



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Secretary

November 12, 2010

Karen McDaniel
State of South Carolina

Re: In the Matter of Rite Aid Corporation, File No. 072-3121, Docket No. C-4309

Dear Ms. McDaniel:

Thank you for your letter commenting on the Federal Trade Commission's consent agreement in the above-captioned proceeding. Your letter was placed on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and was given serious consideration by the Commission.

Your comment expressed general support for the proposed consent agreement, but also suggested that instead of fining Rite Aid Corporation ("Rite Aid") \$1 million the Commission should require the company to use the money to provide better training to employees. Rite Aid's settlement with the Office for Civil Rights ("OCR") of the Department of Health and Human Services of charges that the company violated the Health Insurance Portability and Accountability Act ("HIPAA") Privacy Rule included the resolution amount to which you refer;¹ the Commission's consent agreement, however, does not include civil monetary penalties or fines. The Commission's complaint alleges violations of the Federal Trade Commission Act, which does not authorize penalties as a remedy.

The Commission believes that, taken together, the OCR settlement and the Commission's consent agreement provide appropriate relief in this matter. The OCR order addresses the disposal of paper documents in pharmacies for a three year period. At the same time, the Commission's proposed order requires the company to protect paper and electronic records containing personal information of consumers and employees located anywhere within Rite Aid for the 20 year duration of the order.

Your letter suggests that the Commission should require Rite Aid to provide better training to employees. The Commission's proposed consent order requires exactly that. Among other things, the proposed consent order requires Rite Aid to implement and maintain a comprehensive information security program, including employee training, reasonably designed to protect the security, confidentiality, and integrity of personal information and obtain independent assessments of the program's effectiveness every other year for 20 years. Further,

¹ See Rite Aid Agrees to Pay \$1 Million to Settle HIPAA Privacy Case, <http://www.hhs.gov/news/press/2010pres/07/20100727a.html>.

the Commission will monitor Rite Aid's compliance with the order, and, if the company is found in violation, it could be subject to civil monetary penalties of up to \$16,000 per violation.

After considering your comment, the Commission has determined that the public interest would best be served by accepting the consent order. Thank you again for your letter.

By direction of the Commission.

Donald S. Clark
Secretary