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On Behalf of AAA American Credit Bureau Inc.

Before the

Subcommittee on Financial Institutions and Consumer Credit

of the

Financial Services Committee

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Good morning, Chairman Bachus and distinguished members of the Subcommittee on Financial Institutions and Consumer Credit. My name is Richard Le Febvre and I am President and CEO of AAA American Credit Bureau, Inc. (AAA), which is a national credit-reporting agency (CRA/reseller) in Flagstaff, Arizona. I have worked in the credit reporting industry for over twelve years. My responsibilities have included running AAA's day-to-day operations and supervising all types of consumer disputes, including low credit scores. AAA has a national reputation and has recalculated a tremendous number of consumers' credit scores with great success, and is considered one of America's foremost credit re-scoring companies *(Washington Post 7/01)*. I have attached as Exhibit A an article from the July 14, 2001 *Washington Post* that provides a good summary of what we do.

On behalf of AAA, I thank you for the opportunity to testify before you here today on an issue that is fundamentally important to the American economy as a whole and to individual Americans. The American Dream of owning a home, an automobile, or obtaining credit, insurance, or any other valuable asset now involves the creditors' use of a "consumer report," also known as a "credit report." Almost every credit report is a "consumer report", but not every "consumer report" is a credit report. A consumer report is virtually any written communication which bears on a consumers credit worthiness, character, credit capacity, etc and is given to a third party.

Three national companies compile credit information and prepare credit reports on a huge number of consumers. The national credit bureaus or "repositories" (Experian, Equifax, TransUnion) are well known to the Subcommittee. But for purposes of the Fair Credit Reporting Act ("FCRA"), the term "credit reporting agency" encompasses the far broader group of businesses that compile information about consumers and provide their "consumer reports" to third parties.

BACKGROUND ON AAA CREDIT

AAA has specialized in re-scoring consumers' credit scores, no matter the vendor and/or scoring model used. We have re-scored many consumers' files over the past 5+ years, when the lender or consumer has reason to believe that the credit files contain errors, inaccuracies and/or incomplete information resulting in inaccurate credit scores. An extremely low credit score often is a red flag that the credit files contain inaccurate information. Re-scoring is "not" credit repair. Re-scoring is an accepted practice that two of the three-credit repositories now offer for a "price." Corporate Experian itself does not offer re-scoring but allows a selected few of its affiliates to do so. AAA has received requests for re-scoring from lenders, brokers, and consumers.

Credit scores can provide a false representation of a consumer's overall credit risk and credit worthiness. Data errors/problems often result from, but are not limited to, any of the following:

- Updating of credit information
- Updating account balances
- Deleting/updating inaccurate tradelines
- Deleting obsolete tradelines
- Updating/deleting public record data
- Deleting inaccurate late payments
- Updating incomplete and/or missing data

Every day, these errors can and do cost consumers money and/or result in denials of credit. The errors cost consumers money by causing increased interest charges and/or less favorable credit terms. I have seen and heard the frustration of consumers who learn of these problems.

I have analyzed a large number of consumer credit reports and have compared the consumer credit information from each of the main three national credit repositories, attempting to determine whether the information was current, complete, and accurate. I have also analyzed how that information impacted the consumer's credit scores, overall credit worthiness, and credit availability. I am familiar with both the Metro and Metro II reporting formats and other reporting access techniques and data fields present in credit reports, consumer reports, and credit files.

If we detected significant differences in the credit reports, inaccurate credit information, or other information that would affect the consumer's credit, we worked with the consumer and all parties to correct inaccurate or incomplete information. This in turn creates a new credit score.

I have created, developed and programmed a scoring system called the AAA credit score and a sample is attached as exhibit B. This "tool" checks the accuracy of credit scores, helps all parties understand how many errors if any, are within the credit file, flaws within the credit scoring models, and other credit information issues. Our AAA credit score was run on every credit report generated through our ACB credit database and returned back to lenders and brokers along with the consumers credit report.

In short, I have particular expertise with understanding and analyzing credit reports, credit scores, and the codes and documents used by credit reporting repositories and lenders in connection with determining a consumer's eligibility for credit, credit risk, and credit worthiness. Although not an attorney, I have become very familiar through my work with issues under the FCRA and the Fair Debt Collections Practices Act ("FDCPA"). I am also familiar with how credit reports can affect creditors' decisions in the insurance, credit cards, real estate, and banking industries. I am familiar with the formats and documents used by information furnishers, and how the credit reporting repositories communicate credit information to creditors. I am also familiar with how inaccurate credit information can affect a consumer's credit score(s), credit risk, and credit worthiness as it relates to a consumers financial needs.

I have personally experienced how inaccurate credit data can affect consumers emotionally. I have observed their frustration and pain during my 12+ years of owning a consumer-reporting agency and handling their disputes. AAA and other CRA/resellers see and hear consumers' anger when they feel victimized by inaccurate credit reports. Almost daily, I heard the stories told by many consumers about how credit furnishers and the three national credit bureaus can ruin their lives. Many times consumers break down over the phone and in person and AAA has to become their emotional counselor. AAA let consumers know that we would do everything reasonably in our power under the FCRA.

Credit reporting and credit scoring are not clearly understood by most consumers. They often learn "the hard way" after a creditor declines credit or offers onerous credit terms. Consumers want reassurance that someone cares, will listen to their side of the story, and correct injustices. This is not meant to say that all reports have inaccuracies that significantly reduce credit scores. I also hear and deal with consumers that are pleased and satisfied with the credit reporting industry, including AAA. But inaccurate information in credit reports is a recurring and troubling problem that, under current practices in several huge industries, now directly affect many facets of Americans' lives.

I have served as an expert in the fields of fair credit reporting, credit scoring, analyzing credit reports, the impact of credit scoring on automated underwriting for mortgages, and insurance underwriting decisions for public interest groups, consumer groups, and state and federal government agencies. I have previously testified by affidavit, report and/or deposition before the Oregon, Minnesota, Louisiana, Arizona, and Georgia Insurance Commissioners' offices on the topic of insurer use of financial responsibility information, credit reports and credit scores, in insurance underwriting and the rating of consumer risk.

I have been asked by many consumer groups including the Consumer Federation of America ("CFA"), the National Community Reinvestment Coalition ("NCRC"), the National Association of Consumer Advocates ("NACA"), and the National Association of Realtors ("NAR") to speak at their annual conventions on topics including credit, error rates within credit reports, credit scoring, and the impact of AU/Scoring on certain low/moderate income consumers.

I am a Certified Consumer Interviewer on the 1997 Amended Fair Credit Reporting Act by the Associated Credit Bureaus, Inc. ("ACB/CDIA"). I am also a past member of the Associated Credit Bureau ("ACB") now known now as the Consumer Data Industry Association ("CDIA"), the National Credit Reporting Association ("NCRA"), and National Association of Mortgage Brokers ("NAMB").

SUMMARY

By the 1990s, Congress knew that the 1970 FCRA needed to be updated and improved because of changes in the American economy, including automated credit underwriting. Also, changes were needed because of the growing use of credit scoring, the growing number of consumer complaints regarding accuracy, and finally the grave need for consumer privacy. These improvements became the goal of the changes that were made in the 1996 FCRA amendments. In my opinion, the 1996 amendments fell short in providing consumers with transparency in how credit reports every day affect their lives and in providing tools for correcting inaccurate information. Meanwhile, credit furnishers and other industries are using credit reports to make lightening-speed "automated evaluations" that vary from lender to lender, insurance company to insurance company, from AU system to AU system, credit grantor to credit grantor. Most of the automated systems have this in common: they live and die on the use of credit scoring.

Many consumers benefit from automated underwriting systems and credit scoring. Many consumers have been helped by the use of these scoring models, but the models are only as good as the underlying data being graded. I will be outlining my grave concerns the FCRA and my recommendations on how to make it even stronger for all parties, while giving back the consumers the protection that seems to have been intended.

Credit Furnisher Liability – 15 U.S.C. §1681s-2(b)

The FCRA sought to improve the accuracy of consumer reports by placing certain duties on credit furnishers for the first time, and the FCRA gave consumers a private right of action if furnishers didn't perform a reasonable investigation. This burden only began when a consumer exercised his or her right for a reinvestigation and/or disputed under 1681i of the FCRA with "any" consumer- reporting agency not just the three main credit repositories.

Accuracy & Completeness - 1681e(b)

The FCRA requires all CRA's to investigate the "completeness or accuracy of *any item* of information within a consumers credit file". This subsection of the FCRA applies not only to the three national credit bureaus and applies to all credit reporting agencies. This is very important in today's world of the Internet and automated evaluations with little or no human involvement in most situations. I believe an important factor of the FCRA is 1681e(b): "Accuracy of report; if a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy when generating a consumer report."

Reinvestigation - 1681i

The FCRA requires a higher standard by both the furnisher of credit information and the consumer reporting agencies after consumers exercise their rights under the 1681i of the FCRA. It is my belief that this is/was the main foundation behind the FCRA. After reinvestigation, a consumer reporting agency shall follow reasonable procedures to assure maximum possible accuracy when generating a consumer report to a third party.

Adverse Action Notice under FCRA – 1681m

Another very important part of the FCRA is the requirement of "ALL" users and/or any person that makes, participates in, or arranges extensions of credit for consumer purposes must give adverse action notice if the offer is adverse to the interest of the consumer.

Credit Scores – 1681g(a)(1)

In 1996, Congress appeared to recognize that credit score disclosure would confuse many hard working Americans, but Congress apparently did not anticipate how pervasively credit scores would affect consumers' lives—including employment, insurance, utilities, homeownership, and the list goes on and on. My understanding is that all three repositories, by contract, and by Fair Isaac prohibit CRAs and resellers from disclosing to consumers any information concerning credit scores or any other risk scores, except where state laws now require such disclosures, such as in California.

Risk Based Pricing

Risk-based pricing is how credit grantors and others (credit users and/or any person that makes, participates in, or arranges extensions of credit for consumer purposes) price their products/services based on an assessment of credit risk and/or layering of risk regarding a consumer. The foundation of almost every risk-based model is a consumer report/credit score. This means if there are errors, problems, or issues within a consumers report then that leads to an "infected" score and an "infected" credit risk for the lender, which could be either positive or negative.

Account Review – 1681b(3)(F)(ii)

Congress also saw a need to allow furnishers/grantors to check consumers' position at any time as long as the consumer had an open account with that furnisher/grantor. It was a way in which creditors could monitor the credit worthiness of their consumers with other creditors, grantors, and furnishers.

CRA/Resellers – 1681a(f)

Industry clearly states on the record, that all CRA/resellers are to do is just provide a consumer report to a third party with no legal liability for accuracy. This clearly goes against case law and the FTC's opinion letters over the last 10 years. CRA/resellers have the same legal liability as the three national credit repositories Experian, TransUnion, and Equifax.

Privacy

The FCRA is to ensure fairness and privacy by giving individuals reasonable care and control over their personal information. When CRA's and others under the jurisdiction of the FCRA fail to comply with the law, it can cause tremendous hardship to innocent consumers in terms of their credit standing, privacy, loss of reputation, loss of time, loss of opportunity, personal relationships, and their overall emotional well being.

HOW A CONSUMER REPORT IS GENERATED BY THE CREDIT INDUSTRY

The relationship between the three national repositories Experian, TransUnion, Equifax, their affiliates (the few that are left), and CRA/resellers is one of a contractual nature. This means that some bureau affiliates own and/or have certain legal rights, via contract, to consumer files within a geographical area and/or zip code within each of the repositories networks. Both affiliates and CRA/resellers need permission and a valid contract to access these networks to sell consumer reports to users and consumers.

Individual items such as trade lines, inquiries, and public record data are maintained in these network databases. Much of the servicing and/or consumer relations is being centralized and controlled by the three national databases. The three national repositories and some affiliates are paid a fee by subscribers/users who access their databases. These legal accesses are called inquiries. During the process of inquiries a credit report is compiled "on the fly" and in many instances a credit score is also compiled "on the fly" and both a consumer report and a credit score are sent back to subscribers/users. In other words, it's like having all American consumers data in a big barrel and based on name, address, and in most cases a social security number the data is picked out by Experian, TransUnion, and Equifax's network software and both a credit report and a credit score are born for that subscriber/user only. After the report is delivered back to that subscriber/user the credit score is lost forever within the repositories networks and "no way" to recreate that score for the consumer.

All three repositories use "unique identifiers" to store the billions of pieces of data received from their credit furnishers and indexed in what is called "header data". When data is sent from a credit furnisher to all three national repositories they store all the bits and pieces of data using unique identifiers to distinguish what belongs to each consumer.

In many cases, reports can vary, based on inquiry input and date based on many factors, but here are the two most common factors: First, wrong input info from subscriber/user; Second, since data changes almost daily, the information one user gets on their credit report may differ greatly from what another user gets on theirs, based on the time the reports were pulled. I have seen reports differ significantly including credit scores from day to day.

GENERAL OPINION ON THE ENTIRE INDUSTRY

In my twelve plus years of working in the credit reporting industry and dealing directly with consumers by handling their disputes, hearing their war stories, and problems with their credit files, I have found that consumers rate the dispute process with the repositories and furnishers up there among their non favorite things to do in life. Among the comments I have heard over my 12+ years in business has been the dispute process is just like having an IRS audit, brain surgery, getting a tooth pulled, or going to your own funeral just to name a few. Consumers suffer legitimate emotional damage, extraordinary aggravation, and feelings of helplessness, embarrassment, and loss of control of their financial structure. Victims/consumers have no physical or financial control over the repositories or their subscribers. The repositories cater to their customer/furnishers because it's the furnishers that give them a product to sell. Correcting credit-reporting errors for consumers based on my 12+ years of hearing their complaints is a very difficult process not to mention time consuming and I concur from a professional standpoint.

Based on my knowledge, consumers legitimately fear continued actions by the industry and personal financial harm. That is particularly true where the victim has no ability to control the "its not my job" and the "technically accurate" attitude of furnishers and consumer reporting agencies. The fear of repeated damage is ever present and on the mind of many consumers.

In the credit reporting industry we always have to do a balancing act with consumers because as in life some consumers want to get out of paying their bills and other consumers have to pay for that scam. Some consumers search out "credit repair" companies because they promise to whip away all your legitimate bad debt and still others claim identity theft in order to defraud their creditors.

Many furnishers and the repositories hang their hat on that they didn't do anything wrong and that its "technically accurate", but I have to disagree strongly on that position. Sometimes in the credit reporting industry including furnisher liability, only a piece of paper, pencil, and good old sense of fairness and common sense has to apply. The credit industry including furnishers are not the trier of facts, but we as an industry have to let consumers who have been defrauded off the industry merry-go-round and make judgment calls that make sense and we as an industry do that every day. We can't always believe that **"BUYERS ARE LIARS"** every day and within every transaction we have with consumers. Sometimes and in many cases they are just victims.

I must clearly state for the record, that a good credit rating and acceptable credit score is not a birth right, but a very frustrating on going and sometimes full time job if you're a victim of identity theft, an inaccurate credit report, and inaccurate credit scores. It takes very little effort to mar a good/excellent credit rating and/or credit score that you worked all your life to obtain. This marring could be a result of the consumer, credit grantor, repository, or just the system. A good credit rating is a valuable tool and necessary in this day and age. Credit reports and credit scores control consumers ability to obtain a job, insurance, utilities, a car, a credit card, an apartment, or the American dream and constitutional right of home ownership just to name a few.

AAA's Personal Dealings and Opinions on the Following Issues Based on 12+ Years of Experience and Expertise

CREDIT FURNISHER LIABILITY – 1681s-2(b)

It is clear to me that based on the number of consumer disputes that we have handled over my 12+ years that credit furnishers know many times that something in their systems are creating problems for the consumers. Many times it could be as easy as just changing from the Metro format to the new Metro II reporting format. Many times furnishers have some emergency actions that they could do, but many furnishers choose to put consumers through what I call the "Ring-a-round the Rosie" wild goose chases and consumers get very frustrated and angry.

Many times furnishers report the same status on an account to all three repositories. Then they verify that an account they reported to both TransUnion and Experian was "accurate". On the other hand they reported and verified the same account to Equifax as "inaccurate" or any variation of bureaus listed above. On its face this violates the Fair Credit Reporting Act ("FCRA"). The reporting of "two" sets of data undermines our banking system, which is dependent upon fair and accurate reporting by furnishers. Inaccurate reporting by furnishers after a consumer exercises his/her rights under reinvestigation directly impairs the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued functioning of our banking system.

Under the Fair Credit Reporting Act ("FCRA") it is my belief, based on my experience within the credit industry, which is also backed up, by the FTC and case law that Congress intended the word “Maximum” not to mean technically accurate. While it may be technically accurate, but if it gives a false representation of the credit worthiness of a consumer then the furnisher fails their duty as required under furnisher liability.

The definition of inaccurate information in a consumers report means any misleading, incomplete, and/or outdated data, which fails to convey the full and true picture of a consumers credit reputation, credit risk, and credit worthiness.

Sometimes as professionals who know the system, we have to allow the consumer to get off the merry-go-round and do what’s right instead of just quoting company policy and procedure. The burden of proof falls directly on the furnisher of the information. The FCRA requires reasonableness during the reporting of data and then puts a higher standard on all players after the consumer exercises their rights under reinvestigation. Many cases clearly cross over the line on the issue of reasonableness. Many times furnishers do the following:

- Failed to properly notify all three repositories that the information they reported was inaccurate;
- Reported information again after notice and confirmation of errors and lead consumers to believe they will correct their errors;
- Failed to provide notice of dispute to all three repositories after the consumer notified the furnisher of the dispute;
- Failed to conduct an adequate investigation with respect to the disputed information brought to their attention by both the consumer and the three repositories;
- Failed to review all relevant information provided by the consumer;
- Failed to report the results of their investigation to “all” consumer reporting agencies;

ACCURACY & COMPLETENESS – 1681e(b)

While errors of omission of credit data is still a major problem within the credit reporting industry and negatively affects a consumers credit risk, credit worthiness, and credit scores a larger and bigger problem is the errors of co-mission. Our current credit reporting system is still strictly voluntary which means that credit furnishers don’t have to report their credit data if they don’t want to. Errors of co-mission are still the driving force behind most credit denials issued by credit grantors and/or the major reason behind a consumer paying higher fees and costs.

In my 12+ years of running a consumer-reporting agency it astonishes me to this day how the same credit furnisher can report acct #12345 to Experian as 1x30, TransUnion as 5x30, and to Equifax as 3x30. I also see many times where the same credit furnisher will report acct#12345 for Fred Flintstone as stated above, but for Wilma Flintstone a totally different set of status codes and/or lates in the 24 month grid.

1.6 million consumers (and growing) and may reach as many as 3 million consumers who may have this "included in bankruptcy" issue that is the subject of the first ever-certified class action case against all three repositories [1]. The old Metro format verses the new Metro II format is the main issue in this case. This older version of the Metro format has a major flaw. This flaw is reporting joint accounts that are included in bankruptcy when the co-borrower didn't file for bankruptcy. I have brought this flaw up to all three national repositories Experian, TransUnion, and Equifax many times over the past four years.

The older version of the Metro format does not have the ability to attach to its base segment an additional segment rating taking into account that the co-borrower did not file the same bankruptcy as reported in the base segment. In other words, the comment "included in bankruptcy" attached to the base segment would also be attached to the attached segment of the co-borrower. In addition to this comment, the account status field in the base segment would show the non-filing consumer as "bankrupt". All three repositories are currently working to fix this flaw, which shows a wiliness to help consumers, but it took a lawsuit to make that happen.

By way of background for the committee, each credit furnisher has their own software/computer systems that they may or may not have designed themselves, and in many cases could have purchased from a third party vendor. In addition, those same furnishers may use Metro or Metro II and different versions of CDV's/ACDV's based on different software vendors. In other words, you have furnishers with many, many different types of processing software, many different types of software vendors, some using Metro, some using Metro II, and furnishers using different types of CDV's/ACDV's all trying to "interface" with all three repositories and the three repositories themselves all have different ways in which they format the receiving data.

[1] United States District Court, District of South Carolina Anderson Division 8-00-CV-1217-1218-1219-24 2001/2003

REINVESTIGATION - 1681i

In the industry of credit reporting all three national repositories have been over the years trying to convert all their customers/furnishers over from the old Metro format to the new and improved Metro II format. Many of the customer/furnishers have been refusing to convert to the new Metro II for many reasons, which include, but are not limited to cost, education, teaching an old dog new tricks, profit, and the list goes on and on. Since all three national repositories depend on their customer/furnishers for data in order to have a product to sell it's kind of like having "the fox guarding the hen house". Putting it in simpler terms, the three national repositories have really no control over, which customers convert and which customers don't.

I'm insulted as an owner of a consumer-reporting agency with the "He said – She said" attitude of reporting adverse data on a consumer. It's clear to me that the furnisher's database is always right and everyone else is wrong from consumers, resellers, and the repositories. The human factor during the credit reporting process cannot be under estimated. Throwing technology at a problem "credit reporting" does more harm, when sometimes only a human can protect consumers against inaccurate reporting no matter who's at fault. In my experience of handling thousands of consumer disputes under the FCRA sometimes only a piece of paper, pencil, and a telephone call can assure the maximum possible accuracy as required under the FCRA. Based on my experience in the industry and talking with many representatives from the three national repositories and depositions that I have read over the last two years that the average consumer relations person at the repositories has to generate and complete 10 – 15 consumer disputes per hour. As a CRA/reseller, handling consumer disputes, our average time "per disputed tradeline" is 30-45 minutes some lasting much longer; the dispute quality coming from the repositories must be questioned at an average time of one consumer every five minutes per customer service representative.

Based on my knowledge and belief and it is my opinion that the repositories do an overall fair/good job, but they fail their responsibility many times under the FCRA for the following reasons:

- The repositories failed to properly notify credit furnishers within 5 days of dispute;

- The repositories failed to include all relevant information regarding the consumers dispute with the credit furnisher;
- The repositories failed to understand clearly many consumers disputes with their credit furnishers and the repositories many times never take reasonable procedures to clarify and understand consumer disputes;
- The repositories failed, to before the end of the 30-day period from the consumers dispute, complete their reinvestigation process with their furnishers;
- The repositories failed to have reasonable procedures in place to assure maximum possible accuracy regarding the consumers dispute with their creditors;
- The repositories failed to follow reasonable procedures to stop the furnishers reinsertion of previously deleted material;
- The repositories failed to have reasonable procedures in place to avoid allowing furnishers to report inaccurate information;

Within the industry I see daily the "pass the buck" attitude between the furnishers and all three national repositories. It's always the repositories fault, per the furnisher and it's always the furnisher's fault, per the repositories. This attitude comes from a very simple concept "profit". Meaning the dispute process for both furnishers and repositories is a "lost profit center" for both industries. So in fact little time is put into the dispute process other than the bare bones minimum.

Over the past five years of "re-scoring" we have been allowed to update the repositories database but, of course our, documentation must meet the repositories guidelines. We have seen, over the years, our updates on consumers credit files being deleted at the bureau level based on the fact that the furnisher who gave us the UDF (universal data form), letter of deletion, or other acceptable documentation never corrected their tape that was sent to each of the repositories. So in other words, it's here today, gone tomorrow, and back on sometime down the road. This is an issue of the furnishers dispute staff not working with the staff that handles the monthly reporting to the repositories and/or software issues. Many times tapes override manual updates and/or automated updates. Many times the repositories give their customers/furnishers a certain number of days to get their "act together" and update their systems/tapes after a manual and/or automated update. After this time frame the repositories then allow tape updating. This time frame differs from repository to repository and from furnisher to furnisher. I see these problems all the time.

NEW PROFIT CENTER FOR ALL THREE REPOSITORIES

All three repositories have began dipping into the internet for more sources of income by selling direct to the consumer reports, allowing certain CRA/resellers to sell direct to the consumer via the internet, re-scoring services themselves direct to the consumer, selling new scoring models direct to the consumer, charging and setting "high" pricing for resellers so they can re-score the reports they generated, and last but not least monitoring services. The following websites are owned and operated and/or affiliated with the three national repositories, but there are many more not listed that have broker agreements that market for the big three:

- Consumerinfo.com
- Freecreditreport.com
- Creditexpert.com
- Qspace.com
- Myfico.com (All three through Fair Isaac)
- 3bureaureport.com
- Truecredit.com
- Creditreports.com
- Econsumer.com

The three repositories and Fair Isaac have started "scare" tactics against consumers in order to get consumers to order reports and scores from their multiple masters of disguise websites creating a "new profit center" for themselves. I receive on average 5 - 10 scare tactic emails a week, which range from any of the following comments:

- Do you know who is looking at your credit file?
- Maybe you were forced to put down a big deposit when you got phone service?
- Are you a victim of identity it's the largest crime today?
- You might have ended up paying extra high rates for auto insurance despite a flawless driving record
- Is a collection agency after you if your not sure order your report?
- Maybe you suddenly had trouble finding homeowner's insurance?
- You better know what your credit report says about you because your creditors do

The three repositories have been buying back all their affiliates for the past five years and at their current rate they will complete their total takeover within the next 2-3 years. The three repositories have been price fixing the cost of credit reports and re-scoring services to resellers who complete with them for the past 3+ years. This unfair practice has created many resellers to be driven out of business in large numbers creating a lack of consumer choice in the credit reporting industry.

CRA/RESELLERS – 1681a(f)

Back over 20+ years ago both Fannie Mae and Freddie Mac realized that consumer and lenders needed some kind of protection against all the errors they were noticing in consumer credit reports and created a new industry called "resellers". This new industry was to be a neutral third party who had "no" financial interest in whether the mortgage transaction closed or not. Consumers, lenders, and brokers all have some sort of financial interest on whether the mortgage transaction closes or not based on either ownership interest or commissions.

The CRA/reseller has all the same legal responsibilities as Experian, TransUnion, and Equifax as long as the CRA/reseller generated a report to a third party. Please review the FTC's consent order with Credco of 1998 [2]. This consent order clearly spells out in detail what "any" CRA/resellers legal responsibilities are under the FCRA. It is my opinion that a CRA/reseller has a higher standard of care then any of the three national repositories because we the CRA/resellers get to see how the same furnisher reported the same account to all three repositories. Since many CRA/resellers are only allowed to resell reports during the mortgage process, which is many times the biggest item a consumer will buy in their lifetime we have a stronger and higher standard to live up to.

This is changing drastically because with all the new technology some consumers who have excellent and accurate credit files don't need our dedicated service. In today's risked based pricing by parties from the GSE's, lenders, and insurance companies consumers need the specialized attention that CRA/resellers give. Consumer choice is being destroyed by both the GSE's and the repositories because they both are forcing

[2] http://www.ftc.gov/os/1998/9810/9523267agr.htm of 1998

consumers to check their credit files in advance or "buyer beware" and/or be ready to pay extremely high fees to re-score. It's a position consumers should not have to face because for an average price of $50.00 CRA/resellers had to do all the following with no other charges:

- Verify employment
- Verify two years residence
- Interview the consumer
- Send the consumer a copy of their report
- Verify any out dated tradelines
- Verify balances on accounts when needed
- Verify any open collection and charged off accounts
- Verify any and all public records
- Verify anything the consumer brings to our attention is inaccurate.

ADVERSE ACTION NOTICE UNDER FCRA – 1681m

One of the most important sections of the FCRA and the one that gives consumers a heads up that something is wrong causing them financial hardship is "notice of an adverse action". Any user and/or person that makes, participates in, or arranges extensions of credit for consumer purposes is required to give the consumer an adverse action notice if they used in whole or in part a consumer report and their decision was adverse to the interest of the consumer.

In today's information super highway world of automated evaluations, automated underwriting of insurance and mortgages these systems deny consumers the right to see their consumer reports that were used in their evaluation. It is extremely unfair to consumers today with all the "risk based pricing" adjustments the GSE's, lenders, and insurance companies are using to surcharge consumers not to give consumers their "mandatory" adverse action notice.

"CONSUMERS CAN'T FIGHT WHAT THEY CAN'T SEE"

The higher the credit scores the better the rates and terms and in many cases a point up or down could be the difference between getting your application accepted or rejected and many times it could be the difference between a prime or sub-prime loan, accept or referred mortgage, leveling risk from 1-5, and preferred or mid-market pricing on auto and homeowners insurance.

CREDIT SCORES – 1681g(a)(1)

By the way of background, a credit score is generated on the fly and is based on the credit data in the consumer's credit file at the time the credit grantor checks the consumers credit file. The score generated is based on a mathematical formula that looks at each individual trade line, comments, inquiry, and public records sections within each repositories database and calculates a number called a credit score. Today credit scoring is the preferential choice of lenders as it provides a quick way to grant or deny credit. The credit score gets points added for numerous positive items and gets points deducted for negative items such as late payments, collections, accounts listed in bankruptcy, charge offs, and high balances on credit cards just to name a few. There are many different types of credit scores created by many different vendors such as Fair Isaac and each of the three national repositories just to name a few.

While each lender has different credit criteria, there are several basic rules of thumb in scoring that apply to all credit scoring models. Each version is slightly different based on criteria set by each of the separate three national repositories, Fair Isaac, and credit grantors. In the mortgage arena primarily, scores below 620 are usually viewed as too risky by lenders, and will cause the consumer to be denied, suffer sub-prime rates, or other adverse terms. Additionally, past payment history is perhaps the largest factor considered by scoring models. The Fair Isaac scoring models are the "Industry Standards", but there are many, many other scoring models used today that were created by credit furnishers, credit grantors, the three national repositories, and other third party vendors. While scoring models differ quite tremendously on the points added, subtracted, and weight assigned, almost all scoring models use the same underlying data fields, which are contained within each credit repositories database.

There is a lot of false propaganda spilled across the airwaves that both confuse consumers and legislators. Miss statements seem to be the normal tactics of most credit scoring modelers. When people in the industry start punching holes in the armor of credit scoring and proving that the scoring system is "flawed". The scoring modelers seem to change their minds when there is a threat of federal legislation or there is money in it for them by "charging consumers for their combination". If their algorithm is robust enough to handle inaccurate or missing information [3] then why are we in the newspaper so often getting consumers 100-200 point increases?

[3] American Banker "Loan Decision Process called too Automatic" April 9, 2001

SCORE – EXAMPLES (ACTUAL FILES)

Example#1 - Based on one $10 missed payment (that was not late) they had a 3-year credit history with no lates.
Mr. & Mrs. Hispanic
Mid Fico score - **731 –** 6/7/99
Mid Fico score - **587 –** 7/9/99 **(after one missed $10 payment)**
XPN - **72** points **(average drops per bureau after one missed $10 payment)**
TU - **121** points
EFX - **178** points

Example#2-had 21 collection/charged off accounts that did not belong to him, but another with common name
EFX **– 520**, XPN **– 541**, TU **– 506**

Example #3 - Based on errors by Macy's 1x30, 1x60, 1x90, 1x120, 1x150
Retired Female
EFX - **611** - 11/09/00 **(before re-scoring),** TU **– 617**, XPN **– 674**

EFX - **743** - 11/15/00 **(after re-scoring),** TU **– 744**, XPN **– 733**

Example #4
Consumer has 2 foreclosures with scores of
726, 732, 735
Co-borrower with no foreclosures
655, 696, 680

Example #5
Consumer with multiple bankruptcies filed within the same 2 years and within the last 36 months and multiple Fed Tax Liens and many collections and charged off accounts, but have the following scores:

EFX **– 672,** XPN **– 642**, TU **– 636**
It just goes to show that everything is not what it appears!

Example#6-Six months history, higher then avg scores and no track record, consumer has 1 acct opened 12/99
EFX - last reported 08/00 - months reviewed - 8
XPN - last reported 05/00 - months reviewed - 6
TU - last reported 07/00 - months reviewed - 24

XPN **– 700**, TU **– 687**, EFX **– 702**

INSURANCE CREDIT SCORES

Currently, 90 percent of property insurers use credit scoring as a determining factor in their approval process and as a means to derive rates. However, according to Consumer Reports, 70 percent of credit reports contain factual errors and 29 percent have at least one major miscalculation that could greatly tarnish an individual's ability to obtain reasonable insurance rates or cause them to be completely denied coverage.

The increased emphasis placed on the use of insurance scores in the underwriting process is particularly troubling given that no one has been able to identify the exact causal relationship between credit characteristics and insurance loss ratio relativities.

Many insurance scores start with the base foundation of a "credit report" and either use the Fair Isaac foundation or similar variation created by Fair Isaac, which can and does vary based on each insurance company, so insurance scoring has many, many different variations.

Which bureau will the insurance company use? What happens if the bureaus return "file variations" on the same consumer? Will the insurance company use the lower score or the higher score? Who will know? Scores change almost daily and should not be a gamble based on the time of month you buy your home or the time your insurance renews? A few points up or down could be the difference between preferred or standard rates or a flat out insurance rejection.

There has been "no" evidence presented in any hearing I have attended, participated in, or reviewed that shows a "correlation", but the insurance industry and scoring modelers just want us to believe that there is a correlation. Credit scores vary from insurance credit scores slightly, but the base data is still the credit file. While industry states that credit card balances are not a factor, but if those credit card balances carry a delinquency then it is a major factor. Insurance credit scores will still have "infected" scores based on "infected data" no matter how the insurance and modeling industry want to spin it.

RISK BASED PRICING

In today's information super highway world of automated evaluations, automated underwriting of insurance and mortgages these systems live and die on the use of credit scoring. The higher the credit scores the better the rates and terms and in many cases a point up or down could be the difference between getting your application accepted or rejected and many times it could be the difference between a prime or sub-prime loan, accept or referred mortgage, and preferred or mid-market pricing on auto and homeowners insurance. Many if not all mortgage rate sheets show rates and terms based on minimum score requirements. In many cases consumers can't even apply for certain types of "prime" mortgage loan programs without meeting the minimum score requirement. These minimum score requirements are set by a number of industry leaders from Fannie Mae, Freddie Mac, Prime lenders, and Sub-Prime lenders. So if a consumer has an infected score based on many factors that I have outlined in my report then consumers "credit risk" is also "infected".

Calculating a credit score and knowing the exact numeric number assigned before and after the removal of the infected data and/or reporting it correctly would be hard to judge. Based on all the different types of scoring models on the market today there is one clear cut foundational basis that I will use and that's the current status of the account.

I can conclude that having a "major" derogatory reported would have the most negative effect (drop in points) on an average credit score and the more recent the "major" derogatory the more the negative effect on a consumers credit score. This would create a false light, misrepresentation, or similar effect on consumers overall credit worthiness creating many, many loan denials and/or adverse action notices. Many consumers would be put in a sort of double jeopardy because many automated underwriting systems would first, deduct for a low credit score and second, would deduct and/or decline for the presence of a "major" derogatory item.

Decisions to deny credit may have more than one cause and usually do. For example, in some instances the inaccurate information and another factor may each, considered separately, be insufficient to have caused the denial of credit, but when taken together are sufficient. Accordingly, each may then be considered a substantial factor in bringing about the denial of credit.

ACCOUNT REVIEW – 1681b(3)(F)(ii)

The credit card industry's use of credit reports during the account review process is a crucial provision of the Fair Credit Reporting Act, which expires this year. Since 1996 amendments, this provision has barred states from enacting tougher versions of the federal law.

In many cases, that I'm called in as an expert I have discovered that the interest rate on many consumer credit cards have been increased tremendously and in some cases they have doubled and nearly tripled. Most if not all credit card agreements now have built in small print that allows the companies to reset anyone's interest rate based on the layering of risk. Most credit card furnishers use a credit score that may or may not have been created by that credit card company or a spin off of the base Fico score. Most credit card companies check their customers' data regularly and many times monthly and if they detect lower scores the furnisher in many cases will raise their rates even though they have never missed a payment with that furnisher.

Card companies say they are taking prudent action to increase the rates of cardholders who show signs of financial strain. They still look mainly at customers' payment records with them, they say,[4] but I would have to disagree strongly with that comment based on the cases I have reviewed and was called in as an expert on.

I strongly question the logic of resetting consumers rates during a consumers financial crisis and/or if the consumer is a victim of errors in their file. I truly believe it only puts them further into debt, which they can't afford and many times push them into bankruptcy.

PRIVACY

As noted above, the 1996 amendments to the FCRA sought to improve consumer report accuracy by placing a burden on credit furnishers to report information accurately. Many times furnishers utterly fail to meet their duties under the FCRA, indicating that the furnisher fails to adopt the necessary procedures to comply. Many times consumers dispute the information with both the CRA's, and with furnisher directly.

The sale to a collection agency by furnishers of inaccurate information about consumers is the kind of egregious invasions of privacy the FCRA was intended to prevent. These actions by furnishers in turn lead to additional, severe privacy invasions in the form of collection agencies calling and writing to consumers at work and at home. This type of invasion of privacy goes up tremendously when the consumer is a victim of identity theft where a number of furnishers and consumer reporting agencies believe that the victim is "guilty until they prove themselves innocent instead of innocent until proven guilty".

Again, a central purpose of the FCRA is to protect consumers by ensuring accuracy and giving individuals reasonable control over their personal information. Many furnishers, have websites with a frequently asked questions sections like "Good Credit and How to Get There" along with many tips and hints on improving your credit record, challenging a blemish on your credit file, what to do if you have been turned down because of bad credit, and what factors contribute to your credit score. It is time for furnishers to be accountable for its multiple invasions of consumers' privacy.

CONCLUSION

In today's information super highway world many credit grantors use automated evaluations, which vary from lender to lender, and these automated systems live and die on the use of credit scoring. Consumers are judged within seconds based principally on a credit score. In many cases it's a PASS or FAIL decision, but if the consumer passes the score test many

[4] New York Times "Surprise Jumps in Credit Rates Bring Scrutiny" May 29, 2003

credit grantors software have built in check and balance systems. These systems scan the credit file looking for bankruptcy's, charge off's, collection accounts, and other derogatory accounts and/or comments attached to tradelines and/or public records. The higher the credit score the better the rates and terms and in many cases a point up or down could be the difference between getting your application accepted or rejected.

Scores change almost daily and the American Dream of homeownership and the consumers right to obtain auto and homeowners insurance should not be a "gamble" based on the time of the month you buy a home, refinance your home, and the time your insurance renews. A few points up or down could make a big difference between getting your loan or not, and getting insurance or being rejected for insurance. No matter how industry spins it if you're a victim of identity theft the largest crime we have today, errors in your credit file, merging your file with someone with a common name, or your have multiple files with the same bureau, and the list goes on, you will still have an "infected" credit score which leads to higher rates and terms. It also leads to an increased credit risk for new lenders, lowering of consumers credit worthiness, and lowering the overall credit reputation.

Scores are based on groups, but what if the consumer is placed into the wrong group based on errors within their credit file? The CFA/NCRA study [5] concluded that, 500,000 reports in a study, 1 in 3 consumers had point variations of 50+ points, 1 in 20 had 100+ point variations, but the average point variation was 43 per credit file. 2.5 million consumers and growing consumers have the included in bankruptcy problem that also affects the consumers credit score, credit worthiness, credit risk, and overall credit reputation.

RECOMMENDATIONS

Strengthen the FCRA by

1) Federal credit score disclosure by consumer reporting agencies
2) Allow CRA/resellers to participate in more types of credit transactions
3) Allow all CRA/resellers to perform to the standards set out by the FCRA and the FTC's consent order with Credco. No user and/or person that makes, participates in, or arranges extensions of credit for consumer purposes that are to be secured by a dwelling and that uses credit scores should deny "any" CRA/reseller from correcting errors they see under their legal obligation when preparing a consumer report to the

[5] http://www.ncrainc.org/documents/CFA%20NCRA%20Credit%20Score%20Report.pdf December 17, 2002 CFA/NCRA study

"maximum possible accuracy" and/or from doing a reinvestigation when the consumer brings errors to the attention of the CRA/reseller. The user and/or person that makes, participates in, or arranges extensions of credit "must" except the verified accurate report that meets the requirements under the FCRA of all CRA's.

4) Not allowing the GSE's and lenders to penalize consumers who don't fit into their "black box" of automated underwriting. Many times consumers have different credit tendencies then others, (i.e.) the self-employed, minorities, or consumers with errors in their credit file and they don't fit their perfect model.
5) Requiring the end-user and/or CRA/reseller, during the mortgage process that is to be secured by a dwelling and that uses credit scores and/or insurance credit scores for insurance underwriting, shall be required to provide to the consumer a copy of the users consumer report and/or credit report, credit score, or insurance credit score within 5 business days after such use
6) Requiring all credit furnishers to use the new Metro II format
7) Requiring all users, and any person that makes, participates in, or arranges extensions of credit for consumer purposes to give consumer's adverse action notice when they have taken action that is adverse to the interest of the consumer.
8) Not allowing credit card vendors to raise consumers' interest rates when there is higher layering of credit risk. Instead just suspend the consumers credit privileges until they meet the furnishers base requirements again.
9) Requiring all repositories to apply more safeguards, appoint a task force to check that new safeguards are in place when receiving credit data from their credit furnishers.
10) Enforce the requirement that all CRA's provide furnishers with the documentation provided by the consumer.
11) Require all furnishers to respond to disputes on behalf of consumers through resellers
12) Have the three national repositories work together with the CRA/resellers as a "team" to help correct the errors within the consumers credit file since both industries have the same legal liability under the FCRA.
13) The updating of files by a CRA/reseller must meet the guidelines set by the FTC and the three national repositories and this is to be done at "no" cost to the CRA/reseller.

EXHIBIT A

washingtonpost.com

Bad FICO Mark? Rescore Your Credit

By Kenneth R. Harney

Saturday, July 14, 2001; Page H01

First of two articles

You've probably heard that American mortgage applicants now have ready access to those once-secret, triple-digit numbers that pigeonhole them as good financial risks or bad -- their credit scores.

But you might not have heard of a fast-growing service that can dramatically improve your loan prospects almost overnight: "rapid rescoring." This is a service now offered by dozens of local credit-reporting agencies around the country; it allows mortgage loan officers to request a rescoring of applicants' credit files at each of the three giant credit repositories -- Equifax, Experian and Trans Union.

At the request of the loan officer, a local credit-reporting agency analyzes an applicant's files, obtains written corrections from creditors of any mistaken information in the files, and advises the applicant on how to restructure certain open credit lines to raise credit scores. Sometimes scores can be boosted by 40 to 100 points or more in less than a week -- all fully within the law and with the cooperation of the credit repositories themselves.

With a higher score, borrowers may qualify for lower mortgage rates, lower loan fees and better terms overall. Corrective rescoring can save consumers tens of thousands of dollars in long-term debt, and alert them to negative information sitting in their credit files.

Consider the case of Alexandria C. Phillips, a lawyer who lives near Los Angeles. She recently sought to refinance a condominium she owns in Newport Beach and to buy a new house in Laguna Beach. Her idea was to pull money out of the condo and use it to help with the down payment on the house.

When she applied for mortgage money through a local broker, however, she was told that her "credit scores don't look too good." Phillips was tied up with a heavy courtroom schedule and didn't ask what her scores were or why they were low. She asked the broker to get the best terms she could get under the circumstances to buy the house and refi the condo.

The credit scores the broker referred to were "FICO" scores, the predominant quick-reference credit-analysis tool used by mortgage lenders, credit card issuers and others. FICO stands for Fair, Isaac and Co., the developer of the scoring models that ranks applicants in terms of their relative likelihood to pay their debts on time.

FICO scores are generated by proprietary computer programs licensed by Fair, Isaac and housed at Equifax, Experian and Trans Union. Individuals' full, electronic credit files are run through the software and evaluated for risk patterns by the statistical models. Though long kept secret from consumers by contractual requirements, FICO scores are now easy to obtain. Fair, Isaac and Equifax provide them on the Internet for a nominal charge (www.myfico.com), and the other repositories provide proprietary-scoring advisory information as well.

In Phillips's case, her scores when pulled on May 23 were 597 (Experian), 569 (Trans Union) and 580 (Equifax). Scores at the three repositories usually differ because of different creditor information in their files.

Phillips's scores were, in a word, horrible. To qualify for the best loan quotes, borrowers generally need scores of 700 or better. Scores under 620 are "sub-prime" -- and produce significantly higher quotes on interest rates and fees. Phillips's broker referred her application to a lender specializing in sub-prime, damaged-credit mortgages. The lender, in turn, sent Phillips's files to one of the country's most prominent rescoring experts, Richard Lefebvre, president of AAA American Credit Bureau in Flagstaff, Ariz.

Lefebvre immediately began checking out the negatives ("derogatories" in credit lingo) in Phillips's file. One by one, with Phillips's help, the derogatories turned out to be long-standing errors on her credit files: an incorrect report of a delinquent payment on a credit card; a Mercedes listed as "repossessed" in her file that actually belonged to someone else; an incorrectly listed "collection" action against her for $1,054 in 1995. After requests from Lefebvre, all were corrected by fax and sent directly to the repositories.

Lefebvre also noticed that Phillips routinely put bills from her law office onto several credit cards. But the balances outstanding when the FICO scores were pulled were nearly at the limit on the cards. High credit balances relative to card limits are a major no-no for FICO scores: When your limit is $10,000 and you've got a $9,800 balance, your score takes a hit. So Lefebvre had Phillips pay off or redistribute balances so that no card or credit line had a balance near the limit.

The result? Within five days, Phillips's FICO scores jumped 200 points -- taking her from a 580 to a 780, and from a high-risk mortgage applicant to an A-plus cream puff.

Next week: Rescoring dos and don'ts.

Harney's e-mail address is kenharney@aol.com.

EXHIBIT B

AAA CREDIT SCORE! *Copyright © 2000, all rights reserved ®*

Please be advised that your client: FLINTSTONE, FRED and FLINTSTONE, WILMA
(report #49197) is a Candidate for ADVS/CDVS and may have their Fico score Recalculated

The overall AAA Credit Score is: POOR *Copyright © 2000, all rights reserved ®*
(excellent, good, fair, poor, fail)

ADVS (B) score is: 91 **and is a:** A on our *"ADVS"* grading system.
CDVS (B) score is: 79 **and is a:** C on our *"CDVS"* grading system.
ADVS (CB) score is: 57 **and is a:** F on our *"ADVS"* grading system.
CDVS (CB) score is: 63 **and is a:** D on our *"CDVS"* grading system.

The Breakdown between Borrower and Co-Borrower per Bureau for ADVS is as follows:

XPN"B": HIGH XPN "CB": LOW
TU "B": MED TU "CB": MED
EFX "B": HIGH EFX "CB": LOW

The following are reason codes for our AAA Credit Scoring model & ADVS/CDVS grading system:

A: Last reporting dates differ by standard on Rev/Opn
B: Last reporting dates differ by standard on all acct's
C: Known creditors, that effect a consumers Fico scores and meets standard
D: Credit limits on Rev/Opn acct's differ by standard
H: Paying record differs by more than standard and late's within guidelines
J: ECOA codes that meet standard
L: Consumers have BK tradeline and meet standard on trade lines
M: Trade lines show past due status and meet standard
N: Consumers don't show Bankruptcy in PB and differs by standard
Q: Consumers have more file var's than standard
T: Rev/Opn acct's above standard and balance ratio above standard

REMEMBER: *Our AAA Credit Score model and ADVS/CDVS grading system does not take into consideration error's that our AAA scoring model can't see or does not know are inaccurate without the help of the consumer. Our scoring model is designed to provide Mortgage Lenders and Consumers a way to check the accuracy of the Fico score and determine what if anything needs to be done on behalf of your consumer. While this score is to be used only as a "GUIDE" only to test the validity of the Fico score. Please keep in mind "WE CAN NOT" predict the final outcome of your consumers Fico score due to "FAIR ISAAC'S" proprietary practices.*