

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

REALPAGE, INC., a corporation,

Defendant.

Case Number:

COMPLAINT FOR CIVIL PENALTIES,
PERMANENT INJUNCTION, AND OTHER
EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its Complaint, alleges:

1. Plaintiff brings this action under Sections 5(a), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b), and 56(a)(1); and Section 621(a) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681s(a), to obtain monetary civil penalties and injunctive or other relief from Defendant RealPage, Inc., for engaging in violations of the FTC Act, 15 U.S.C. § 45(a), and the FCRA, 15 U.S.C. §§ 1681-1681x.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(a), 53(b), 56(a), and 1681s.

persons subject thereto except to the extent that enforcement specifically is committed to some

reports”). These tenant screening reports may include rental histories and public record information, including criminal and eviction histories, of individuals from multiple sources. In addition, the tenant screening reports may include credit information from the nationwide consumer reporting agencies (Equifax, Experian, and TransUnion) and, prior to July 1, 2016, may have included information from Telecheck, a consumer reporting agency that operates one of the nation’s largest check authorization sTc 6iti crimE

16. When clients request criminal record information on applicants, RealPage conducts a nationwide criminal records search using the applicant's first, middle (if available), and last name, and date of birth. RealPage requires clients to provide the applicant's middle name or initial or check a box stating that the applicant does not have a middle name or initial. Property managers, landlords, and consumers submit this information to RealPage through an online request form.

17. If the client requests a credit report on the applicant, and the credit report includes variations on names (e.g., an applicant's maiden name), birth dates, and previous addresses, RealPage will include these variations as additional match criteria when searching for criminal record information (e.g., if the credit report returned for Katherine Jones includes a name variation of Katherine Smith, RealPage will search for criminal records under either name).

18. RealPage's matching criteria requires an exact match on the applicant's last name only. During the relevant time period, RealPage used a "soft", or non-exact, match for first name, middle name, and date of birth. For example:

- a. A match is deemed to occur on first and middle names if the first three letters of the name match, or if there is a phonetic match (e.g., Anthony Jones 10/15/67 will match to Antony Jones 10/15/67, Antonio Jones 10/15/67 and Antoinette Jones 10/15/67; Jon Jones 10/15/67 will match to John Jones 10/15/67; Brianna Smith 10/15/67 will match to Brittany Smith 10/15/67).

- b. If the name on the application, credit report or criminal record does not contain a middle name, but date of birth and last names match, a match is deemed to occur even if there is only a soft match of first name to middle name (e.g., Anthony Jones 10/15/67 will match to David Anthony Jones 10/15/67 and David Antonio Jones 10/15/67).
- c. If date of birth and last names match, a match is deemed to occur if an initial matches the first letter of a full first or middle name (e.g., Anthony Jones 10/15/67 will match to A. Jones 10/15/67).
- d. If the day and month of birth on a criminal record match the applicant's, and year of birth is within one year of the applicant's date of birth, a match is deemed to occur (e.g., Anthony Jones 10/15/67 will match to Anthony Jones 10/15/68). This rule applies only if there is an exact match on last name, exact match on first name, and exact match or blank middle name (e.g., Anthony David Jones 10/15/67 will match to Anthony David Jones 10/15/66 and Anthony Jones 10/15/68, but will not match to Antonio David Jones 10/15/66).
- e. A date of birth match is deemed to occur when the only date components available on the criminal record (such as year of birth, month and year of birth, or month and day of birth) match the application or credit report (e.g., Anthony Jones 10/15/67 will match to Anthony Jones 1967, Anthony Jones age 50,

Anthony Jones 10/1967 and Anthony Jones 10/15/**). This rule applies to exact or soft name matches (e.g., Brianna Smith 10/15/67 will match to Brittany Smith 1967).

19. During the relevant time period, RealPage had minimal procedures to narrow the results generated by its broad matching criteria, even for consumers with common names.

RealPage filtered out only:

- a. Records that were not an exact or soft match to the applicant's middle name (if available). If the middle name were not available, however, RealPage would report records with middle names that completely differed from each other.
- b. Records from states that the applicant had never lived in or where the client's property was not located, with some exceptions.
- c. Records that did not match the gender of the applicant if the application contained gender. If the application did not contain gender, however, RealPage would report records that indicated differing genders.

20. During the relevant time period, RealPage did not have policies and procedures to assess the accuracy of the results of its broad matching criteria. For example, RealPage would provide reports containing records of several different individuals with different names and, in some instances of sex offender registry information, would provide reports containing photographs of several different individuals with different names.

Defendant's Failure to Follow Reasonable Procedures to Assure Maximum Possible Accuracy

21. During the relevant time period, RealPage's practices, taken together, did not satisfy the statutory requirement to follow reasonable procedures to assure maximum possible accuracy. RealPage's failures included the following:

- a. In light of RealPage's broad matching criteria, in particular its soft name matching rules, RealPage unreasonably failed to employ adequate filtering of the broad results its searches returned.
- b. RealPage unreasonably failed to take steps to assess the accuracy of the results it returned in instances where there were internal inconsistencies between records or results that clearly included information on multiple individuals before transmitting tenant screening reports to clients.

Results of Defendant's Failures

22. In multiple instances, during the relevant time period, these failures to follow reasonable procedures to assure maximum possible accuracy of consumer reports led to the reporting of inaccurate information regarding consumers, including current or prospective tenants, and, in some instances, may have led to the denial of housing or other opportunities.

27. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraph 25 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

This Court's Power to Grant Relief

28. Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A), authorizes the Court to award monetary civil penalties in the event of a knowing violation of the FCRA, which constitutes a pattern or practice of violations. Defendant's violations of the FCRA, as alleged in this Complaint, have been knowing and have constituted a pattern or practice of violations. As specified by the Federal Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvements Act of 1996, Pub. L. 104-134, § 31001(s)(1), 110 Stat. 1321-373, the Court is authorized to award a penalty of not more than \$3,500 per violation for violations occurring before August 1, 2016, \$3,756 per violation for violations occurring between that date and January 23, 2017, and \$3,817 for violations occurring on or after January 24, 2017.

29. Each instance in which Defendant has failed to comply with the FCRA constitutes a separate violation of the FCRA for the purpose of assessing monetary civil penalties under Section 621 of the FCRA, 15 U.S.C. § 1681s. Plaintiff seeks monetary civil penalties for every separate violation of the FCRA.

30. Under Section 621(a) of the FCRA, 15 U.S.C. § 1681s(a), and Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction prohibiting Defendant from violating the FTC Act and the FCRA.

Prayer for Relief

WHEREFORE, Plaintiff requests that this Court, pursuant to 15 U.S.C. §§ 45(a), 53(b) and 1681s, and pursuant to the Court's own equitable powers:

- (1) Enter judgment against Defendant and in favor of Plaintiff for each law violation alleged in this Complaint;
- (2) Enter a permanent injunction against Defendant to prevent further violations of the FCRA and the FTC Act, as alleged herein;
- (3) Award Plaintiff monetary civil penalties from Defendant for each violation of the FCRA as alleged in this Complaint;
- (4) Order Defendant to pay the costs of this action; and
- (5) Award Plaintiff such additional relief as the Court may deem just and proper.

Dated: October 16, 2018

Respectfully submitted,

ALDEN F. ABBOTT
General Counsel

/s/ Ann LeJeune

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