

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

UNITED STATES OF AMERICA, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> CREDIT PROTECTION ASSOCIATION, LP, a limited partnership, <p style="text-align: center;">Defendant.</p>))))))))))	Case No.
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**COMPLAINT FOR CIVIL PENALTIES, PERMANENT INJUNCTION,
 AND OTHER EQUITABLE RELIEF**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or “Commission”), for its Complaint, alleges:

1. Plaintiff brings this action under Sections 5(a), 5(m)(1)(A), 13(b), 16(a), and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), 56(a), and 57(b), and Section 621(a) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681s(a), to obtain monetary civil penalties and permanent injunctive or other relief for Defendant’s violations of the FTC Act, 15 U.S.C. § 45(a); the FCRA, 15 U.S.C. §§ 1681-1681x; and the Duties of Furnishers of Information to Consumer Reporting Agencies (“Furnisher Rule”), 16 C.F.R. § 660, issued pursuant to Section 623(e)(1) of the FCRA, 15 U.S.C. § 1681s-2(e)(1), and recodified as Duties of Furnishers of Information, 12 C.F.R. § 1022, subpart E.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), 56(a), and 1681s(a).

3. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(c), 1395(a), and 15 U.S.C. § 53(b).

PLAINTIFF

4. This action is brought by the United States of America on behalf of the FTC. The

other governmental agency, irrespective of whether the person is engaged in commerce or meets any other jurisdictional tests set forth by the FTC Act.

9. The FCRA imposes obligations on consumer reporting agencies (“CRAs”) that assemble and evaluate consumer reports, furnishers of information to CRAs, and those that obtain information from CRAs. The FCRA required the Commission to establish regulations to implement requirements for furnishers. The Commission published regulations related to furnishers at 16 C.F.R. § 660 (“Furnisher Rule”). In July 2011, the Dodd-Frank Act transferred rulemaking authority under the FCRA to the CFPB, and the CFPB republished the Part 660 regulations at 12 C.F.R. § 1022, at Subpart E and Appendix E to part 1022. The Commission enforces the CFPB regulations with respect to entities over which the Commission has jurisdiction under the FCRA.

10. The Furnisher Rule requires furnishers to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of consumer information they furnish to a CRA, 16 C.F.R. § 660.3, recodified at 12 C.F.R. § 1022.42. This provision of the Furnisher Rule was intended to “promote the accuracy of information reported to consumer

CPA's Written Accuracy and Integrity Policies and Procedures

13. The Furnisher Rule states that furnishers must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the consumer information that they furnish to a CRA. 16 C.F.R. § 660.3(a), recodified at 12 C.F.R. § 1022.42(a). The Rule expressly requires furnishers to consider the guidelines in Appendix E of the Rule, and review their policies and procedures periodically. 16 C.F.R. § 660.3(b) and (c), recodified at 12 C.F.R. § 1022.42(b) and (c).

14. In June 2010, CPA adopted a three page document that is entitled “Consumer Information Reported to Consumer Reporting Agencies” and describes policies that were intended to comply with CPA’s obligations under the Furnisher Rule. In establishing and implementing its written policies, CPA failed to consider and incorporate the appropriate guidelines from Appendix E of the Furnisher Rule. Specifically, CPA failed to:

- a) adopt policies reasonably designed to promote the objective of conducting reasonable investigations of consumer disputes and taking appropriate actions based on the outcome of such investigations. 12 C.F.R Part 1022, Appendix E, Section I, Subsection (b)(3); and
- b) address the following specific, appropriate components in developing its policies and procedures:
 - i) maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute. Appendix E, Section III, subsection (c);
 - ii) training staff that participates in activities related to the furnishing of information about consumers to consumer reporting agencies to implement the policies and procedures. Appendix E, Section III, subsection (e);
 - iii) conducting reasonable investigations of disputes. Appendix E, Section III, subsection (i); and

iv) conducting a periodic evaluation of its own practices, consumer reporting agency practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy or integrity of information furnished to consumer reporting agencies. Appendix E, Section III, subsection (l).

15. In addition to failing to establish and implement reasonable written policies and procedures regarding the accuracy or integrity of furnished information, CPA also failed to review its existing policies and procedures periodically and update them as necessary to ensure their effectiveness. CPA's failures could lead to CPA reporting inaccurate information to CRAs.

CPA's Policies and Procedures for Direct Dispute Investigations

16. CPA publishes an address at which consumers can file direct disputes regarding the accuracy of account information CPA has furnished to the CRAs, and regularly receives dispute notices from consumers. CPA has employees in its "dispute resolution" department that have the authority to resolve disputes by modifying or deleting account information if the consumer submits supporting documentation that the employees deem suitable (*e.g.* canceled checks showing payments). These employees receive insufficient training about the FCRA or CPA's duty to conduct reasonable investigations of direct disputes.

17. If disputes are not resolved by employees at the initial processing stage, CPA transmits the dispute information to its clients, the original creditors, for handling and resolution.

its furnishing activities. CPA's policies and procedures do not provide for adequate training or monitoring of employees who participate in direct dispute investigations, and its routine destruction of documents related to disputes and failure to implement reasonable file documentation policies prevent it from conducting meaningful review of its investigation practices.

23. In numerous instances, consumers contacted by CPA have disputed the balances the company is trying to collect. Consumers have told CPA that they paid the account balances, that account balances were inaccurate for various reasons, or that they never had the services in the first place. Moreover, consumers have complained that CPA continued to attempt to collect on inaccurate account information despite multiple disputes.

Post-Investigation Notification of Consumers

24. The Furnisher Rule requires furnishers to complete direct dispute investigations and notify consumers of the results within the same time period as mandated for CRA investigations of disputes, 30 days. 16 C.F.R. § 660.4(e)(3), recodified at 12 C.F.R. § 1022.43(e)(3). CPA has no policy in place to comply with this requirement. Once CPA is notified by the creditor-client that disputed account information has been confirmed, or should be modified or deleted, CPA's practice is to update its internal records accordingly, and the system is supposed to then automatically provide updates to CRAs. In some instances, when required by state law or in cases where the account has been escalated to CPA's legal department because of involvement of an attorney or the threat of a lawsuit, CPA will send a letter notifying the consumer of the action taken. However, CPA has no policy requiri

COUNT I

Lack of Reasonable Written Policies and Procedures

25. As described in paragraphs 14-23, CPA has failed to:

a) establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency;

b) consider and incorporate the appropriate guidelines set forth in Appendix A to 16 C.F.R. Part 660 and Appendix E to 12 C.F.R. Part 1022 in developing such policies and procedures; and

c) review such policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

26. By and through the acts and practices described in paragraphs 14-23 and 25, CPA has violated 16 C.F.R. § 660.3, recodified at 12 C.F.R. §1022.42.

27. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices described in paragraphs 14-23 and 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).

COUNT II

Failure to Report Results of Investigation

28. Through the acts and practices described in paragraph 24, CPA, after receiving direct disputes from consumers, as that term is defined in the Furnisher Rule at 16 C.F.R. § 660.2(b) and 12 C.F.R. § 1022.41(b), has failed to complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period prescribed by Section 611(a)(1) of the FCRA, 15 U.S.C. § 1681i(a)(1).

29. By and through the acts and practices described in paragraphs 24 and 28, CPA has violated Section 623(a)(8)(E)(iii) of the FCRA, 15 U.S.C. § 1681s-2(a)(8)(iii), and 16 C.F.R. § 660.4(e)(3), recodified at 12 C.F.R. § 1022.43(e)(3).

30. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices described in paragraphs 24 and 27 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

31. Consumers have suffered and will continue to suffer substantial injury as a result of Defendant's violations of the FCRA and the FTC Act. In addition, Defendant has been

35. Each instance in which CPA has failed to comply with the FCRA and the Furnisher Rule in one or more of the ways described above constitutes a separate violation of the FCRA for the purpose of assessing monetary civil penalties under Section 621 of the FCRA. Plaintiff seeks monetary civil penalties for every separate violation of the FCRA.

PRAYER FOR INJUNCTIVE AND MONETARY RELIEF

