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CLERK US DISTRICT COURT
DISTRICT OF NEVADA

DEPUTY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA
Plaintiff,

v.

IMPERIAL PALACE, INC., d.b.a. IMPERIAL
PALACE CASINO; and
IMPERIAL PALACE OF MISSISSIPPI, INC.

Defendants.

CV-S-04-0963-RI.H-PAL

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER
EQUITABLE RELIEF AND MONETARY CIVIL PENALTIES**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("Commission"), for its complaint alleges that:

1. Plaintiff brings this action under Sections 5(a), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 45(m)(1)(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 and other relief for defendants' violations of the FCRA, 15 U.S.C. §§ 1681-1681u.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 1691c(c).
3. Venue in the United States District Court for the District of Nevada is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b-c) and 1395(a).

DEFENDANTS

4. Defendants Imperial Palace, Inc., d.b.a. "Imperial Palace Casino" (hereinafter "Imperial Palace"), and Imperial Palace of Mississippi, Inc. (hereinafter "IPM") are Nevada corporations with their respective principal places of business in Las Vegas, Nevada and Biloxi, Mississippi. In connection with the matters alleged herein, Imperial Palace has transacted business in this District.

DEFENDANTS' EMPLOYMENT PRACTICES

5. Defendants interview all applicants for employment. After the applicant completes the interview process, Defendants have the applicant sign a Consumer Credit Release authorizing the Defendants to obtain a "consumer report," as defined in Section 603(d) of the FCRA, 15 U.S.C. § 1681a(d), on the applicant.
6. Prior to the filing of this Complaint, Defendants had contracts with one or more consumer reporting agencies, as the term "consumer reporting agency" is defined in Section 603(f) of the FCRA, 15 U.S.C. § 1681a(f), to furnish consumer reports to

Defendants. The terms of these contracts specified that Defendants were responsible for complying with the FCRA and furnishing applicants with the notice required under Section 604(b)(3) of the FCRA, 15 U.S.C. § 1681b(b)(3).

7. Defendants review the consumer report for each applicant. Defendants use a "Background Form" to record information about each applicant. The Imperial Palace's Background Form has been used to rate the applicant's "credit report" as either Poor, Fair, or Good and to recommend the applicant as Favorable or Unfavorable. Imperial Palace also has recorded comments about the information in the consumer report on the Background Form. In numerous instances, Defendants decided not to hire an applicant based in whole or in part on information contained in the applicant's consumer report.
8. Prior to the filing of this Complaint, Defendants have used consumer reports for "employment purposes" as defined in Section 603(h) of the FCRA, 15 U.S.C. § 1681a(h).
9. When Defendants do not hire an applicant based in whole or in part on information in an applicant's consumer report, they have taken "adverse action" against the applicant, as that term is defined in Section 603(k) of the FCRA, 15 U.S.C. § 1681a(k).

COUNT I: VIOLATIONS OF SECTION 604(b)(3) OF THE FCRA

10. Plaintiff incorporates by reference and alleges Paragraphs 1 through 9 as though fully set forth herein.

11. Section 604(b) of the FCRA, 15 U.S.C. § 1681b(b), governs the use of consumer reports for employment purposes. Before taking any adverse action against an applicant based on information in a consumer report, Defendants must give the applicant a copy of the consumer report and a copy of the applicant's rights under the FCRA.
12. Although Defendants take adverse action against applicants based in whole or in part on information in consumer reports, they failed to provide those applicants with a notice containing the information required to be disclosed under Section 604(b)(3) of the FCRA, 15 U.S.C. § 1681b(b)(3).
13. By and through the acts and practices described in Paragraphs 10 through 12, Defendants have violated Section 604(b)(3) of the FCRA, 15 U.S.C. § 1681b(b)(3).
14. The acts and practices described in Paragraphs 10 through 12 constitute a pattern or practice of knowing violations, as set forth in Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A).
15. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the alleged violations of the FCRA 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 615(a) OF THE FCRA

16. Plaintiff incorporates by reference and alleges Paragraphs 1 through 15 as though fully set forth herein.

17. Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a), requires any person who takes adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report to provide to the consumer: (1) notice of the adverse action taken; (2) the name, address, and telephone number of the consumer reporting agency from which the consumer report was obtained; (3) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; (4) notice of the consumer's right to obtain a free copy of the consumer report, within 60 days from notice of the adverse action, from the consumer reporting agency from which the report was obtained; and (5) notice of the consumer's right to dispute with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.
18. Although Defendants take adverse action against applicants based in whole or in part on information in consumer reports, they failed to provide those applicants with a notice containing the information required to be disclosed under Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a).
19. By and through the acts and practices described in Paragraphs 16 through 18, Defendants have violated Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a).
20. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the alleged violations of the FCRA constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

21. The acts and practices described in Paragraphs 16 through 18 constitute a pattern or practice of knowing violations, as set forth in Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A).

CIVIL PENALTIES

22. Each instance in which Defendants have failed to comply with either Section 604(b)(3) or 615(a) of the FCRA, 15 U.S.C. §§ 1681b(b)(3) and 1681m(a), constitutes a separate violation of the FCRA for the purpose of assessing monetary civil penalties.

23. Section 621(a) of the FCRA, 15 U.S.C. § 621(a), authorizes the Court to award monetary civil penalties of not more than \$2,500 per violation.

INJUNCTION

24. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction against Defendants' violations of the FCRA as the Court may deem just and proper.

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 equity powers:

- (1) Enter judgment against Defendants and in favor of Plaintiff for each violation charged in this complaint;
- (2) Enjoin Defendants from violating any provision of the FCRA;
- (3) Award Plaintiff monetary civil penalties from Defendants for each violation of the FCRA alleged in this complaint; and
- (4) Award Plaintiff such additional relief as the Court deems just and proper.

Dated:

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