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Employee Rights
Failures to Give Notice to Fired Workers,
Rejected Applicants Trigger FCRA Penalties

Two companies will pay civil penalties totaling \$77,000 to resolve accusations of failing to inform fired workers and rejected job applicants of their rights under the Fair Credit Reporting Act, according to proposed consent judgments filed Aug. 11 by the Federal Trade Commission in the U.S. District Courts for the District of Colorado and Western District of Washington (*United States v. Quality Terminal Servs. LLC* D. Colo., No. 09-cv-01853-CMA-BNB, 8/11/09; *United States v. Rail Terminal Servs. LLC*, W.D. Wash., No. 09-CV-1111 MJP, 8/11/09).

In separate complaints, the FTC alleged that Quality Terminal Services LLC (QTS) and Rail Terminal Services LLC (RTS) contracted with a consumer reporting agency to conduct background checks—including criminal record reviews—for employees and job applicants, and that they allegedly made hiring and firing decisions based on those background checks.

Both companies, the FTC contended, failed to provide the employees and applicants with the pre-adverse action notices and the adverse action notices required by the FCRA.

Fair Credit Reporting Act Requirements

The FTC indicated that employers often conduct background checks and seek employees' and job applicants' credit records, criminal histories, and other background information from a consumer reporting agency—such as a credit bureau or background screening company.

Under the FCRA, before any employer takes adverse action—like dismissal or denial of employment application—based on a consumer report, the employer is required to:

- provide the employee or applicant with a copy of the report;
- identify the CRA that provided the report;
- notify the affected individual that the CRA did not make the adverse action decision; and
- inform the affected individual of his or her right to obtain a free copy of the report from the CRA and dispute its accuracy.

The proposed consent judgments require QTS to pay a civil penalty of \$53,000 and RTS to pay a civil penalty of \$24,000.

QTS and RTS would be required by the proposed settlements to provide the FCRA-required notices in the future.

Both proposed consent judgments contain record-keeping and reporting provisions to allow the FTC to monitor compliance by both companies.

Counsel for FTC included Molly Crawford of FTC's Bureau of Consumer Protection in Washington, D.C. Gary J. Benson of Dworkin, Chambers, Williams, York, Benson & Evans, P.C. in Denver, Colo., represented QTS. Counsel for RTS included Clifford R. Perry III of Laner, Muchin, Dombrow, Becker, Levin & Tominberg Ltd. in Chicago, Ill.

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