

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,
United States Department of Justice
Consumer Protection Branch
450 5th St. NW, Suite 6400,
Washington, DC 20001,

Plaintiff,

v.

APPFOLIO, INC.,
a Delaware corporation,
50 Castilian Dr.,
Goleta, CA 93117,

Defendant.

Case No.: 1:20-cv-03563

**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), 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 AppFolio, 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.

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

DEFENDANT

4. Defendant AppFolio, Inc. (“AppFolio” or “Defendant”), is a Delaware corporation with its principal place of business in Goleta, California. Defendant transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Defendant has furnished background screening reports about consumers throughout the United States.

VIOLATIONS OF THE FAIR CREDIT REPORTING ACT

5. The FCRA was enacted in 1970, became effective on April 25, 1971, and has been in force since that date. The Fair and Accurate Credit Transactions Act amended the FCRA in December 2003, and the Dodd-Frank Act amended the FCRA in July 2010.

6. Section 621 of the FCRA, 15 U.S.C. § 1681s, authorizes the Commission to use all of its functions and powers under the FTC Act to enforce compliance with the FCRA by all persons subject thereto except to the extent that enforcement specifically is committed to some other governmental agency, irrespective of whether the person is engaged in commerce or meets any other jurisdictional tests set forth by the FTC Act.

7. Defendant, through its provision of tenant background screening services, is and has been a “Consumer Reporting Agency,” as defined in Section 603(f) of the FCRA, 15 U.S.C. § 1681a(f). That section defines a Consumer Reporting Agency as:

[A]ny person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the u9 (i)-n whCrt theisctt0: e

8. The FCRA imposes several obligations on Consumer Reporting Agencies, including obligations to: (1) exclude certain obsolete information from Consumer Reports, 15

17. Defendant obtained criminal records and Eviction Records for inclusion in Tenant Screening Reports from a third party vendor, CoreLogic National Background Data, LLC or CoreLogicScreening Services, LLC (“CoreLogic”).

18. Defendant implemented insufficient procedures to assess the accuracy of the information it obtained from CoreLogic before including the information in Tenant Screening Reports. Rather, Defendant generally relied on CoreLogic’s procedures for matching the information from a consumer’s housing application to criminal record and Eviction Record information in public records, retrieving those criminal records and Eviction Records from public records, and accurately returning those records to Defendant.

19. However, Defendant had limited knowledge of the procedures CoreLogic used to match, retrieve, and return criminal records and Eviction Records to Defendant. Further, for criminal records, Defendant’s contract with CoreLogic stated:

[Defendant] acknowledges and agrees that . . . due to the organization of criminal records and/or the nature of the query, there will be instances where identifying information appears to match the applicant on which Screening Results are sought, which information may not pertain to the End User’s applicant, and that [Defendant] will use commercially reasonable efforts, or cause its End-Users to use commercially reasonable efforts, to independently verify the information in the Screening Results to ensure that it pertains to the applicant before any adverse action is taken against the applicant.

20. Additionally, CoreLogic’s contract with Defendant disclaimed any guarantee as to the accuracy of the data it provided. For example, one contract provision stated, “[Defendant] acknowledges that [CoreLogic] cannot guarantee the accuracy and/or completeness of the consumer information furnished.”

21. Another provision stated:

THE SERVICES ARE PROVIDED ‘AS IS’ WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF ACCURACY, TIMELINESS,

- a. Records for individuals with a different name from the applicant (including names

28. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraph 26 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 – Violations of Section 607(b) of the FCRA

29. As described in Paragraphs 15 through 25, and in multiple instances, Defendant has failed to follow reasonable procedures to assure maximum possible accuracy of Consumer Report information.

30. By and through the acts and practices described in Paragraph 29, Defendant has violated Section 607(b) of the FCRA, 15 U.S.C. § 1681e(b).

31. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraph 29 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

32. 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

Section 621 of the FCRA, 15 U.S.C. § 1681s. Plaintiff seeks monetary civil penalties for every separate violation of the FCRA.

34. 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:

- A. Enter judgment against Defendant and in favor of Plaintiff for each law violation alleged in this Complaint;
- B.

DATED: December 8, 2020

FOR THE UNITED STATES:

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General
Civil Division

DANIEL J. FEITH
Deputy Assistant Attorney General

GUSTAV W. EYLER (D.C. Bar No. 997162)

Of Counsel

TIFFANY GEORGE (N.Y. Bar No.
4023248)

WHITNEY MOORE (D.C. Bar No. 496842)

JARAD BROWN (CA Bar No. 294516)

Attorneys

Federal Trade Commission