

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.
★ FEB 22 2002 ★
BROOKLYN OFFICE

FEDERAL TRADE COMMISSION,)
)

Plaintiff,)
)

v.)
)

VICTOR L. GUZZETTA,)
d/b/a SMART DATA SYSTEMS,)
)

Defendant.)
)
_____)

Civil Action No.: 01-2335(DGT)

**STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION
AND MONETARY RELIEF AGAINST DEFENDANT
VICTOR L. GUZZETTA, also doing business as Smart Data Systems**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), commenced this action on April 17, 2001, by filing a Complaint pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a) and 53(b), and Section 522(a) of the Gramm-Leach-Bliley Act ("GLB Act"), 15 U.S.C. § 6822(a), charging Defendant Victor L. Guzzetta with engaging in unfair or deceptive acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and practices in violation of Section 521 of the GLB Act, 15 U.S.C. § 6821, in connection with the procurement, sale and offering for sale, of customer information of a financial institution.

The Commission and Defendant have now agreed to a settlement of this action.

Accordingly, the Commission and Defendant consent to entry of this Stipulated Final Judgment and Order ("Order") without trial or adjudication of any issue of law or fact herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This is an action by the Commission instituted under Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b). The Complaint seeks permanent injunctive relief and monetary relief against Defendant in connection with the procurement, sale and offering for sale, of customer information of a financial institution.
2. This Court has jurisdiction over the subject matter of this case and over Defendant under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and on 15 U.S.C. §§ 45(a)(1), 53(b), and 6822(a). Venue in the Eastern District of New York is proper as to all parties under 28 U.S.C. § 1391(b) and 15 U.S.C. § 53(b).
3. The Complaint states a claim upon which relief may be granted against Defendant under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b), and Sections 521(a) and 522(a) of the GLB Act, 15 U.S.C. §§ 6821(a) and 6822(a).
4. The Commission has the authority under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to seek the relief it has requested.
5. Defendant was properly served with the Complaint and Summons in this matter.
6. The activities of Defendant charged in the Complaint are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

7. Defendant enters into this Order freely and without coercion, and acknowledges that he understands the provisions of this Order and is prepared to abide by its terms.
8. Defendant waives all rights to seek appellate review or otherwise challenge or contest the validity of this Order. Defendant further waives and releases any claims he may have against the Commission, its employees, representatives, or agents.
9. Defendant agrees that this Order does not entitle him to seek or to obtain attorneys' fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub.L.104-121, 110 Stat. 847, 863-4 (1996), and Defendant further waives any right to attorneys' fees that may arise under said provision of law.
10. Plaintiff Federal Trade Commission is not seeking to recover its attorney's fees from Defendant.
11. This Order is for settlement purposes only and does not constitute and shall not be interpreted to constitute an admission by Defendant that he has engaged in violations of any law or regulation, or that the facts alleged in the Complaint, other than the jurisdictional facts, are true.
12. Entry of this Order is in the public interest.

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. "Person" means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.
2. "Defendant" means Victor L. Guzzetta, d/b/a Smart Data Systems, and his assigns, agents, servants, employees or affiliates, and those persons in active concert or

participation with him who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division or other device.

3. The terms "customer," "customer information of a financial institution," and "financial institution" have the same meanings as set out in Sections 527(1), 527(2), and 527(4)(A) of the GLB Act, respectively, 15 U.S.C. §§ 6827(1), 6827(2), and 5827(4)(A).
4. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rules of Civil Procedure 34(a) and includes writings, drawings, graphs, charts, photographs, audio, and video recordings, computer records, and other data compilations from which the information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.
5. The terms "and" and "or" have both conjunctive and disjunctive meanings.

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that, in connection with the obtaining, offering for sale, or sale of customer information of a financial institution, Defendant is hereby permanently restrained and enjoined from:

- A. Making, or assisting in the making, directly or by implication, any false or misleading statement about Defendant's identity, purpose or right to receive customer information;
- B. Requesting a person to obtain customer information of a financial institution knowing or consciously avoiding knowing that the person will obtain, or attempt to obtain, the

information from the institution in any manner described in Section A of this Paragraph, or in any manner that violates Section 521 of the GLB Act, 15 U.S.C. § 6821;

- C. Disclosing, disseminating, distributing, or selling customer information of a financial institution. *Provided, however,* that Defendant may disclose, disseminate, distribute or sell such customer information (1) with the prior written consent of the consumer to whom such information relates, (2) to a law enforcement agency, or (3) as required or permitted by any law, regulation or court order; and
- D. Making, directly or by implication, any statement of material fact that is false or misleading.

Provided, further, that no provision of Paragraph I shall be construed to prevent Defendant from engaging in conduct otherwise permissible under Section 521(g) of the GLB Act, 15 U.S.C. § 6821(g).

II. GRAMM-LEACH-BLILEY ACT PROHIBITIONS

IT IS FURTHER ORDERED that, in connection with the advertising, promotion, obtaining, offering for sale, or sale of customer information of a financial institution, Defendant is hereby permanently restrained and enjoined from violating or assisting others in violating any provision of Section 521 of the GLB Act, 15 U.S.C. § 6821, as it now exists or may hereafter be amended. A copy of the "Fraudulent Access to Financial Information" provisions of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6821-6827, is attached to this Order and is hereby incorporated as if recited herein.

III. MONETARY RELIEF

IT IS FURTHER ORDERED that Defendant shall pay two thousand dollars (\$2,000.00) to the Commission by certified check or wire transfer within 10 business days of entry of the Order.

A. No portion of the payment as herein provided shall be deemed a payment of any fine, penalty, forfeiture, or punitive assessment.

B. In the event of any default on any obligation of Defendant to make payment under this Paragraph, interest computed pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment.

C. All funds paid pursuant to this Paragraph shall be deposited by the Commission to the Treasury as disgorgement.

IV. RIGHT TO REOPEN

IT IS FURTHER ORDERED that the Commission's agreement to and the Court's approval of this Order is expressly premised upon the truthfulness, accuracy, and completeness of Defendant Victor L. Guzzetta's business records and sworn testimony regarding Defendant's revenues attributable to financial asset searches that may violate Section 521 of the GLB Act, 15 U.S.C. § 6821, and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and related information submitted to the Commission, which contain material information relied upon by the Commission in negotiating and agreeing to the terms of this Order.

IT IS FURTHER ORDERED that if the Commission should have evidence that the above-referenced information failed to disclose any significant revenue attributable to the alleged violative financial asset searches, or that Defendant materially misrepresented the revenues so

attributable, or made any other material misrepresentation or omission, the Commission may move that the Court reopen this Order for the sole purpose of allowing the Commission to modify Defendant's monetary liability. Should this judgment be modified as to the monetary liability of the Defendant, this Order, in all other respects, shall remain in full force. Any proceedings instituted under this Paragraph shall be in addition to and not in lieu of any other proceedings the Commission may initiate to enforce this Order. Solely for the purposes of reopening or enforcing this Paragraph, Defendant waives any right to contest any of the allegations set forth in the Complaint filed in this matter.

V. LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze against the assets of Defendant Victor L. Guzzetta pursuant to Paragraph II of the Stipulated Preliminary Injunction entered by this Court on May 1, 2001, shall be lifted upon receipt of funds in payment of the monetary relief ordered in Part III of this Order.

VI. PROHIBITION ON DISCLOSING INFORMATION FROM ASSET SEARCHES

IT IS FURTHER ORDERED that Defendant is permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing (i) the name, address, social security number, telephone number, e-mail address, credit card number, or other identifying information, or (ii) any bank or brokerage account number or balance, or financial asset information of any kind, of any person who was, at any time, the subject of an asset search by Defendant or by any agents, servants, employees of Defendant, or by contractors of Defendant who requested such information at the request of Defendant.

Provided, however, that Defendant may disclose such information (1) with the written consent of the consumer to whom such information relates, (2) to a law enforcement agency, or (3) as required by any law, regulation, or court order.

VII. DISTRIBUTION OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, in connection with any business engaged in whole or in part in advertising, promotion, obtaining, offering for sale, or sale of customer information of a financial institution, where he is the majority owner, or directly or indirectly manages or controls the business, Defendant Victor L. Guzzetta shall:

- A. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer, manager and employee;
- B. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from an officer or owner of each independent contractor or agent hired, retained, requested or solicited by Defendant to perform financial asset searches; and
- C. Maintain for a period of three (3) years after creation and, upon reasonable notice, make available to representatives of the Commission, the original signed and dated acknowledgments of the receipt of copies of this Order, as required in Sections A and B of this Paragraph.

VIII. MONITORING COMPLIANCE OF EMPLOYEES, AGENTS AND INDEPENDENT CONTRACTORS

IT IS FURTHER ORDERED that in connection with any business engaged in whole or in part in advertising, promotion, obtaining, offering for sale, or sale of customer information of a financial institution, where he is the majority owner, or directly or indirectly manages or controls the business, Defendant Victor L. Guzzetta is hereby permanently restrained and enjoined from failing to take reasonable steps sufficient to monitor and ensure that all employees comply with Paragraphs I and II of this Order.

IX. DOCUMENT RETENTION

IT IS FURTHER ORDERED that Defendant Victor L. Guzzetta, and his successors and assigns, shall maintain documents created or obtained in the ordinary course of business and created and obtained pursuant to the terms of this Order for at least five (5) years from the date of service of this Order and, upon written request by FTC employees, make available to the FTC for inspection and copying:

A. All records and documents necessary to demonstrate fully his compliance with each provision of this Order, including, but not limited to financial and other business records which clearly and conspicuously show the name of the client, the service being provided to the client, the amount of money the Defendant obtained for the service, and any and all expenses Defendant incurred in providing the service;

B. All records and documents necessary to demonstrate his compliance with the requirements of the Sections 521-527 of the GLB Act, 15 U.S.C. § 6821-6827 inclusive, specifically including, but not limited to, Section 521(g) of the GLB Act, 15 U.S.C. § 6821(g), in

the event that Defendant intends to rely upon this exception to the prohibited business practices described in Paragraph I; and

C. Copies of any complaints received by Defendant regarding Defendant's sale of customer information of a financial institution.

X. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

A. Sixty (60) days after the date of entry of this Order, Defendant Victor L. Guzzetta shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which the Defendant has complied and is complying with this Order;

B. For a period of five (5) years from the date of entry of this Order, Defendant shall annually report to the Commission his current employment, business address, business phone number, and a description of business activities; provided, however, that if Defendant changes employer he shall provide an additional report within thirty (30) days after the change of employment which includes a statement of the nature of the business, and a statement of Defendant's duties and responsibilities in connection with the business or employment;

C. For the purposes of this Order, Defendant Victor L. Guzzetta shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director, Division of Financial Practices
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580
Re: FTC v. Victor L. Guzzetta (dba Smart Data Systems); and

D. For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate with Defendant's Attorney, Christopher Sargente, Esq., 1000 South Avenue-Suite LL2, Staten Island, NY 10314, Telephone (718) 698-4884, Facsimile (718) 698-0325. Defendant shall promptly notify the Commission if he changes counsel or is no longer represented by counsel. If Defendant is unrepresented by counsel, the Commission is authorized to communicate directly with Defendant for the purposes of the compliance reporting required by this Paragraph.

XI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that the Commission is authorized to monitor Defendant's compliance with this Order by all lawful means, including but not limited to, the following:

A. The Commission is authorized, without further leave of court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26-37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating Defendant's compliance with any provision of this Order;

B. The Commission is authorized to use representatives posing as clients, consumers, bank employees, private investigators, suppliers and other persons to Defendant, Defendant's employees, or any other entity managed or controlled in whole or in part by Defendant, without the necessity of identification or prior notice; and

C. Nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to investigate

whether Defendant has violated any provision of this Order, Section 5 of the FTC Act, 15 U.S.C. § 45, or Section 521 of the GLB Act, 15 U.S.C. § 6821.

XII. ACCESS TO PREMISES, RECORDS, AND PERSONS

IT IS FURTHER ORDERED that, for a period of 5 years from the date of entry of this Order, for the purpose of further determining compliance with this Order, Defendant shall permit representatives of the Commission, within three (3) business days of receipt of written notice from the Commission:

A. Access during normal business hours to any office, or facility storing documents, of any business where Defendant is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in information brokering. In providing such access, such Defendant shall permit representatives of the Commission to inspect and copy all documents relevant to any matter contained in this Order; and shall permit Commission representatives to remove documents relevant to any matter contained in this Order for a period not to exceed five (5) business days so that the documents may be inspected, inventoried, and copied; and

B. To interview the officers, directors and employees other than the Defendant, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business to which Section A of this Paragraph applies, concerning matters relating to compliance with the terms of this Order. The persons interviewed may have counsel present.

Provided further that, upon application of the Commission and for good cause shown, the Court may enter an *ex parte* order granting immediate access to Defendant's business premises

for the purposes of inspecting and copying all documents relevant to any matter contained in this Order.

XIII. ACKNOWLEDGMENT

IT IS FURTHER ORDERED that, within five (5) business days after receipt by Defendant of this Order as entered by the Court, Defendant Victor L. Guzzetta shall submit to the Commission a truthful sworn statement, in the form shown on Appendix A hereto, that shall acknowledge receipt of this Order.

XIV. COSTS AND ATTORNEYS FEES

IT IS FURTHER ORDERED that each party to this Order bear its own costs and attorneys fees incurred in connection with this action.

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XV. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that the Court retains jurisdiction of this matter for all purposes, including the construction, modification, and enforcement of this Order.

STIPULATED AND AGREED TO BY:


Dated: _____, 2001

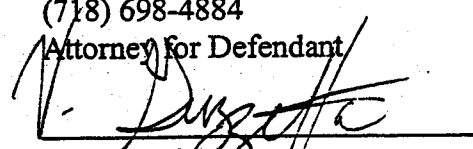
FOR THE PLAINTIFF:


Russell Deitch
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(202) 326-3159
Attorney for Plaintiff

Dated: _____, 2001

FOR THE DEFENDANT:

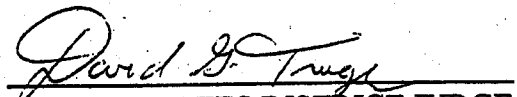

Christopher Sargente
Sargente & McGinn
1000 South Avenue, Suite LL2
Staten Island, N.Y. 10314
(718) 698-4884
Attorney for Defendant


Victor L. Gazzetta

Dated: _____, 2001

IT IS SO ORDERED.

Dated: February 25, 2002
Brooklyn NY


UNITED STATES DISTRICT JUDGE
DAVID G. TRAEGER

APPENDIX A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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FEDERAL TRADE COMMISSION,)
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Plaintiff,)
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v.)
)
VICTOR L. GUZZETTA,)
d/b/a SMART DATA SYSTEMS,)
)
Defendant.)
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Civil Action No.: H-01-2355 (DGT)

AFFIDAVIT OF VICTOR L. GUZZETTA

Victor L. Guzzetta, being duly sworn, hereby states and affirms as follows:

1. My name is Victor L. Guzzetta. My current residence is _____. I am a citizen of the United States and am over 18 years of age. I have personal knowledge of the facts set forth in this Affidavit.
2. I am the Defendant in FTC v. Victor L. Guzzetta d/b/a Smart Data Systems, Civil Action No. 01-2335 in the United District Court for the Eastern District of New York.
3. On _____, 2001, I received a copy of the Stipulated Final Judgment and Order of Permanent Injunction, which was signed by the Honorable David Trager and entered by the Court on _____, 2001. A true and correct copy of the Order I received is attached to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on _____, 2001, at _____.

Victor L. Guzzetta

State of New York, County of _____

Subscribed and sworn to before me
this ____ day of _____, 2001.

Notary Public

My Commission expires: _____, 20__th

Gramm-Leach-Bliley Act 15 USC, Subchapter II, Sec. 6821-6827 Fraudulent Access to Financial Information

Sec.

6821. Privacy protection for customer information of financial institutions.

- (a) Prohibition on obtaining customer information by false pretenses.
- (b) Prohibition on solicitation of a person to obtain customer information from financial institution under false pretenses.
- (c) Nonapplicability to law enforcement agencies.
- (d) Nonapplicability to financial institutions in certain cases.
- (e) Nonapplicability to insurance institutions for investigation of insurance fraud.
- (f) Nonapplicability to certain types of customer information of financial institutions.
- (g) Nonapplicability to collection of child support judgments.

6822. Administrative enforcement:

- (a) Enforcement by Federal Trade Commission.
- (b) Enforcement by other agencies in certain cases.

6823. Criminal penalty.

- (a) In general.
- (b) Enhanced penalty for aggravated cases.

6824. Relation to State laws.

- (a) In general.
- (b) Greater protection under State law.

6825. Agency guidance.

6826. Reports.

- (a) Report to the Congress.
- (b) Annual report by administering agencies.

6827. Definitions.

Sec. 6821. Privacy protection for customer information of financial institutions

- (a) Prohibition on obtaining customer information by false pretenses

It shall be a violation of this subchapter for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person -

- (1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution;

(2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or

(3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

(b) Prohibition on solicitation of a person to obtain customer information from financial institution under false pretenses

It shall be a violation of this subchapter to request a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a) of this section.

(c) Nonapplicability to law enforcement agencies

No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

(d) Nonapplicability to financial institutions in certain cases

No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of -

(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b) of this section.

(e) Nonapplicability to insurance institutions for investigation of insurance fraud

No provision of this section shall be construed so as to prevent any insurance institution, or any officer, employee, or agency of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(f) Nonapplicability to certain types of customer information of financial institutions

No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public

record filed pursuant to the securities laws (as defined in section 78c(a)(47) of this title).

(g) Nonapplicability to collection of child support judgments

No provision of this section shall be construed to prevent any State-licensed private investigator, or any officer, employee, or agent of such private investigator, from obtaining customer information of a financial institution, to the extent reasonably necessary to collect child support from a person adjudged to have been delinquent in his or her obligations by a Federal or State court, and to the extent that such action by a State-licensed private investigator is not unlawful under any other Federal or State law or regulation, and has been authorized by an order or judgment of a court of competent jurisdiction.

(Pub. L. 106-102, title V, Sec. 521, Nov. 12, 1999, 113 Stat. 1446.)

Sec. 6822. Administrative enforcement

(a) Enforcement by Federal Trade Commission

Except as provided in subsection (b) of this section, compliance with this subchapter shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) to enforce compliance with such Act.

(b) Enforcement by other agencies in certain cases

(1) In general

Compliance with this subchapter shall be enforced under -

(A) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of -

(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 et seq., 611 et seq.), by the Board;

(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and national nonmember banks) and

insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(iv) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

(B) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

(2) Violations of this subchapter treated as violations of other laws

For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of this subchapter shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with this subchapter, any other authority conferred on such agency by law.

(Pub. L. 106-102, title V, Sec. 522, Nov. 12, 1999, 113 Stat. 1447.)

REFERENCES IN TEXT

The Fair Debt Collection Practices Act, referred to in subsec. (a), is title VIII of Pub. L. 90-321, as added by Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 874, as amended, which is classified generally to subchapter V (Sec. 1692 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

Section 25 of the Federal Reserve Act, referred to in subsec. (b)(1)(A)(ii), is classified to subchapter I (Sec. 601 et seq.) of chapter 6 of Title 12, Banks and Banking. Section 25A of the Federal Reserve Act is classified to subchapter II (Sec. 611 et seq.) of chapter 6 of Title 12.

The Federal Credit Union Act, referred to in subsec. (b)(1)(B), is act June 26, 1934, ch. 750, 48 Stat. 1216, as amended, which is classified generally to chapter 14 (Sec. 1751 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6824 of this title.

Sec. 6823. Criminal penalty

(a) In general

Whoever knowingly and intentionally violates, or knowingly and intentionally attempts to violate, section 6821 of this title shall be fined in accordance with title 18 or imprisoned for not more than 5 years, or both.

(b) Enhanced penalty for aggravated cases

Whoever violates, or attempts to violate, section 6821 of this title while violating another law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, imprisoned for not more than 10 years, or both.

(Pub. L. 106-102, title V, Sec. 523, Nov. 12, 1999, 113 Stat. 1448.)

Sec. 6824. Relation to State laws

(a) In general

This subchapter shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subchapter, and then only to the extent of the inconsistency.

(b) Greater protection under State law

For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subchapter if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subchapter as determined by the Federal Trade Commission, after consultation with the agency or authority with jurisdiction under section 6822 of this title of either the person that initiated the complaint or that is the subject of the complaint, on its own motion or upon the petition of any interested party.

(Pub. L. 106-102, title V, Sec. 524, Nov. 12, 1999, 113 Stat. 1448.)

Sec. 6825. Agency guidance

In furtherance of the objectives of this subchapter, each Federal banking agency (as defined in section 1813(z) of title 12), the National Credit Union Administration, and the Securities and Exchange Commission or self-regulatory organizations, as appropriate, shall review regulations and guidelines applicable to financial institutions under their respective jurisdictions and shall prescribe such revisions to such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of customer financial information and to deter and detect activities proscribed under section 6821 of this title.

(Pub. L. 106-102, title V, Sec. 525, Nov. 12, 1999, 113 Stat. 1448.)

The term "financial institution" means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) Certain financial institutions specifically included

The term "financial institution" includes any depository institution (as defined in section 461(b)(1)(A) of title 12), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 1681a(p) of this title).

(C) Securities institutions

For purposes of subparagraph (B) -

(i) the terms "broker" and "dealer" have the same meanings as given in section 78c of this title;

(ii) the term "investment adviser" has the same meaning as given in section 80b-2(a)(11) of this title; and

(iii) the term "investment company" has the same meaning as given in section 80a-3 of this title.

(D) Certain persons and entities specifically excluded

The term "financial institution" does not include any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) and does not include the Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(E) Further definition by regulation

The Federal Trade Commission, after consultation with Federal banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subchapter.

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in par. (4)(D), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (Sec. 1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

The Farm Credit Act of 1971, referred to in par. (4)(D), is Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 583, as amended, which is classified generally to chapter 23 (Sec. 2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.