

False statements to credit bureaus: Nothing to CROA 'bout

It's called CROA – **the Credit Repair Organizations Act** – and it was put in place to protect people battling their way back from financial adversity. Given the long history of questionable practices in this sector, CROA makes it illegal to charge people upfront before services are rendered. It also bans misleading statements to credit bureaus about consumers' credit records. There's been lots of talk about the harm posed by false negative information in credit reports. But in an interesting twist, **the FTC's settlement with RMCN Credit Services** – one of the largest credit repair outfits in the country – alleges that the company charged illegal fees to deceptively challenge *truthful* negative information in those reports.

Texas-based RMCN advertised online and in radio and billboard ads across the country. RMCN representatives typically told consumers that the company would dispute all “derogatory information” on their credit reports, including the accurate stuff. RMCN assured customers its tactics were on the up-and-up and that federal law required credit bureaus to “prove it or remove it.”

Before the company provided any services, consumers had to pay a “retainer” of between \$900 and \$2000 and an additional monthly fee of \$100 or so for a six-month program. RMCN then sent more than a million dispute letters to creditors and credit bureaus, challenging the accuracy of pretty much all negative information on clients' credit reports, regardless of whether there was any factual basis for questioning the accuracy. In many cases, when challenging the information, RMCN offered a laundry list of fictitious reasons unrelated to the facts of the particular case.

What's more, the company made it look like the letters were coming directly from the consumer. RMCN signed the person's name and used their return address on all correspondence. Consumers didn't know what was going on because RMCN didn't give them copies of the letters. And RMCN didn't let up. Even after getting detailed paperwork verifying the accuracy of the negative information, the company kept at it until the credit bureau deleted it or the consumer stopped paying RMCN.

The FTC sued the RMCN and its owners in 2011. The **complaint** alleged that the defendants violated CROA by charging upfront fees and making a raft of false statements to credit bureaus.

To settle the lawsuit, the defendants have agreed to stop charging advance fees for credit repair services. Those untruthful or misleading statements to credit bureaus? They're banned under the **order**. RMCN also has agreed it won't send letters to credit bureaus or creditors without having consumers review them first. In addition, the company will send letters to all current customers telling them about the lawsuit and giving them the right to cancel their contracts and owe nothing to RMCN. The order contains broad protections for future consumers by prohibiting any misrepresentation about the sale of any product or service.

The order imposes a \$2.35 million civil penalty, which will be partially suspended based on the defendants' inability to pay the full amount. But first, they'll have to turn over a total of \$400,000.

The message for marketers? **First**, CROA offers important protections for consumers and lays out clear dos and don'ts for the industry. If you market credit repair services, now is the time for a compliance tune-up. **Second**, as the FTC's long-standing commitment to enforcing CROA and the Fair Credit Reporting Act makes clear, the touchstone of the system is accuracy. Whether it's creditors reporting erroneous or incomplete data, credit bureaus slacking off on their obligation to investigate, or groundless challenges to accurate information, the FTC works toward maximizing the truth.