News and Legislation Relating to Employment and Background Checks

Federal News and Legislation:

Background Checks

- On October 29th, the CFPB announced a settlement with "two of the largest background screening report providers," requiring them to pay $13 million for alleged violations of the Dodd-Frank Act and the Fair Credit Reporting Act (FCRA) by failing to maintain accurate information about job applicants in their reports. According to the CFPB, the "serious inaccuracies reported by General Information Services and its affiliate, e-Background-checks.com, Inc. (BGC), potentially affected consumers' eligibility for employment and caused reputational harm." Under the terms of the CFPB's Order, the defendants are required to:
  - Provide $10.5 million in relief to harmed consumers;
  - Pay a civil monetary penalty of $2.5 million;
  - Revise their compliance procedures; and
  - Develop a comprehensive audit program.

  (http://www.immigrationcomplianceinsights.com/2015/10/29/cfpb-enforcement-action-against-two-background-screeners/; http://www.consumerfinance.gov/newsroom/cfpb-takes-action-against-two-of-the-largest-employment-background-screening-report-providers-for-serious-inaccuracies/).

- On October 26th, a plaintiff filed a putative class action against Experian and TransUnion for alleged violations of the FCRA for failing to maintain accurate information and failing to correct inaccurate information through the reinvestigation process. According to the plaintiff's complaint, the credit agencies inaccurately listed numerous child support payments as delinquent and failed to correct the alleged inaccuracy. The complaint alleges that the credit agencies' negligence resulted in a loss of credit and the ability to purchase and benefit from credit.
  (*Bryan Jallo v. Experian Information Solutions, Inc. et al.*, No. 4:15-cv-00745 (E.D. Tex., Oct. 26, 2015).

- On October 22nd, Uber Technologies, Inc. (Uber) urged the Ninth Circuit to compel plaintiffs in two nationwide class actions to arbitrate their claims over the ride-sharing company's background check procedures. According to Uber, the federal district court has shown "sheer

hostility toward arbitration" despite the fact that the two plaintiff-drivers signed enforceable agreements. Specifically, Uber argues that "in an unprecedented act of hostility towards arbitration, the district court…found Uber's arbitration provisions...to be unconscionable and unenforceable," adding that, "[i]n short, the district court erred at nearly every step of its analysis, refusing to enforce valid arbitration provisions based on sheer hostility toward arbitration and manifestly erroneous factual and legal conclusions." The class actions were filed against Uber in November 2014 and allege violations of the Fair Credit Reporting Act for failure to disclose that the ride-sharing company would conduct a background investigation on its drivers (previously reported).
(Abdul Kadir Mohamed v. Uber Technologies, Inc., No. 15-16178 (9th Cir., Oct. 22, 2015); *Ronald Gillette v. Uber Technologies, Inc.*, No. 15-16181 (9th Cir., Oct. 22, 2015); *Abdul Kadir Mohamed v. Hirease LLC*, No. 15-16250 (9th Cir., Oct. 22, 2015).)

- On October 22nd, CFPB Director Richard Cordray delivered prepared remarks about arbitration clauses at a meeting of the CFPB Consumer Advisory Board. In his remarks, Cordray focused on arbitration's role in resolving consumer disputes. According to Cordray, "[c]ompanies use [arbitration clauses] to block class action lawsuits, providing themselves with a free pass from being held accountable by their customers in the courts." Cordray continued by addressing its recently announced proposal that the CFPB is considering which would ban the use of arbitration clauses in contracts. Cordray stated that the proposal would "apply generally to the consumer financial products and services that the [CFPB] oversees, including credit cards, checking and deposit accounts, certain auto loans, small-dollar or payday loans, [and] private student loans." According to Cordray, the proposal would provide the following benefits:
  - Provide consumers with the opportunity to get their day in court;
  - Deter wrongdoing on a broader scale; and
  - Bring the arbitration of individual disputes into the sunlight of public scrutiny.

  (http://www.consumerfinance.gov/newsroom/prepared-remarks-of-cfpb-director-richard-cordray-at-the-meeting-of-the-consumer-advisory-board/).

- On October 21st, the Federal Trade Commission (FTC) announced a settlement with Sprint over alleged violations of the FCRA by "fail[ing] to give proper notice to consumers who were placed in a program for customers with lower credit scores and charged an extra monthly fee." According to the terms of the settlement, Sprint will pay $2.95 million in civil penalties. According to the FTC, Sprint placed customers with lower credit scores in an "Account Spending Limit (ASL) program," which requires customers in the program to "pay a monthly fee of $7.99

in addition to the charges for cell phone and data services." The FTC states that "Sprint in many cases failed to provide consumers placed in the ASL program with all of the disclosures in the required notice, omitting required information that would help consumers understand the information in their credit reports, and that may have alerted them to possible errors that caused them to receive less favorable terms of credit," adding that a 2013 "FTC study showed credit reports often contain significant errors." (https://www.ftc.gov/news-events/press-releases/2015/10/sprint-will-pay-295-million-penalty-settle-ftc-charges-it?utm_source=govdelivery).

Corporate Headquarters
CARCO Group, Inc.
5000 Corporate Court, Suite 203
Holtsville, NY 11742
Main Telephone Number: 631-862-9300
CARCO Toll-Free Number: 800-969-2272
Fax (Inspection Services Division): 631-862-0380
Fax (Research Division): 631-584-7094
FAX 631/584-0095

Fayetteville Office
CARCO Group, Inc.
1030 Lillington Hwy
Spring Lake, NC 28390
910-497-0081
877-867-2359
Fax: 910-497-0162
sales@carcogroup.com

Palm Beach Gardens Office
4440 PGA Blvd. Suite 306
Palm Beach Gardens, FL 33410
561-249-7300
877-347-7711
Fax: 800-663-0874
sales@carcogroup.com

Tulsa Office
4500 S 129TH EAST AVE, SUITE 127
Tulsa, OK 74134-5801
918-640-6863
800-848-3397
Fax: 918-591-2854
sales@carcogroup.com

Tustin Office
17821 E 17th Street, Suite 160
Tustin, CA 92780
714-547-6541
CA License # 24087
sales@carcogroup.com

www.carcogroup.com