

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
TALX Corporation,)	
)	
Defendant.)	

**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 that:

1. Plaintiff brings this action under sections 5(a), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b), and 56(a); 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 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 in the United States District Court for the Eastern District of Missouri is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b)-(c) and 1395(a).

DEFENDANT

4. Defendant TALX Corporation (“TALX” or “Defendant”) is a for-profit corporation organized, existing, and doing business under the laws of the State of Missouri. TALX, a wholly-owned subsidiary of Equifax Inc., has its principal place of business at 11432 Lackland Road, St. Louis, Missouri 63146. At all times relevant to this complaint, TALX has transacted business in this district.

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.

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.

VIOLATIONS OF THE FAIR CREDIT REPORTING ACT

7. Since at least 2002, one aspect of TALX’s business has been to sell income and employment history information about consumers to lenders, pre-employment screeners, social service agencies, and others. These entities use the

information in determining the consumers' eligibility for credit, employment, government benefits, or other purposes. TALX obtains this employment and income information from its employer-clients, and the reports on income and employment history are created by searching more than one employer-client file.

8. The reports on income and employment history that TALX provides to third-parties are consumer reports as defined in section 603(d) of the FCRA, 15 U.S.C. § 1681a(d). That section defines a "consumer report" as any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (A) credit or insurance to be used primarily for personal, family, or household purposes; (B) employment purposes; or (C) any other purpose authorized under section 604 of the FCRA, 15 U.S.C. § 1681b. These reports are communicated to third parties, bear on the consumer's credit worthiness and/or other attributes listed in section 603(d), and are used as a factor in determining the consumer's eligibility for credit, employment, or other purposes specified in section 604.

9. In providing employment and income history reports, TALX is now and has been a "consumer reporting agency" as that term is defined in section 603(f) of the FCRA, 15 U.S.C. § 1681a(f). That section defines a "consumer reporting agency" as any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit

information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. TALX regularly assembles and provides consumer reports to third parties in interstate commerce. In particular, TALX is a “nationwide specialty consumer reporting agency,” as that term is defined in section 603(w) of the FCRA, 15 U.S.C. § 1681a(w). That section defines a “nationwide specialty consumer reporting agency” as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis relating to (1) medical records or payments; (2) residential or tenant history; (3) check writing history; (4) employment history; or (5) insurance claims. TALX compiles and maintains files on consumers on a nationwide basis that relate, *inter alia*, to consumers’ employment and income history.

COUNT I – VIOLATIONS OF SECTION 607(d) OF THE FCRA

10. Section 607(d)(1) of the FCRA, 15 U.S.C. § 1681e(d)(1), requires that a consumer reporting agency provide, to any person who regularly and in the ordinary course of business furnishes information about any consumer to the consumer reporting agency (“furnisher”), a “Notice To Furnishers of Information: Obligations of Furnishers Under the FCRA” (“Furnisher Notice”), the acceptable content of which is set forth in 16 CFR 698, Appendix G. Section 607(d)(2) of the FCRA, 15 U.S.C. § 1681e(d)(2), requires that a consumer reporting agency provide, to any person to whom it provides a consumer report (“users”), a “Notice To Users of Consumer Reports: Obligations of Users Under the FCRA” (“User Notice”), the acceptable content of which is set forth in 16 CFR 698, Appendix H.

11. Prior to 2006, TALX failed to provide Furnisher Notices to furnishers or User Notices to users.

12. By and through the acts and practices described in Paragraph 12 above, TALX has violated section 607(d) of the FCRA, 15 U.S.C. § 1681e(d).

13. Pursuant to section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraph 12 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

14. Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A), authorizes the Court to award monetary civil penalties of not more than \$2,500 per violation of the FCRA in the event of a knowing violation, which constitutes a pattern or practice of violations. TALX's violations of sections 607(d) of the FCRA, 15 U.S.C. § 1681e(d), as alleged in this Complaint, were knowing and constituted a pattern or practice of violations.

15. Each instance in which TALX has failed to comply with sections 607(d) of the FCRA, 15 U.S.C. § 1681e(d), constitutes a separate violation of the FCRA for the purpose of assessing monetary civil penalties. Plaintiff seeks monetary civil penalties for every separate violation of the FCRA.

16. 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)(1), 45(m)(1)(A), 53(b), 1681s, and 1691c, and pursuant to the Court's own equitable powers:

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

Dated July 8, 2009

OF COUNSEL:

JOEL WINSTON
Associate Director
Division of Privacy and Identity Protection

REBECCA E. KUEHN
Assistant Director
Division of Privacy and Identity Protection

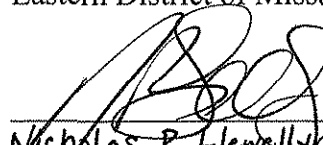
KATHERINE ARMSTRONG
Attorney
Division of Privacy and Identity Protection

KATE WHITE
Attorney
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Washington, D.C. 20001

FOR THE PLAINTIFF
UNITED STATES OF AMERICA:


TONY WEST
Assistant Attorney General
Civil Division
United States Department of Justice

MICHAEL W. REAP
Acting United States Attorney
Eastern District of Missouri


Nicholas P. Llewellyn #52836
Assistant United States Attorney
Thomas F. Eagleton US Courthouse
111 South 10th Street
St. Louis, MO 63102
314-539-2200
314-539-2309 (fax)

EUGENE M. THIROLF
Director
Office of Consumer Litigation

KENNETH L. JOST
Deputy Director
Office of Consumer Litigation


ALAN PHELPS
Trial Attorney
Office of Consumer Litigation
U.S. Department of Justice
PO Box 386
Washington, D.C. 20044
202-307-6154
202-514-8472 (fax)
Alan.Phelps@usdoj.gov