

## FCRA RQUIRED ADVERSE ACTION PROCEDURES

### **(First Step) Pre-adverse Action Notification**

If an employer decides not to hire someone, **and the decision not to hire was based either in whole or in part, on information contained in a Consumer Report** (outsourced background check report), the employer ordering / using the consumer report, must provide the following to the job applicant / candidate before formal adverse action is taken:

- **Pre-adverse Action Notice (Example Notice Below)**
- **A Copy of the Consumer Report (background report)**
- **A Printed Copy of the CFPB Document: “Summary of Your Rights Under the FCRA”**

[http://files.consumerfinance.gov/f/201410\\_cfpb\\_summary\\_your-rights-under-fcra.pdf](http://files.consumerfinance.gov/f/201410_cfpb_summary_your-rights-under-fcra.pdf)

The purpose of the pre-adverse action notification process is to allow the applicant/candidate a reasonable and meaningful period of time to receive and review the consumer report (background screening report) and to dispute any information that they believe is incorrect or incomplete. Generally, 5 business days is considered a reasonable time frame for the applicant to respond. In any event, the applicant should be given reasonable time in which to receive and respond to your pre-adverse action notification.

### **(Second Step) Formal Adverse Action Letter**

If, after a reasonable time, the applicant does not dispute the adverse information contained in the consumer report or doesn't respond at all, and/or it is the intent of the employer not to hire the applicant in question, the employer can proceed with the following formal Adverse Action Letter procedure:

- **Formal Adverse Action Letter advising job applicant of the adverse hiring decision (Example Letter Below)**
- **Include a copy of the “Summary of Your Rights Under the FCRA” handout.**
- **Include the name, address and telephone number of the consumer reporting agency that produced the report and a statement that “the consumer reporting agency did not make the decision to take adverse action and is unable to provide job applicants with the reason(s) the adverse action was taken by the employer.” (Example letter below)**
- **Provide a notice of the applicant's right to obtain a free copy of the report directly from the consumer reporting agency within 60 days and to dispute the accuracy or completeness of any information in a consumer report. (Example letter below)**

## (Specimen Pre-adverse Action Notice)

. (Employer's Company Letterhead)

Date

Applicant's Name  
Address

Dear Applicant:

A decision is currently pending concerning your application for employment at our organization. Enclosed for your information is a copy of the consumer report that you authorized in regard to your application for employment, together with a "Summary of Your Rights Under the Fair Credit Reporting Act."

If there is any information that is inaccurate or incomplete, you should contact this office as soon as possible so an employment decision may be completed.

Sincerely,

Name  
Title  
Company

**(The "Summary of Your Rights Under the FCRA" in printed hard-copy format is to be included with the Pre-Adverse Action Notice)**

## (Specimen Formal Adverse Action Letter)

(Employer's Company Letterhead)

Date  
Applicant's Name  
Address

Dear Applicant:

This letter is to inform you that an offer of employment will not be made to you at this time. This decision was based, either in whole or in part, on information provided to us in a consumer report.

You authorized the procurement of such a report as part of your application process. This report was used only for employment purposes and prepared for us by a Consumer Reporting Agency. The Consumer Reporting Agency did not make the adverse decision and is unable to explain why the decision was made.

You have the right to obtain within 60 days a free copy of your consumer report from the Consumer Reporting Agency as identified below and from any other consumer reporting agency which compiles and maintains files on consumers on a nationwide basis.

You have the right to contact the Consumer Reporting Agency listed below to dispute any information contained in the report that you believe may be inaccurate or incomplete.

Employer's InfoSource  
Consumer Relations  
PO Box 939  
Vacaville, CA 95696-0939

Phone Toll-free 1-800-331-6770

A copy of your rights under the "Fair Credit Reporting Act" is enclosed, entitled "Summary of Your Rights Under the Fair Credit Reporting Act."

Sincerely,

**(The "Summary of Consumer Rights" in printed text format is to be included with the Pre-Adverse Action Notice and Formal Adverse Action Letter)**