



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

November 12, 2010

Mr. or Ms. St. Laurent  
State of Massachusetts

*Re: In the Matter of Rite Aid Corporation, File No. 072-3121, Docket No. C-4309*

Thank you for your letter commenting on the Federal Trade Commission's consent agreement in the above-captioned proceeding. Your letter was placed on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and was given serious consideration by the Commission.

Your comment stated that personal information that was found in dumpsters used by Rite Aid Corporation ("Rite Aid") pharmacies may have been put there because Rite Aid employees did not do their jobs correctly or consumers put their prescription information in trash cans in stores. The Commission agrees that some personal information found in the unsecured dumpsters used by Rite Aid may have been put there by customers. However, we initiated our investigation because of concerns that Rite Aid did not follow appropriate disposal procedures. Indeed, our investigation showed that Rite Aid failed to implement adequate policies and procedures for the secure disposal of personal information or to adequately train their employees on such disposal.

The Commission believes that the proposed order will ensure that in the future Rite Aid uses reasonable and appropriate procedures to protect its customers' and employees' personal information, including by providing appropriate training to employees about disposing of personal information. Among other things, the proposed consent order requires Rite Aid to implement and maintain a comprehensive information security program reasonably designed to protect the security, confidentiality, and integrity of personal information and obtain independent assessments of the program's effectiveness every other year for 20 years. Further, the Commission will monitor Rite Aid's compliance with the order, and, if the company is found in violation, it could be subject to civil monetary penalties of up to \$16,000 per violation.

Your comment also objected to the fine imposed on Rite Aid. Rite Aid's settlement with the Office for Civil Rights ("OCR") of the Department of Health and Human Services of charges that the company violated the Health Insurance Portability and Accountability Act ("HIPAA") Privacy Rule included the resolution amount to which you refer<sup>1</sup>; the Commission's consent agreement, however, does not include civil monetary penalties or fines. The Commission's

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<sup>1</sup> See Rite Aid Agrees to Pay \$1 Million to Settle HIPAA Privacy Case, <http://www.hhs.gov/news/press/2010pres/07/20100727a.html>.

complaint alleges violations of the Federal Trade Commission Act, which does not authorize penalties as a remedy.

The Commission believes that, taken together, the OCR settlement and the Commission's consent agreement provide appropriate relief in this matter. The OCR order addresses the disposal of paper documents in pharmacies for a three year period. At the same time, the Commission's proposed order requires the company to protect paper and electronic records containing personal information of consumers and employees located anywhere within Rite Aid for the 20 year duration of the order.

After considering your comments, the Commission has determined that the public interest would best be served by accepting the consent order. Thank you again for your letter.

By direction of the Commission.

Donald S. Clark  
Secretary