

From: mbelanger  
Sent: Friday, August 13, 2004 10:47 PM  
To: FCRAnotices  
Subject: FACTA Notices, Matter #R411013  
Importance: High

Please accept these comments as timely filed per the Request for Comments appearing in the Federal Register on 16 July.

I do not profess to be an expert in all areas of law pertaining to the FCRA or the FDCPA. However, I am a victim of identity theft that has been thwarted by the current processes utilized by all three of the major credit record bureaus and creditors in an attempt to clear my record of debts that were not mine.

The current requirements of each agency is to require a dispute in writing, followed by which they will send something out to the creditor in question. Although the law appears to require compliance with a request for the procedures and the specific investigatory responses, the bureaus refuse to acknowledge such follow-up correspondence. Inquiries resulting from fraud are also ignored, with the bureaus routinely saying to contact the original source of the inquiry. The fact that there is an issue of fraud and therefore a non-permissible access of information is completely overlooked.

The steps outlined with FACTA to address identity theft and the correction of records would be fine in theory. Unfortunately, few law enforcement agencies are willing to take a report of identity theft without compelling evidence that such an offense has, in fact, occurred. The typical response is "Come back to us after you have materials from the creditor in question." Unfortunately, this creates the catch-22 in that the creditor and the CRA will want the report prior to providing ANY information that would serve to prove a claim of identity theft.

In the past week, I have had two original creditors that refused to acknowledge claims of identity theft and instead "charged off" the accounts and sold them to third party buyers. In both instances, they denied having any of the original records until I reminded them that this was an identity theft issue, at which time they then want me to provide them a police report prior to releasing any records...Either the records exist or they don't. All that FACTA provisions seem to do is provide yet another hoop that victims must jump through and that is likely to be ignored by the entities involved.

There is no question that certain people in the world of cyber-space have advocated credit-repair methods that involved raising claims of "not mine" or "ID theft." Those methods have created the atmosphere that makes it next to impossible for people like myself to remedy the problems created by identity theft.

Other factors come into play that are complicated by government actions related to the Patriot Act. In order to try and secure my mail and prevent future occurrences of ID theft that could arise from mailbox theft, I have moved my mail to a Post Office Box. Unfortunately, banks routinely claim that the Patriot Act REQUIRES them to have a physical address and that they CANNOT accept a Post Office Box for an address. The unfortunate reality that is created is that in order to have credit, I must receive my mail in an insecure manner. Recommendations MUST be made that allow for the PO Box to be used by those that are prior victims of identity theft.

Aside from the flaws noted above, there also must be an increase in the focus placed on sanctioning entities for their violations of the law as it pertains to accurately reporting credit-related matters. As it stands right now, the only time that true resolution seems to come is when the consumer has the time and resources necessary to litigate the matter in the courts. Complaints to the FTC about violations result in a form letter that gives an overview of the very laws being violated or directs the consumer to contact some other agency, who again chooses to ignore the crux of the issue.

While FACTA is a potentially good step for the government to take, it does not go far enough in helping the victim become whole again. The failure of credit reporting agencies or furnishers of information to take swift action upon a claim of identity theft costs consumers far more than the amount of claims that might be pursued in traditional collection methods. In my particular case, it has precluded me from obtaining a mortgage and once I can get the reports cleansed of the theft-related entries, I am confronted with interest rates that will have risen by multiple points...and across the life of a traditional 3-year mortgage, those couple of points equate to thousands of dollars for which I basically have no recourse and for which I have no choice but to pay if I want to own a residence.

s/ Michelle L Belanger  
Texas