



FEDERAL TRADE COMMISSION PROTECTING AMERICA'S CONSUMERS

Advisory Opinion to Kaiser (07-16-98)

July 16, 1998

Charlie Kaiser, Information Specialist
Automotive Technical Services
California State Automobile Association
Post Office Box 429186
San Francisco, California 94142

Dear Mr. Kaiser:

This responds to your letter asking whether the Fair Credit Reporting Act permits an auto dealer to obtain a credit report on a consumer who offers to pay for a vehicle purchase with a check or cash.

Section 604(a)(3)(F)(i) permits a dealership to obtain a consumer report (which may be either a report from a check verification service or a credit report from a credit bureau) when it "has a legitimate business need for the information in connection with a business transaction that is initiated by the consumer." In our view, a permissible purpose exists when a consumer presents a personal check to pay for a vehicle. In the enclosed recent staff opinion letter that discussed the situations in which an auto dealer is and is not permitted to obtain a credit report (Coffey, 2/11/98), we stated that Section 604(a)(3)(F)(i) allows a dealer to review the credit worthiness of a consumer who presents a check to pay for a vehicle. Similarly, the Commission recognized such a purpose in its Commentary on the FCRA.⁽¹⁾ As explained in the Coffey letter, however, it is the staff's view that a dealer has no permissible purpose to obtain a consumer report when the purchaser intends to pay by cash.

The opinions set forth in this informal staff letter are not binding on the Commission.

Sincerely yours,

Clarke W. Brinckerhoff

1. 16 C.F.R. 600, Appendix (55 Fed Reg. 18,814, 18,818; May 4, 1990), comment 604(3)(E)-3. Section 604(3)(E) – the predecessor to Section 604(a)(F)(i) of the FCRA – was amended effective September 30, 1997, but not in any way that removed the permissible purpose for a merchant to obtain a consumer report on a consumer who presents a personal check to pay for merchandise.



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