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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

April 8, 2021

Mr. Jason Randall
President and Chief Executive Officer
AppFolio, Inc.
50 Castilian Dr.
Santa Barbara, CA 93117

Dear Mr. Randall:

As Chairman of the Committee on Banking, Housing, and Urban Affairs, I write out of growing concern for the accuracy, development, and marketing of tenant screening reports and scores, and the consequences that inaccuracies in tenant screening reports and scores may have on individuals and families seeking affordable housing during and in the aftermath of the COVID-19 pandemic.

The housing market for our nation's 44 million renters is more competitive than at any time in recent history.¹ Nationally, vacancy rates remain near their lowest point in nearly three decades, while the price to rent and own continues to rise faster than incomes.²³ The competition for affordable housing is intensified by a decline in the overall number of affordable units available for rent. In 2017, low cost rental housing comprised just 25 percent of the nation's overall rental housing stock, a decline from previous years.⁴ This competitive landscape is particularly challenging for the 10.8 million renters—a quarter of all renters—who earn extremely low incomes. Among this group, 7.6 million renters pay over 50 percent of their income for housing.⁵ This group of renters is more likely to be seniors living on a fixed income, or disabled, and is also more likely to be renters of Black and Brown descent.⁶ With a growing number of lower-income renters competing for a limited number of housing units, the results of a tenant screening report can mean the difference between a renter and their family finding a home or being locked out of the rental market.

¹ National Multifamily Housing Council, "Who Are U.S. Renters?" Webpage: Find at:

<https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-resident-demographics/>

²Quarterly Residential Vacancies and Homeownership, Fourth Quarter 2020, U.S. Census Bureau, February 2, 2021

Find at: <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>

³American's Rental Housing 2020, Joint Center for Housing Studies of Harvard University pg. 4, Find at:

https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf

⁴ Ibid pg. 2

⁵The GAP, A Shortage of Affordable Homes, March 2021 Find at:

https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2021.pdf pg. 1-3

⁶ Ibid pg. 13

For a fee, typically borne by the applicant, tenant screening services provide landlords and property managers detailed information about an individual's criminal, rental, and financial history. Many tenant screening services generate an automated report providing a comprehensive overview of a renter's "risk" profile. These services aggregate criminal and civil court records, including criminal complaints, eviction filings, arrests, and convictions. They may also utilize proprietary algorithms to provide a composite score for landlords to measure the attractiveness of a renter's candidacy. Once compiled, the tenant screening company generates a report for landlords and property managers to compare applicants and select renters to fill vacancies.

The Fair Credit Reporting Act (FCRA), which governs the use of criminal and civil records in tenant screening reports, requires screening companies to take reasonable steps to ensure the maximum possible accuracy of screening reports.⁷ Notwithstanding this requirement, the prevalence of inaccurate data, incomplete records, mismatched information, and duplicate information within screening reports harms and diminishes the housing options for tens of millions of renters. The use of criminal and civil background information in tenant screening reports demands heightened care and scrutiny. It is essential to a report's accuracy that your company and its third party vendors, who aggregate the information used within screening reports, appropriately update and validate information to accurately reflect that, among other things, convictions that are expunged, juvenile records that are sealed, arrests that did not lead to convictions, and withdrawn eviction filings are not included in screening reports.⁸

Another concern involving the use of criminal and civil records in tenant screening reports is whether the racial disparities in civil and criminal law enforcement are negatively affecting the ability of Black and Brown, and other ethnic minority renters to obtain affordable housing.⁹ One study, which analyzed arrest data reported in 2018 to the Federal Bureau of Investigations by thousands of police departments around the country, found that Black men and women were arrested at a rate five to ten times higher than their white counterparts.¹⁰ Another study in 2020 of more than one-third of American rental households found that Black men and women accounted for 20 percent of renters but were involved in 33 percent of eviction proceedings.¹¹ Given the increased probability of arrest and eviction for Black and Brown men and women

⁷ Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq, Find at:

https://www.ftc.gov/system/files/documents/statutes/fair-credit-reporting-act/545a_fair-credit-reporting-act-0918.pdf

⁸ Screened Out: How Tenant Screening Reports Undermine Fair Housing Laws and Deprive Tenants of Equal Access to Housing in Illinois, pg. 12-13, 18 Find at: <https://www.povertylaw.org/wp-content/uploads/2021/01/tenant-screening-final-report.pdf>

⁹ How Tenant Screening Reports Make It Hard for People to Bounce Back From Tough Times - The problem disproportionately hits Black and Latino communities, housing advocates say, Kaveh Waddell, Find at: <https://www.consumerreports.org/algorithmic-bias/tenant-screening-reports-make-it-hard-to-bounce-back-from-tough-times/>

¹⁰ ABC News analysis of police arrests nationwide reveals stark racial disparity, Pierre Thomas, John Kelly, Tonya Simpson, June 11, 2020 Find at: <https://abcnews.go.com/US/abc-news-analysis-police-arrests-nationwide-reveals-stark/story?id=71188546>

¹¹ Hepburn, Peter, Renee Louis, and Matthew Desmond. 2020. "Racial and Gender Disparities among Evicted Americans." *Sociological Science* 7: 649-662. Find at: https://sociologicalscience.com/download/vol-7/december/SocSci_v7_649to662.pdf

around the country, a greater understanding of the statistical weights applied to your report's screening is of critical importance to determining if Black, Brown, and other ethnic minority renters are negatively impacted by tenant screening criteria and methodology.

In order to provide a better understanding of the tenant screening reports your company provides, their accuracy, as well as how they are developed, marketed, and used, please provide responses to the following by April 29, 2021:

1. Please describe your company's policies and procedures to comply with the FCRA's requirement under section 607(b) for maximum possible accuracy of consumer reports (*i.e.*, tenant screening reports), including:
 - a. How often policies and procedures are updated;
 - b. What criteria your company uses to match public records with a consumer;
 - c. What steps your company takes to avoid name mismatches;
 - d. What additional steps, if any, your company takes to update older records and avoid mismatches of individuals with common names;
 - e. Whether your company uses any human review to ensure all information in an individual's tenant screening report is complete and accurate; and
 - f. What policies or procedures your company uses to classify or categorize criminal records.
2. Please identify each category of information that may be included in your tenant screening reports and the source(s) of that information. Please indicate if your company procures the information through a vendor or other third party or through a source other than the original source of the record.
3. Please identify each vendor from which your company receives information that is included in a tenant screening report. For each vendor, provide the following information:
 - a. Each category of information that your company receives; and
 - b. What policies, procedures, or practices your company has in place to ensure that the information received from each vendor is complete and accurate.
4. Please describe what steps your company takes to update information in tenant screening reports. Your response should include the following:
 - a. Whether your tenant screening reports include convictions that have been expunged;
 - b. Whether your tenant screening reports include criminal records that have been sealed;
 - c. Whether your tenant screening reports include criminal records dating from when the subject was a juvenile;
 - d. Whether your tenant screening reports include arrests that did not result in a conviction;
 - e. Whether your tenant screening reports include civil complaints;
 - f. Whether your tenant screening reports include eviction filings that did not result in an

- eviction or a judgment in the landlord's or housing provider's favor;
 - g. Whether your tenant screening reports include eviction filings or proceedings that have been sealed, expunged, or otherwise removed from public view;
 - h. Whether your tenant screening reports include eviction filings for juveniles or dating from a time in which a person was a juvenile;
 - i. How often (e.g., weekly, monthly) your company checks for updates to information in subparts (a) through (g) and what methods your company uses to check for such updates;
 - j. The mechanism(s) by which your company checks for updates to information in subparts (a) through (g) and the source of the updates (e.g., what software is used, does the company scrape information from court dockets or actually look at more detailed documents or information where available, etc.); and
 - k. If your company does not include any of the information for any of subparts (a) through (g) in an individual's tenant screening report (such as an expunged conviction), describe in detail what policies, procedures, and practices your company has in place to ensure that such information is not included in an individual's tenant screening report.
5. Please state whether your company provides customers with a tenant screening "score" or recommendation. If so, please provide:
- a. A detailed explanation of the scoring or recommendation system(s), including identifying each of the factors that your company considers in calculating a potential tenant's score or making a recommendation;
 - b. What research or data analysis your company or its vendors have undertaken to test the predictiveness or statistical validity of your scoring model or algorithm; and
 - c. Whether any of your company's scores or recommendations include credit-based scores (e.g., FICO or VantageScore) or credit information as a factor(s) in the score or recommendation.
6. Please describe how you market your tenant screening services, including how much you charge for a tenant screening report, score, or for any other tenant screening-related service.
7. Please describe your company's policies, procedures, and practices for responding to disputes from consumers about the information in their tenant screening reports or scores. Your response should include the following:
- a. What information rental applicants receive, either from your company or the customer (*i.e.*, landlord or property management company) that purchased the tenant screening report, about the results of their tenant screening report or score, including when the rental application has been denied;
 - b. Whether rental applicants receive a copy of or have access to their tenant screening report or score (whether from your company or the landlord or property management company that purchased the tenant screening report);
 - c. How you provide information to consumers on the methods by which they may dispute the completeness or accuracy of information in a tenant screening report or score; and
 - d. The specific steps your company takes when processing and investigating a dispute, including whether you involve any vendors of public records;

- e. Your timelines for investigating and responding to consumer disputes; and
 - f. The steps you take to prevent recurrence of an error. For example, if your investigation reveals that a public record was matched to the wrong “John Smith”, how your company ensures that other John Smith’s future records are not matched to the incorrect John Smith.
8. In an Excel spreadsheet, please provide the following data for each consumer dispute about their tenant screening report or score since January 1, 2019:
- a. A unique identifier for each dispute (or consumer);
 - b. The zip code for the consumer;
 - c. The date your company received the dispute;
 - d. The method by which the consumer submitted the dispute (telephone, email, internet portal, facsimile, letter, other);
 - e. A description of the subject of the dispute; and
 - f. The date your company completed an investigation and responded to the dispute; and
 - g. A summary of the outcome of the investigation; and a description of your company’s response to the dispute.
9. Please produce an exemplar of the following:
- a. A tenant screening report that shows all of the categories of information that could be included in the report; and
 - b. A tenant screening score and/or recommendation to accept and reject.

The COVID-19 pandemic has revealed that our nation’s renters face an affordable housing shortage that is impacting their ability to find safe, high quality housing that meets their needs. This shortage is particularly impactful on Black, Brown, and other ethnic minority renters who are disproportionately subjected to criminal and civil legal enforcement in scales of magnitude greater than white renters. The answers you provide to the questions above are critical to ensuring that Congress is able to appropriately update federal laws to fully protect renters, landlords, and tenant screening agencies while ensuring fair, objective, and unbiased access to our nation’s rental housing market. If you have any questions or concerns about this request please contact Jan Singelmann of the Senate Banking, Housing, and Urban Affairs Committee staff at Jan_Singelmann@banking.senate.gov.

Sincerely,



Sherrod Brown
Chairman