

YOU WANT TO GIVE THE SCREENING REPORT TO “WHOM”?

Question:

- 1.) *May I give a copy of the screening report to an owner? Can he/she review the report with me?*
- 2.) *May I give a copy of the screening report to the applicant who paid for it?*
- 3.) *May I give a copy to one of our other buildings or apartments we manage?*
- 4.) *May I show the screening report to a government agency that regularly audits our files?*

Answer:

End User (Landlord/Site Manager) certifies that End User shall use the consumer reports (and any report that includes credit, court, reference information): (a) solely for the Subscriber’s (Screening Service) certified use(s); and (b) solely for End User’s exclusive one-time use. End User shall not request, obtain or use Consumer Reports for any other purpose including, but not limited to, for the purpose of selling, leasing, renting, hiring or otherwise providing information obtained under this agreement to any other party, whether alone, in conjunction with End User’s own data, or otherwise in any service which is derived from the consumer reports. The consumer reports shall be requested by, and disclosed by End User. Only End User’s designated and authorized employees having a need to know and only to the extent necessary to enable End User to use the Consumer Reports in accordance with this Agreement. End User shall ensure that such designated and authorized employees shall not attempt to obtain any Consumer Reports on themselves, associated, or any other person except in the exercise of their official duties.

THE FCRA PROVIDES THAT ANY PERSON WHO KNOWINGLY AND WILLFULLY OBTAINS INFORMATION ON A CONSUMER FROM A CONSUMER REPORTING AGENCY (Screening Service) UNDER FALSE PRETENSES SHALL BE FINED UNDER TITLE 18 OF THE UNITED STATES CODE OR IMPRISONED NOT MORE THAN TWO YEARS OR BOTH.

End User shall use each Consumer Report only for a **one-time** use and shall hold the report in **strict confidence** and **not disclose it to any third parties**; provided, however, that the End User may, but is not required to disclose the report to the subject of the report only in connection with an adverse action (denial, co-signer, increased deposit) based on the report. Moreover, unless otherwise explicitly authorized in an agreement between Reseller (Screening Service) and its End User for scores obtained through Trans Union, or as explicitly otherwise authorized in advance and in writing by Trans Union through Reseller, End User shall not disclose to consumers or any third part, any or all such scores provided under such agreement, unless clearly required by law.

With just cause, such as violation of the terms of the End User’s contract or a legal requirement, or a material change in existing legal requirements that adversely affects the End User’s agree, Reseller may, upon its election discontinue the End User and cancel the agreement immediately.

By: Rebekah Near, CEO Orca Information, Inc.

ORCA ♦ WISDOM ♦

If you lend someone \$20 and never see that person again, it was probably worth it.

Obligations of Users When Consumer Reports are Obtained for Employment Purposes

If information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

1. Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.
2. Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.
3. Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer’s rights will be provided to the consumer.
4. Before taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer’s rights. (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. Section 615(b)(2)

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.

PROPERTIES FOR SALE IN LAKE CHELAN

Contact: Dan and Jan Folsom

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Federal Officials Increase Criminal Prosecutions for Hiring Illegal Aliens

The federal government has increased criminal prosecutions for employing illegal aliens, an immigration lawyer said during a March 10 session of SHRM'S 2008 Employment Law & Legislative Conference in Washington, D.C.

Starting in December 2007, Immigration and Customs Enforcement (ICE) and the U.S. Attorney's Office have made individuals who work for companies that employ illegal aliens the targets of criminal prosecutions, Cynthia Lange, a partner with Fragomen, Del Rey, Bernsen & Loewy LLP, told SHRM members. In a change in tactics, federal officials are not going after companies but are going after individuals who work for those firms "with a vengeance," she said.

While there are number of different criminal penalties that federal prosecutions might consider in a case related to the employment of illegal aliens, conspiracy is a charge that prosecutors are pursuing actively, Lange said. Conspiracy can be charged if there is a violation of the law somewhere and if more than two people are aware of the violation, she said. Even executives with companies that hire subcontractors in the hope of avoiding employing illegal aliens directly can be charged with conspiracy if they have any knowledge that a subcontractor employs illegal aliens, she said.

In a addition to conspiracy, federal prosecutors are charging company officials with "harboring illegal aliens," Lange said. The "harboring" charge was originally designed to be used against smugglers who transported illegal aliens, but creative prosecutors are now using it against employers, she said.

Targeting Executives

In all the cases in which Lange represented corporate executives charged with immigration violations, the executives did not suspect there was a government investigation until ICE "showed up at the door." In many of these cases, confidential informants provided federal investigators with information on fraudulent documents used by a company's employees, and the information provided by informants helped the officials decide which companies to investigate, she said. Because it is information that could lead to a criminal prosecution, fraudulent documents are not the biggest problem an employer faces in such a case, she said. The biggest problem is a "person wearing a wire" attempting to record incriminating statements, she added.

While there is no definitive way for company officials to know if the firm is under investigation for immigration violations, receiving a "no-match letter" from the Social Security Administration that says an employee's Social Security number does not match government records might be a sign the company is being scrutinized, Lange said. If company officials receive a no-match letter, the firm needs to prepare for a Form I-9 audit before ICE shows up, she added.

Under government regulations, an employer that receives a no-match letter on an employee must take corrective steps or risk being found in violation of federal immigration laws. The first thing a firm's HR department should do if it receives

a no-match letter is schedule a meeting with the employee and document all actions taken with the employee. Lange said. The company needs to show ICE that it took "good faith" actions concerning the employee who was the subject of the no-match letter, she said. That way, if it turns out that the employee had provided fraudulent documents, it will probably not be a problem for the company because HR workers are not expected to be experts at detecting such documents, she said. In addition, while the federal government has not mandated that employers maintain copies of the identity credentials provided by employees, "the pendulum has clearly swung back toward maintaining photocopies of documents," she said. If a company does keep copies of workers' documents, the copies cannot be destroyed by a firm that suspects it will undergo a Form I-9 audit, she said. Some firms might destroy those copies in order to avoid a paperwork violation that could surface in an audit, but destroying such copies "is obstruction of justice," she said.

***by, J.J. Smith is manager of SHRM Online's Global HR Focus Area.

Credit Scores

Can you tell me how to check my credit score and see credit reports without negatively affecting my credit score?

When you personally check your credit reports or your FICO credit score it does not have a negative impact on your FICO credit score. You have three credit reports from the three main credit bureaus: Equifax, Experian and Trans Union. You can get all three reports for free at www.annualcreditreport.com or by calling 1-877-322-8228. You can get your FICO credit score at www.myfico.com. Again, you have three scores, based on the information in your three credit reports. If you are in home-buying mode it makes sense to pay to check all three scores because mortgage terms are often based on a combined calculation of scores from all three bureaus. So best to make sure that all three are in great shape; that means 760 or higher.

Note: Costco offers a credit report, scores and monitoring service. Go to costco.com and type "credit reports" into the search box.

By, Suze Orman
www.suzeorman.com



The Orcapod
Wants to
Wish You All a
Safe and
Happy
Fourth of July!

