OHIO AG THREATENS TO SUE CREDIT BUREAUS; SENATORS RAKE CDIA

from The Privacy Times

Ohio Attorney General Mike DeWine has threatened to sue credit reporting agencies if they donâ€™t fix problems that DeWine and some 20 other State AGs have uncovered in the course of their months-long investigation.

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â€œOur review so far confirms the horror stories and problems consumers face with the industry,â€• DeWine told the Columbus Dispatch. â€œPeople doing bad things donâ€™t like to change unless they are pressured to do so or shamed into it. At the end, the industry doesnâ€™t make the appropriate changes we want them to, we will file a lawsuit or take appropriate action.â€•

He said State AG investigators will continue reviewing material for about another six weeks, but what they have already discovered confirms their beliefs that consumers are being victimized by the credit-reporting industry. DeWine said similar investigations typically result in a negotiated settlement and avoid litigation. He said after some â€œinitial hurdles,â€• the credit-reporting agencies have been cooperative with the investigation during the past year.

The DeWine-led State AG investigation was in part a reaction to â€œCredit Scars,â€• the Dispatchâ€™s series documenting the plight of thousands of Americans who have been harmed by flawed credit reports. Their stories were documented in nearly 30,000 complaints filed with the Federal Trade Commission and attorneys general in 24 states that the newspaper collected and analyzed. (See Privacy Times, Vol. 32 No. 10, May 29, 2012.)

Consumers complained of errors that ranged from misspelled names and inaccurate account information to being mixed with relatives or strangers with dubious financial reputations. They also complained that they could not persuade the credit-reporting agencies to correct the errors.

Judy Thomas, who was mentioned in the Dispatchâ€™s series, was a witness in the Senate Commerce Subcommitteeâ€™s Ma 7th hearing on consumersâ€™ problem with credit reporting. She described her â€œnightmareâ€• of learning that credit bureaus mixed her files with those of Judith Kendall, a woman who lived in Utah. The bureaus also listed two Social Security numbers other than hers on her report. Thomas spent 14 years trying to dispute through phone calls, letters and pleas to her congressman, culminated in her not having a credit score high enough to finance a home or even co-sign on her daughterâ€™s college loans. She finally sued, and was represented by Sylvia Goldsmith, a prominent Ohio-based FCRA attorney.

Sen. Claire McCaskill (D-MO), subcommittee chair, suggested that the industry needed financial penalties to keep similar mistakes from happening. Thomas has â€œbeen at this 14 freaking years!â€• McCaskill said, scolding Stuart Pratt, a lobbyist for the Consumer Data Industry Association, the trade association that represents the major credit-reporting agencies. â€œI mean, somebody should be handing her piles of money for how badly you screwed this up.â€•

In the hearing, three committee members â€“ Sens. Bill Nelson (D-FL), Amy Klobuchar (D-MN) and Brian Schatz (D-HI) â€“ all described constituentsâ€™ complaints about credit bureaus and directed heated questions at the only industry witness, Stuart Pratt, President and CEO, Consumer Data Industry Association.

Sen. David Rockefeller (D-WV), chairman of the Senate Commerce Committee, suggested that legislation was in order. Privacy Times has learned that Sen. Sherrod Brown (D-OH), is drafting a bill to amend the FCRA. Rockefeller pointed to the February FTC study finding significant levels of credit report inaccuracy.

â€œAlso in February, CBS 60 Minutes aired a news story [along with a follow-up story that was only aired online, here]that described both significant levels of inaccurate information on credit reports, as well as a difficult if not impossible dispute system for consumers to correct those errors. These findings raise concerns about both the accuracy of information contained in credit reports, as well as the dispute system in place for consumers to correct inaccurate information,â€• he said in a statement.

â€œThe credit bureaus have a legal obligation to take all reasonable steps to maximize the possible accuracy of credit reports, and when they do contain errors, provide consumers with the means to fix them. I expect this industry to do everything it can to ensure that the system works for the ones that it impacts the most â€“ everyday Americans. If todayâ€™s hearing uncovers problems with the credit reporting industry, I urge these companies to tackle those problems with a sense of urgency, Rockefeller added.

Corey Stone, Assistant Director of the Consumer Financial Protection Bureau (CFPB), said his bureau was finally equipped to field consumer complaints and had received hundreds. He also told the subcommittee of some of the key findings its December 2012 report:

. More than three quarters of the trade lines in the credit reporting companiesâ€™ databases come from the top 100 furnishers of information. These are largely the large bank and non-bank financial services providers that fall under the CFPBâ€™s supervision. This means that for the first time a federal agency has the tools to examine and understand how well all parts of the credit reporting system are working â€” including both the sources of credit information and credit reporting companies themselves.

. More than one - third of consumer disputes relate to collection items. In fact, the information provided by the collections industry is five times more likely to be disputed than mortgage information.

. A relatively small percentage of consumers â€“ approximately 20 percent â€“ look at their credit reports each year. This is a shame as it is likely that many additional consumers could identify and correct inaccuracies if they reviewed their credit report.

. Most complaints are forwarded to the furnishers that provided the original information. But documentation that consumers mail in to support their cases may not be getting passed on to the data furnishers for them to properly investigate and report back to the credit reporting company.

Maneesha Mithal, Associate Director for the FTCâ€™s Division of Privacy and Identity Protection, recapped some of the FTCâ€™s 30 enforcement actions against CRAs, users of consumer reports, and creditors that furnishers data over the past decade.

. The FTCâ€™s obtained a stipulated order and $2.6 million civil penalty against HireRight Solutions, Inc. an employment background screening company, which enjoins it from violating the FCRA. The Commission charged that HireRight failed to take reasonable steps, such as expunging criminal records, to ensure that information in the reports was accurate and reflected current updates. In addition, the Commission alleged that HireRight failed to prevent the same criminal offense information from being included in a consumer report multiple times, failed to follow reasonable procedures to prevent obviously inaccurate consumer report information from being provided to employers, and in numerous cases included the records of the wrong person. The FTC alleged that these failures led to consumers being denied employment or other employment-related benefits.

. It obtained a $2.5 million judgment for Fair Debt Collection Practices Act and FCRA violations against Asset Acceptance, LLC, one of the nationâ€™s largest debt buyers. The Commission alleged, among other things, that Asset Acceptance was providing information to CRAs that it knew or had reasonable cause to believe was inaccurate.

Stuart Pratt, President and CEO, Consumer Data Industry Association, pointed to an industry-funded PERC study finding a â€œ95% satisfaction rate,â€• which he said â€œevidence of our membersâ€™ commitment to getting it right for all consumers

â€œAs an extension of this commitment, CDIA has formed a new Reinvestigation Working Group to focus on the 5% of consumers who were not satisfied with their results. This working group will also consider the adverse effects of fraudulent credit repair schemes on consumers and our membersâ€™ resources which are dedicated to serving consumers and quickly addressing consumer concerns,â€• Pratt said in his prepared statement.

Turning to the dispute handling process, he discussed the oft-criticized Codes are used to transmit the consumerâ€™s dispute to a lender.

â€œSome have misunderstood these codes to mean that they are a shortcut and result in an abridged version of the consumerâ€™s dispute being sent to the lender. This is not the case. Each code comes with a full and complete meaning that is also part of the system. Consider the following example:

E1 â€“ â€˜Claims paid original creditor before collection started or paid before charge-off. Verify account status, payment rating, current balance, amount past due, pay history.â€™

â€œThis is a typical example of a code that is unambiguous and which encourages a thorough and complete investigation of all data regarding a consumerâ€™s account. Lenders and collection agencies take these directions seriously and conduct robust reinvestigations,â€• Pratt continued.

He confirmed that the industry was finally developing a â€œnew technology [that] will go live later this year to enable nationwide credit bureaus to provide lenders with images of any validating documents submitted by consumers. According to the CFPB 44% of consumers submit a dispute in writing,â€• he said.

For the hearingâ€™s video and statements:
www.commerce.senate.gov/public/index.cfm?p=Hearings&ContentRecord_id=789d0376-7d81-49fe-b490-0c8663e7c807&ContentType_id=14f995b9-dfa5-407a-9d35-56cc7152a7ed&Group_id=02096e14-bdcc-424b-842c-d6809f3f69c9

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