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21 **UNITED STATES DISTRICT COURT**
22 **DISTRICT OF NEVADA**

23 Valarie Williams, Individually and on
24 behalf of others similarly situated,
25
26 **Plaintiffs,**
27
28 vs.
29
30 TLC Casino Enterprises, Inc., d/b/a and
31 a/k/a Four Queens Hotel and Casino; Four
32 Queens, LLC d/b/a and a/k/a Four
33 Queens Hotel and Casino;
34 Employee(s)/Agent(s) Does 1-100; and
35 Roe Corporations, Companies and/or
36 Partnerships 101-151, inclusive,
37
38 **Defendant.**

Case No.:

**CLASS ACTION COMPLAINT WITH
JURY DEMAND**

COMPLAINT

COMES NOW Plaintiff Valarie Williams ("Plaintiff" or "Williams"), by and through her attorneys, Christian Gabroy, Esq. and Kaine Messer, Esq. of Gabroy Law Offices and Mark Thierman, Esq. and Joshua Buck, Esq. of Thierman Buck LLP, and hereby complains against Defendant TLC Casino Enterprises, Inc. d/b/a and a/k/a Four Queens Hotel and Casino and Defendant Four Queens, LLC d/b/a and a/k/a Four Queens Hotel and Casino

1 (collectively "Defendants").

2 All allegations in this Complaint are based upon information and belief except for
3 those allegations that pertain to the Plaintiff named herein and his counsel. Each
4 allegation in this Class Action Complaint With Jury Demand either has evidentiary
5 support or is likely to have evidentiary support after a reasonable opportunity for further
6 investigation and discovery.

7 **JURISDICTION AND VENUE**

8 1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331
9 because this action involves a federal question.

10 2. "An action to enforce any liability created under [the FCRA] may be brought
11 in any appropriate United States district court, without regard to the amount in
12 controversy, or in any other court of competent jurisdiction" within the earlier of "2 years
13 after the date of discovery by the plaintiff of the violation that is the basis for such liability"
14 or "5 years after the date on which the violation that is the basis for such liability occurs."
15 15 U.S.C. § 1681p.

16 3. Venue is proper in this District because Defendants do business in this
17 judicial district, Plaintiff applied for employment with Defendants in Clark County, the
18 illegal and unlawful act complained of occurred within Clark County, and Plaintiff resided
19 and was domiciled in Nevada at all relevant times.

20 **PRELIMINARY STATEMENT**

21 4. This class action is brought pursuant to the Fair Credit Reporting Act
22 ("FCRA") against Defendants for the acquisition and use of consumer and/or
23 investigative consumer reports to conduct background and credit checks on Plaintiff and
24 other prospective and current employees of Defendants.

25 5. Defendants obtained background reports for prospective and current
26 employees of Defendants.

27 6. Defendants used the information in background reports to make
28 employment related decisions for prospective and current employees.

1 7. Defendants failed to comply with federal mandates for obtaining and using
2 background reports for employment purposes.

3 8. Defendants routinely violated the FCRA and its core protections by
4 procuring background reports on employees and job applicants without providing a
5 “stand alone” disclosure that a background report would be procured.

6 9. Instead, Defendants willfully included extraneous information such as a
7 “release of liability” in an effort to shield themselves from their unlawful acts.

8 10. Under the FCRA, an employer or prospective employer cannot “procure,
9 or cause a consumer report to be procured, for employment purposes with respect to
10 any consumer, unless . . . a clear and conspicuous disclosure has been made in writing
11 to the consumer at any time before the report is procured or caused to be procured, ***in a***
12 ***document that consists solely of the disclosure***, that a consumer report may be
13 obtained for employment purposes.” 15 U.S.C. § 1681b(b)(2)(A)(i) (emphasis added).

14 11. Defendants willfully and systematically violated 15 U.S.C. §
15 1681b(b)(2)(A)(i) by procuring consumer reports on Plaintiff and other putative class
16 members for employment purposes, without first making proper disclosures in the format
17 required by the FCRA. See *Sarmad Syed v. M-I, LLC, et. al.*, Case No. 14-17186, 2017
18 WL 242559, at *1 (9th Cir. Jan. 20, 2017).

19 12. Based on Defendants’ conduct, Plaintiff asserts FCRA claims on behalf of
20 herself and the class defined below. On behalf of herself and the class, Plaintiff seeks
21 statutory damages, punitive damages, attorneys’ fees, litigation costs, and all other
22 available relief.

23 **PARTIES**

24 13. The named Plaintiff, Valarie Williams (“Williams”), is a natural person who
25 resides in the state of Nevada, and is a “consumer” within the meaning of 15 U.S.C. §
26 1681a(c).

27 14. Defendant TLC Casinos Enterprise, Inc. is an entity registered in the State
28 of Nevada and is a “person” within the meaning of 15 U.S.C. § 1681a(b).

1 15. Defendant Four Queens, LLC is an entity registered in the State of Nevada
2 and is a "person" within the meaning of 15 U.S.C. § 1681a(b).

3 16. The identity of Does 1-100 is unknown at this time and this Complaint will
4 be amended at such time when the identities are known to Plaintiff.

5 17. Plaintiff is informed and believes that the Defendants sued herein as DOE
6 is responsible in some manner for the acts, omissions, or representations alleged herein
7 and any reference to "Defendant" or "Defendants" shall mean "Defendants and each of
8 them."

9 18. Plaintiff and members of her class do not know the true names or
10 capacities of Defendants sued herein as Does 1-100 or Roe Corporations 101-151
11 inclusive and will seek leave to amend this Complaint to correctly designate those parties
12 as soon as their correct names and capacities are ascertained. Plaintiff and members of
13 her class are informed and believe and thereupon allege that said Defendant was in
14 some manner legally responsible for the unlawful actions set forth herein and acting as
15 Plaintiff and members of her class's employer. All allegations repeated herein against the
16 Defendant are made with equal force against Roe Corporations.

17 **FACTUAL ALLEGATIONS**

18 19. Plaintiff was employed by Defendants from on or about March 9, 2017 until
19 on or about August 23, 2017.

20 20. Plaintiff was employed as an Executive Office Social Media Coordinator.

21 21. Upon information and belief, Defendants require all prospective and current
22 employees to submit to a background investigative consumer report.

23 22. At no time prior to obtaining a background report on Plaintiff did
24 Defendants provide Plaintiff with a stand-alone document of a legal disclosure that they
25 would be conducting a consumer background report.

26 23. Instead, Defendants provided Plaintiff with an Conditional Offer to Hire
27 letter, which contained extraneous information including conducting a drug screen. See a
28 true and correct redacted copy of the Conditional Offer to Hire attached as Exhibit I.

1 24. The Conditional Offer to Hire letter contained the following statement:

2 Continuation of this position and your employment is
3 dependent upon your passing any Background Check or Drug
4 Screen that may be required for your position.

5 See Exhibit I.

6 25. Plaintiff was confused whether a background check was conducted
7 because of such disclosure.

8 26. Upon information and belief, Defendants procured background reports on
9 all prospective and current employees of Defendants but does not provide those
10 employees with a disclosure that consists solely of that disclosure. This is unlawful, and
11 a willful violation of the FCRA. *See Samad Syed v. M-I, LLC, et. al.*, Case No. 14-
12 17186, 2017 WL 242559, at *1 (9th Cir. Jan. 20, 2017).

13 CLASS ACTION ALLEGATIONS

14 27. Plaintiff asserts her claim on behalf of the following Class of individuals:

15 **Any person whom Defendants procured a background
16 report for employment purposes in the period beginning
17 5 years prior to the filing of the Complaint up to and
18 including judgment.**

19 28. **Numerosity:** The class is so numerous that joinder of all class members is
20 impracticable. Defendants regularly used their disclosure to procure background reports
21 on current employees and job applicants. Thousands of Defendants’ prospective and
22 existing employees satisfy the class definition.

23 29. **Typicality:** Plaintiff’s claims are typical of the members of the class.
24 Defendants typically uses an identical disclosure to procure background reports on
25 prospective and existing employees. The FCRA violations suffered by Plaintiff is typical
26 of those suffered by other class members, and Defendants treated Plaintiff consistent
27 with other class members in accordance with their standard practices.

28 30. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the
 class and has retained counsel experienced in complex class action litigation.

1 31. **Commonality:** Common questions of law and fact exist as to all members
2 of the class and predominate over any questions solely affecting individual members of
3 the class, including but not limited to:

4 a) Whether Defendants procured background reports on prospective
5 and existing employees;

6 b) Whether Defendants violated the FCRA by procuring such
7 background reports without a FCRA-compliant disclosure;

8 c) Whether Defendants' FCRA violations were willful;

9 d) The proper measure of statutory damages; and

10 e) The proper measure of punitive damages.

11 32. **Predominance/Superiority:** Class certification is appropriate under Fed.
12 R. Civ. P. 23(b)(3) because questions of law and fact common to the class predominate
13 over any questions affecting only individual members of the class, and because a class
14 action is superior to other available methods for the fair and efficient adjudication of this
15 litigation. Defendants' conduct described in this Complaint stems from common and
16 uniform policies and practices, resulting in common violations of the FCRA. Class
17 certification will also preclude the need for unduly duplicative litigation that might result in
18 inconsistent judgments concerning Defendants' practices. Moreover, management of this
19 action as a class action will not present any likely difficulties. In the interests of justice
20 and judicial efficiency, it would be desirable to concentrate the litigation of all class
21 members' claims in a single forum.

22 33. Plaintiff intends to send notice to all members of the class to the extent
23 required by Fed. R. Civ. P. 23. The names and addresses of the class members are
24 available from Defendants' records.

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FIRST CAUSE OF ACTION
Procuring Consumer Reports without First Making Proper Disclosures
15 U.S.C. § 1681b(b)(2)(A)(i)
(On Behalf of Plaintiff and the Class Against Defendant)

34. Plaintiff realleges and incorporates by this reference all the paragraphs above in this Complaint as though fully set forth herein.

35. Defendants procured consumer reports, as defined by the FCRA, on Plaintiff and all class members.

36. These reports were procured for employment purposes without first providing Plaintiff or any class member a clear and conspicuous disclosure made in writing, in a document consisting solely of the disclosure, that a consumer report may be obtained for employment purposes in violation of 15 U.S.C. § 1681b(b)(2)(A)(i).

37. The foregoing violations were willful. Defendants acted in deliberate or reckless disregard of their obligations and the rights of Plaintiff and other class members under 15 U.S.C. § 1681b(b)(2)(A)(i). *See Sarmad Syed v. M-I, LLC, et. al.*, Case No. 14-17186, 2017 WL 242559, at *1 (9th Cir. Jan. 20, 2017).

38. Defendants' willful conduct is reflected by, *inter alia*, the following:

a) The FCRA was enacted in 1970; Defendants have had over 40 years to become compliant;

b) Defendants' conduct is inconsistent with the FTC's longstanding regulatory guidance, judicial interpretation, and the plain language of the statute;

c) Defendants knew or had reason to know that their conduct violated the FCRA;

d) Defendants repeatedly and routinely used the disclosure it used with Plaintiff to procure consumer reports;

e) Despite the pellucid statutory text and there being a depth of guidance, Defendants systematically procured consumer reports without first disclosing in writing to the consumer *in a document that consists solely of the disclosure*, that a consumer report may be obtained for employment purposes; and

1 f) By adopting such a policy, Defendants voluntarily ran a risk of
2 violating the law substantially greater than the risk associated with a reading that was
3 merely careless.

4 39. Plaintiff and the class are entitled to statutory damages of not less than
5 \$100 and not more than \$1,000.00 for each and every one of these violations, pursuant
6 to 15 U.S.C. § 1681n(a)(1)(A).

7 40. Plaintiff and the class are entitled to such amount of punitive damages as
8 the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2).

9 41. Plaintiff and the class are further entitled to recover their costs and
10 attorneys' fees, pursuant to 15 U.S.C. § 1681n(a)(3).

11 **DEMAND FOR JURY TRIAL**

12 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff and his
13 class demand a trial by jury.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff, on behalf of herself and her class, prays for relief as
16 follows:

- 17 A. Determining that this action may proceed as a class action under Rule
18 23(b)(3) of the Federal Rules of Civil Procedure;
- 19 B. Designating Plaintiff as Class Representative and designating Plaintiff's
20 Counsel as counsel for the class;
- 21 C. Issuing proper notice to the class at Defendants' expense;
- 22 D. Declaring that Defendants committed multiple, separate violations of the
23 FCRA;
- 24 E. Declaring that Defendants acted willfully, in deliberate or reckless disregard
25 of Plaintiff's and class members' rights and Defendants' obligations under
26 the FCRA;
- 27 F. Awarding statutory and punitive damages as provided by the FCRA;
- 28 G. Awarding reasonable attorneys' fees and costs as provided by the FCRA;

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and

H. Granting other and further relief, in law or equity, as this Court may deem appropriate and just.

DATED this 7th day of November 2017.

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