



How Often Can We Run Credit Checks On Dealership Employees?

Insights

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Picture this scenario: a privately held dealership operates 16 stores in Southwest Florida. The company's CFO tries to keep on top of how the finance managers, cashiers, parts managers, and others who handle money or property perform their duties. So, the CFO will often work in those jobs when regular employees are on vacation, or leave, or otherwise absent.

A few months ago, while working at the desk of an 18-year veteran cashier, the CFO discovered that the employee has been stealing money for at least the past year, in an amount totaling more than \$18,000. The dealership quickly got on top of the situation and terminated the employee, obtaining an agreement for immediate repayment of the stolen funds in return for not reporting the crime to authorities.

The dealership received full payment from the terminated employee, providing somewhat of a satisfactory ending to a difficult situation. But now the dealership's CFO has a question: "How often can we run credit checks on employees who handle our dealership's money or property?"

FCRA Is For More Than Just Customers

Most dealerships are fully aware of their rights to obtain credit-worthiness information about their customers so long as they comply with the terms of the Fair Credit Reporting Act (FCRA). But some may not be as fully aware of their rights and ability to ascertain the credit worthiness of their employees utilizing FCRA's guidelines.

And while some may be aware they can seek and obtain permission from job applicants to obtain a background report that would include their credit history, all dealerships may not be aware that they can continue to obtain credit information on applicants even after they become employees.

Both Applicants And Employees Can Be Checked

In fact, FCRA specifically covers employment situations. The statute provides the details on how you can obtain a consumer report on a certain person. And it defines a "consumer report" as including any information received from a consumer reporting agency bearing on the credit worthiness, credit standing, credit capacity, general reputation, personal characteristics, or mode of living that you might use as a factor in establishing someone's eligibility for employment purposes.

The statute defines “employment purposes” to include any reports used for the purpose of evaluating someone for employment, promotion, reassignment, or retention. It goes on to say that you can take an “adverse action” against someone because of information obtained in a credit report, including denying employment, or taking other actions that could affect “any current or prospective employee.”

So we now know that FCRA allows you to run credit checks on both applicants and current employees. But how do you ensure that you comply with FCRA?

FCRA Basics For Applicants

You know the rules when it comes to checking credit for consumers. The same rules apply when checking up on applicants. In order to obtain permission to obtain a consumer report on a job applicant, you must notify the person in writing that you intend to obtain a consumer report on them, separate and apart from any job application. The applicant must grant written permission for the consumer report to be obtained, and return such written permission to you before you can obtain the consumer report.

FCRA Best Practices For Employees

The statute does not address whether, after this first report is obtained and the applicant becomes an employee, you must reacquire such permission before any subsequent report is sought. There are two possible ways you may proceed in such circumstances.

The first is to ensure that your authorization documentation obtained during the application process makes clear that your dealership may seek to re-obtain credit information through subsequent inquiries. This written document would specify that the permission granted by the job applicant at that stage will also apply to any future efforts to obtain credit information.

The second procedure, and one we favor, is for your dealership to provide notice to the employee when it intends to obtain a new consumer report, and obtain the employee’s written permission to do so. That way, there is no doubt that permission was provided, and the employee can never contend he didn’t fully read or understand the notice he received during the application process.

Let’s face it, a thriving dealership will take in millions of dollars a year in sales revenue, financing, insurance, maintenance agreements, parts and parts replacement, and repairs. There is every reason for you to make the best effort possible to protect and to secure those funds. Keeping a watchful eye on those employees who handle money or property should be an integral part of those efforts.

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