

# "Check" out the \$3.5 million penalty in the latest FCRA case

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Here's a newsflash: There's a troubling amount of inaccurate information in people's credit reports that can result in the denial of a job, a place to live, and even necessities like groceries and medicine. That's why the Fair Credit Reporting Act requires consumer reporting agencies (CRAs) to "follow reasonable procedures to assure maximum possible accuracy." [The FTC's settlement](#) with Certegy Check Services — which includes the second-largest civil penalty ever in an FCRA case — offers insights into what the law requires.

Certegy may not be a household name to consumers, but when people want to pay by check, many businesses turn to Certegy for a check authorization recommendation. Certegy's thumbs-up or thumbs-down suggestion is based in part on information in its files about consumers' check writing history. When Certegy's data is inaccurate, businesses decline checks unnecessarily, resulting in lost sales and teed-off customers. Certegy also furnishes information to other credit reporting agencies, multiplying the potential effect of inaccuracies.

FCRA mavens will spot that Certegy meets the legal definition of a "nationwide specialty consumer reporting agency," defined in section 603(x) as a CRA that:

compiles and maintains files on consumers on a nationwide basis relating to (1) medical records or payments; (2) residential or tenant history; (3) check writing history; (4) employment history; or (5) insurance claims.

But according to the FTC, Certegy failed to honor many of the protections the FCRA extends to consumers. For example, when a consumer contacts a CRA to say "Hey, guys, you've got it wrong," the law requires CRAs to investigate the dispute within a reasonable time, report back to the consumer, and follow up by deleting inaccurate, incomplete, or unverifiable information. Once a CRA learns that information is inaccurate, it has a responsibility to maintain procedures to make sure deleted info stays deleted. Otherwise, it keeps popping up like the gopher that tormented Groundskeeper Carl in *Caddyshack*. In addition, CRAs must implement reasonable written policies to ensure the accuracy of the information they give to other CRAs. And under the law, CRAs — all of them, not just the Big Three most people are familiar with — have to have a streamlined process so consumers can get a free copy of the company's report on them. Those are just some of the areas where the FTC says Certegy fell short.

You'll want to read the [complaint](#) for specifics, but one count merits special attention. The FTC alleges that Certegy didn't live up to its obligation to reinvestigate information consumers disputed as inaccurate. According to the complaint, rather than

conducting its own robust investigation, Certegy sat back and put an unreasonable onus on consumers, making them jump through hoops to do work the law assigns to the CRA. For example:

- “If a consumer disputes that he has a returned check from a particular merchant, Certegy requires the consumer to contact the merchant himself to resolve the dispute.”
- “When the decline is a result of an ‘invalid’ ID, Certegy requires that the consumer obtain and send driving records to Certegy to ‘prevent future declines.’”
- “When the consumer disputes that the consumer’s bank refused to honor a check, rather than accepting a bank statement as proof of the bank’s payment, Certegy requires that the consumer obtain a letter from the bank, on bank letterhead, signed by a bank employee before it will resolve the dispute in the consumer’s favor.”

FCRA followers, take note: The case is the FTC's first alleging a violation of the [Furnisher Rule](#).

The \$3.5 million civil penalty should attract industry attention and the [stipulated order](#) will change how Certegy does business. For example, to resolve a dispute, Certegy can't require consumers to contact a third party if Certegy can get sufficient information on its own. In addition, Certegy must complete reinvestigations within 30 days (or 45 days if consumers give them additional info in the meantime). Certegy also has to beef up how it tracks and resolves consumer disputes and must implement written procedures to promote the accuracy and integrity of the information given to other CRAs.

Even if credit reporting isn't part of your business, the Certegy settlement offers a timely tip for your nights-and-weekends life as a consumer. No need for a show of hands, but we hope people know about their right to [a free copy of their credit report](#) from each of the three nationwide CRAs every year. But did you know you have a right to a free annual report from specialty CRAs, too? If you write a lot of checks, considering going to a [page on Certegy's site](#) and getting your free annual report from them. (Just a note: Certegy's report will have information on the checks you've written only to businesses that use Certegy's services.) Review all your reports for inaccuracies that could put the kibosh on that promotion you were expecting or make it more expensive for you to get credit, insurance, or a mortgage.

Bookmark the BCP Business Center's [credit reporting page](#) for compliance resources.