondents maintained no procedures to assure maximum possible accuracy of information in the reports it provided. Accordingly, respondents have violated Section 607(b) of the FCRA, 15 U.S.C. § 1681e(b)
21. Section 607(d) of the FCRA, 15 U.S.C. § 1681e(d), requires CRAs to provide notices to all users of respondents' consumer reports; and to all persons who regularly furnish consumer report information to respondents
22. Respondents failed to provide such notices. Accordingly, respondents have violated Section 607(d) of the FCRA, 15 U.S.C. § 1681e(d)

23. By their violations of Sections 604(a), 607(a), 607(b), and 607(d) of the FCRA, 15 U.S.C. §§ 1681b(a), 1681e(b), and 1681e(f), 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.