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January 11, 2007

The Honorable Deborah Platt Majoras
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: Comments Regarding the Identity Theft Crisis and Potential Solutions

Dear Secretary Majoras:

As technology advances, so does the criminal element and their various methods of stealing. With computers and the internet, today's criminal can reap a tremendous illegal financial benefit and never leave the confines of their location and never have to expose their true identity. The armed robbery of the past, which exposed the felon to the use of force and long periods of incarceration if he/she was caught, is no longer in vogue while faceless electronic "financial molestations" are the "crime de jour". A simple cost/benefit analysis by any low level thug leads him or her to the crime of identity theft.

In many instances, identity theft has been endorsed and utilized by many street gangs. The crime requires the development of a criminal enterprise focused on carrying out multiple fraudulent transactions at many different retailers throughout the world. Within these criminal enterprises, one will find a hierarchy of management and an allocation of resources. Mid-level "managers" will have the lower level "employees" carry out fraudulent transactions with fictitious identifications. On most occasions, these "employees" will be paid with a controlled substance for their services.

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It is important to understand the magnitude of the criminal element and their attack upon our retailers and our innocent citizens. The comprehensive nature of the problem needs to be appreciated and the solution must be as comprehensive, otherwise it will be doomed before it is implemented. The criminal element will not simply move on to another criminal venture until we make identity theft a very unfortunate event in their lives. This needs to be addressed through a strict punishment associated with all the identity theft crimes. The criminal mind must come to understand that invading a person's privacy by stealing their personal identifying information will result in serious prison time. Additionally, it is the responsibility of all prosecutors to educate the bench and the bar that these types of crimes require long-term incarceration. Too often, these types of crimes are minimized by people because of the lack of violence associated with a person's identity being stolen. People must realize that stealing a person's identity and using it for fraudulent transactions can be described as a "financial molestation" and the purchase as an "economic drive-by shooting" on a retailer. When an elderly victim loses their retirement due to their identity being stolen, the court must be informed of the level of "pain" that this victim will suffer probably for the rest of their life and the court must impose a sentence that befits this injustice.

Fighting identity theft requires a team effort from both the public sector and the private sector. In the public sector, law enforcement agencies should continuously share their criminal intelligence with other members of law enforcement so that everyone will be aware of the various methods and means being used by the criminals and the individuals orchestrating these scams. Too often, agencies will limit their scope of concern to only their jurisdiction and the criminals will take advantage of that myopic approach by committing crimes through multiple jurisdictions. Accordingly, groups will go undetected for months as they move about surrounding counties or states committing crimes. Since the computer and the internet have removed many of the geographic hindrances to committing crime, law enforcement must do the same by removing the walls surrounding their agencies and their intelligence gathering.

Perhaps the most important area of enforcement that needs to be addressed is in the private sector. The major retailers are the prime targets of the majority of the identity theft crimes. As soon as the criminal has his/her fraudulent paperwork in hand, they will go to a major retailer to conduct a transaction. Retailers have lost millions of dollars due to this problem. Many of the regional loss prevention people are doing their best in trying to stop these criminals from making their retailers the criminal's "ATM". In many cases, after the authorities have made an arrest and are investigating the crimes in order to find the other members of the criminal enterprise, some of the retailers are not supportive in providing additional information (video surveillance, financial records, account inquiries, etc) to the investigators. The regional loss prevention people do assist in their limited capacity but their management is not accommodating since it will cost the company money to provide this assistance. As I have been informed on more than one occasion, the company does not want to do anything beyond what is minimally necessary since the company will "write off the loss". That kind of response is unacceptable! First, by writing off the losses, a company is merely shifting the tax burden to the innocent American people. Secondly, by adopting this attitude, the retailer has indirectly assisted in the commission of the crimes. The criminal will

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continue to utilize that method of theft and that particular retailer since he/she was never apprehended. A retailer who fails to provide the support that is required to fight this crime epidemic is supporting the criminal's business plan! However, most retailers are not in this category and they are supportive of our prosecutions.

Once people come to understand the seriousness of the identity theft problem, there will be a positive change. The unfortunate truth is that people usually come to realize this only after they have become a victim.

Please feel free to contact me should you have any other questions or comments. Your assistance in this matter is greatly appreciated.

Respectfully yours,

/S/

David Demurjian
Deputy District Attorney
White Collar Crime Task Force