

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of)
)
SmartStart Employment Screening, Inc.,) DOCKET NO.
a corporation.)
)
_____)

COMPLAINT

The Federal Trade Commission (“FTC”), having reason to believe that SmartStart Employment Screening, Inc., a corporation, has violated provisions of the Federal Trade Commission Act (“FTC Act”), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent SmartStart Employment Screening, Inc. is a Delaware corporation with its principal office or place of business at 29399 US 19 N Ste 350, Clearwater, FL 33761.
2. Respondent offers background and employment screening services.
3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act.
4. Respondent has set forth on its website <http://www.smartstartemploymentscreeninginc.com>, privacy policies and statements about its practices, including statements related to its participation in the EU-U.S. Privacy Shield framework agreed upon by the U.S. government and the European Commission

Privacy Shield

5. The EU-U.S. Privacy Shield framework (“Privacy Shield”) was designed by the U.S.

the Directive sets forth requirements for privacy and the protection of personal data. Among other things, it requires EU Member States to implement legislation that prohibits the transfer of personal data outside the EU, with exceptions, unless the European Commission has made a determination that the recipient jurisdiction's laws ensure the protection of such personal data. This determination is referred to commonly as meeting the EU's "adequacy" standard.

6. To satisfy the EU adequacy standard for certain commercial transfers, the European Commission negotiated the EU-U.S. Privacy Shield framework, which went into effect in July 2016. The EU-U.S. Privacy Shield framework

the Privacy Shield Principles shall govern. To learn more about the Privacy Shield program, and to view our certification page, please visit <https://www.privacyshield.gov/>

Smart Start has joined the EU Privacy Shield Program and complies with the EU – US Privacy Shield Principles as it relates to the collection, use and retention of personal information from European Union member countries. SmartStart adheres to each of the Privacy Shield Principles with respect data received from the EU in reliance of the Privacy Shield: Notice; Choice; Accountability for Onward Transfer; Security; Data Integrity and Purpose Limitation; Access; and Recourse, Enforcement and Liability as explained below.

10. Although Respondent obtained Privacy Shield certification in September 2016, it did not complete the steps necessary to renew its participation in the EU-U.S. Privacy Shield framework after that certification expired in September 2017, nor did it withdraw and affirm its commitment to protect any personal information it had acquired while in the program. After allowing its certification to lapse Respondent has continued to, as indicated in Paragraph 9, that it participates in the Privacy Shield program.

Count 1 – Privacy Misrepresentation

11. As described in Paragraph 9, Respondent represents, directly or indirectly, expressly or by implication, that it is a current participant in the EU-U.S. Privacy Shield Principles
12. In fact, as described in Paragraph 10, Respondent is not a participant in the EU-U.S. Privacy Shield Principles. Therefore, the representation set forth in Paragraph 9 is false or misleading.

Count 2 – Misrepresentation Regarding Continuing Obligations

13. As described in Paragraph 6, Respondent represented that it would abide by the EU Privacy Shield framework principles. These principles include a requirement that if it ceased to participate in the EU-U.S. Privacy Shield framework, it must affirm to Commerce that it will continue to apply the principles to personal information that it received during the time it participated in the program.
14. In fact, as described in P

Violations of Section 5 of the FTC Act

15. The acts and practices of Respondent as alleged in this complaint constitute deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this ___ day of ____ 2018, has issued this complaint against Respondent

By the Commission.

Donald S. Clark
Secretary

SEAL: