



# Case Highlights the Need for Financial Institutions to Ensure Accurate Credit Reporting

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A recent federal case finding a lender potentially liable under the Fair Credit Reporting Act (“FCRA”) for failing to correct inaccuracies in a borrower’s credit report serves as an important reminder for financial institutions to ensure that the status of its loans are being properly reported to credit bureaus, especially loans where the borrower has been discharged through bankruptcy.

In *Locke v. Sun Loan Co. Missouri, Inc.*, No. 17-0355-CV-W-FJG, 2017 WL 5297951 (W.D. Missouri Nov. 13, 2017), Shirley Locke (“plaintiff”) had an unsecured loan with Sun Loan Company Missouri, Inc. (“Sun Loan”) that was discharged through her Chapter 13 bankruptcy plan. A few months after the plaintiff received her bankruptcy discharge, she checked her credit reports and determined that Sun Loan, as well as a few other creditors, were misreporting information on her credit reports. The plaintiff sent letters to Sun Loan and the other creditors detailing her bankruptcy information and disputing the incorrect reporting. In her dispute letter, the plaintiff requested that her information be updated to show a \$0 balance, not the \$684 balance that the plaintiff had incurred prior to the bankruptcy discharge. She also requested for the status to be shown as “discharged” and not as being “charged off.”

Upon checking her credit report after the dispute letter was sent, the plaintiff noticed that while Sun Loan had made the requested corrections, it failed to remove the negative charge off payment history that had been reported during the plaintiff’s Chapter 13 bankruptcy and after her discharge. As a result, the plaintiff sued Sun Loan alleging violations of the FCRA.

In *Locke*, the court was faced with a motion to dismiss, which requires it to look at whether the plaintiff’s complaint stated a plausible claim for relief. In its motion to dismiss, Sun Loan stated that the plaintiff’s revised credit report showed that all of the changes the plaintiff requested had been made and that the company did exactly what it was requested to do.

In response, the plaintiff asserted that after receiving notice of disputed information from a credit reporting agency, a furnisher of information is required under the FCRA to conduct its own investigation and correct inaccuracies. The plaintiff alleged she sent notice of the alleged inaccuracies to Experian, who then notified Sun Loan about the dispute, and while Sun Loan received the notice, it failed to correct all the inaccuracies on the credit report, causing the plaintiff damages. The court found that the plaintiff had sufficiently alleged the elements necessary to state a claim and therefore not only denied Sun Loan’s motion to dismiss but also granted

the plaintiff's motion to amend her complaint to add more specific allegations about Sun Loan's conduct.

There have been quite a few cases where a consumer has brought a claim against a financial institution for violations of the FCRA. In some instances, the financial institution has been successful in moving to dismiss the cause of action, and in others, financial institutions have not been successful. The recent *Locke* case serves as an important reminder for financial institutions to ensure that loan status is properly being reported to credit bureaus, especially loans where the borrower has been discharged in bankruptcy. Additionally, financial institutions are reminded that if the institution is notified by a consumer reporting agency that credit information that has been reported to such agency has been disputed, the FCRA requires furnishers of information to conduct a reasonable investigation of all such disputes and to correct any information found to be inaccurate.

If you have any questions regarding your institution's obligations under the FCRA or credit reporting in general, please feel free to contact Joseph D. Simon at [516-357-3710](tel:516-357-3710) or via email at [jsimon@cullenanddykman.com](mailto:jsimon@cullenanddykman.com), or Elizabeth A. Murphy at [516-296-9154](tel:516-296-9154) or via email at [emurphy@cullenanddykman.com](mailto:emurphy@cullenanddykman.com).

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