

THE CREDIT CARD PROTECTION ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON CONSUMER AFFAIRS
AND COINAGE

OF THE

COMMITTEE ON
BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 2885

A BILL TO AMEND THE TRUTH IN LENDING ACT TO PROTECT CONSUMERS BY PLACING RESTRICTIONS ON THE DISCLOSURE OF THEIR CREDIT CARD NUMBERS

AND

H.R. 3622

A BILL TO AMEND THE TRUTH IN LENDING ACT TO PROTECT CONSUMERS BY PLACING RESTRICTIONS ON THE DISCLOSURE OF THEIR CREDIT CARD NUMBERS

JULY 6 (SARASOTA, FLA.); AND JULY 27, 1983

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THE CREDIT CARD PROTECTION ACT

MONDAY, MAY 23, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Frank Annunzio (chairman of the subcommittee) presiding.

Present: Representatives Annunzio, Patman, Vento, Lowry, and Ridge.

Chairman ANNUNZIO. The meeting of the subcommittee will come to order.

Today the subcommittee begins hearings on H.R. 2885, the Credit Card Protection Act. We are faced in this country with a little-known epidemic. There are some 600 million credit cards in circulation in this country. Every year an estimated 73 million cards are reported lost or stolen. Of that total, some 20,000 credit cards are fraudulently used every day.

We are not talking about penny-ante crime here, financial institutions lost an estimated \$128 million from bank card fraud alone in 1982, an increase of over 35 percent over 1981. About \$40 million of that figure came from the use of counterfeit credit cards. It is believed, although no firm figures exist, that the entire loss of illegally used credit cards approached the \$1 billion mark last year, a threefold increase since 1979.

And make no mistake about it, those losses are borne by consumers as surely as if a gunman put a gun to their head and robbed them. The losses suffered by financial institutions and credit card issuers are passed on to consumers in the form of higher fees for cards and increased interest costs. While credit card crimes exist to the greatest extent in our major cities, there is also evidence that fraudulent credit card transactions go on in every community in our country.

Unfortunately, most credit card criminals operate with little fear of being caught. And if they are caught, they usually get off with a small fine or minimal jail sentence. A bank robber may serve 20 years for stealing a few thousand dollars from a bank at gunpoint, while a credit card criminal might well steal \$20,000 a day and, if caught, face only the lightest of sentences.

We must change the rules of the game for those who seek to play. We must make certain that credit card criminals no longer get a free ride. We must also make certain that questionable busi-

nesses using lists of credit card numbers do not charge consumers for products or services that they do not receive or do not want.

The Credit Card Protection Act will go a long way in cracking down on credit card crime. It will: First, make it illegal to distribute credit card or debit card numbers except on a very limited basis; second, it will make possession of 10 or more stolen or counterfeit credit or debit cards a Federal crime; and third, it will correct a problem in existing law which will make it a crime to use stolen credit cards to obtain \$1,000 in cash or merchandise in a 1-year period. Present Federal law only comes into play when an individual charges more than \$1,000 on a single credit card. This change makes the \$1,000 figure applicable to one card or a group of cards.

As I mentioned earlier, this is an epidemic that has not received much attention. It does not have the media significance of a bank robbery or the criminal overtones of drug dealings, but by spotlighting credit card crime it is my hope that we can begin a major crackdown on credit card criminals. My goal is, through legislation, prosecution and publicity, to put an end to the epidemic.

I am asking credit card issuers, law enforcement agencies, judges and the general public to help out. I am asking law enforcement agencies across the country to begin vigorous crackdowns on credit card criminals. And I am asking judges across the country to treat these criminals as they should be treated, as major economic dangers to the community.

[The texts of H.R. 2885 and H.R. 3622 follow:]

98TH CONGRESS
1ST SESSION

H. R. 2885

To amend the Truth in Lending Act to protect consumers by placing restrictions on the disclosure of their credit card numbers.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 1983

Mr. ANNUNZIO introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

A BILL

To amend the Truth in Lending Act to protect consumers by placing restrictions on the disclosure of their credit card numbers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Credit Card
5 Protection Act".

6 RESTRICTIONS ON DISCLOSURE OF ACCESS DEVICE

7 NUMBERS

8 SEC. 2. (a) Chapter 2 of the Truth in Lending Act (15
9 U.S.C. 1631 et seq.) is amended by adding at the end thereof
10 the following:

1 "§ 137. Restrictions on disclosure of access device num-
2 bers

3 "(a) No person shall disclose any access device number
4 unless—

5 "(1) such person is the cardholder involved or any
6 person authorized by such cardholder to use such
7 access device number;

8 "(2) such person is disclosing an access device
9 number in order to—

10 "(A) process or collect any amount which
11 was authorized to be charged against such access
12 device number; or

13 "(B) collect any debt for which the card-
14 holder, or any person authorized by the card-
15 holder to use such access device number, gave
16 such access device number for purposes of identifi-
17 cation;

18 "(3) such disclosure is made by a consumer re-
19 porting agency pursuant to section 604 of the Fair
20 Credit Reporting Act; or

21 "(4) such person reveals such access device
22 number to the cardholder involved.

23 "(b) For purposes of this section—

24 "(1) the term 'access device number' means a
25 credit card account number or a code, number, or other

1 means of access to an account against which debits
2 may be made; and

3 "(2) the term 'cardholder' include a person who
4 was issued an access device number."

5 (b) The table of sections contained at the beginning of
6 chapter 2 of the Truth in Lending Act is amended by adding
7 at the end thereof the following:

"137. Restrictions on disclosure of access device numbers."

8 FRAUDULENT USE OF A CREDIT CARD

9 SEC. 3. Section 134 of the Truth in Lending Act (15
10 U.S.C. 1644) is amended—

11 (1) in subsection (a)—

12 (A) by striking out "any" and inserting in
13 lieu thereof "one or more"; and

14 (B) by striking out "credit card" and insert-
15 ing in lieu thereof "access devices";

16 (2) in subsection (b), by striking out "credit card"
17 and inserting in lieu thereof "access device";

18 (3) in subsection (c), by striking out "credit card"
19 and inserting in lieu thereof "access device";

20 (4) in subsection (d)—

21 (A) by striking out "with a" and inserting in
22 lieu thereof "with one or more"; and

23 (B) by striking out "credit card" and insert-
24 ing in lieu thereof "access devices";

25 (5) in subsection (e)—

1 (A) by striking out "credit cards" and insert-
2 ing in lieu thereof "access devices"; and

3 (B) by striking out "or" at the end thereof;
4 (6) in subsection (f)—

5 (A) by striking out "any" and inserting in
6 lieu thereof "one or more";

7 (B) by striking out "credit card" and insert-
8 ing in lieu thereof "access devices"; and

9 (C) by striking out "obtained—" and insert-
10 ing in lieu thereof "obtained; or";

11 (7) by inserting before "shall be" the following:

12 "(g) Whoever, with unlawful or fraudulent intent, pos-
13 sesses ten or more counterfeit, fictitious, altered, forged, lost,
14 stolen, or fraudulently obtained access devices—";

15 and

16 (8) by adding at the end thereof the following:

17 "(h) For purposes of this section, the term 'access
18 device' means a credit card, credit card account number, or a
19 code, number, or other means of access to an account against
20 which debits may be made."

21 CONFORMING AMENDMENT

22 SEC. 4. Section 135 of the Truth in Lending Act (15
23 U.S.C. 1645) is amended by striking out "and 134" and in-
24 serting in lieu thereof "134, and 137".

To amend the Truth in Lending Act to protect consumers by placing restrictions
on the disclosure of their credit card numbers.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1983

Mr. ANNUNZIO (for himself, Mr. ST GERMAIN, Mr. GONZALEZ, Mr. MINISH, Mr.
PATMAN, Mr. VENTO, Mr. LOWRY of Washington, Mr. PAUL, Mr. WYLIE,
Mr. HILER, Mr. RIDGE, and Mr. MACK) introduced the following bill; which
was referred to the Committee on Banking, Finance and Urban Affairs

A BILL

To amend the Truth in Lending Act to protect consumers by
placing restrictions on the disclosure of their credit card
numbers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Credit Card
5 Protection Act".

1 RESTRICTIONS ON DISCLOSURE OF PAYMENT DEVICE
 2 NUMBERS
 3 SEC. 2. (a) Chapter 2 of the Truth in Lending Act (15
 4 U.S.C. 1631 et seq.) is amended by adding at the end thereof
 5 the following:
 6 "§ 137. Restrictions on disclosure of payment device num-
 7 bers
 8 "(a) No person shall disclose any payment device
 9 number unless—
 10 "(1) such person is disclosing a payment device
 11 number in connection with an authorization, process-
 12 ing, billing, collection, chargeback, insurance collection,
 13 fraud prevention, or payment device recovery that re-
 14 lates to such payment device number, an account ac-
 15 cessed by such payment account number, or debts or
 16 obligations arising, alone or in conjunction with an-
 17 other means of payment, from the use of the payment
 18 device number;
 19 "(2) such person is the holder of the payment
 20 device number or is disclosing the payment device
 21 number to the holder of the payment device number;
 22 "(3) such disclosure is reasonably necessary in
 23 connection—

1 "(A) with the sale or pledge, or negotiation
 2 of the sale or pledge, of all or a portion of a busi-
 3 ness or the assets of a business; or
 4 "(B) with the management, operation, or
 5 other activities involving the internal functioning
 6 of the business of such person making such disclo-
 7 sure;
 8 "(4) such person makes the disclosure to a con-
 9 sumer reporting agency as defined in section 603(f) of
 10 the Fair Credit Reporting Act; or
 11 "(5) such person makes the disclosure solely
 12 under a circumstance specified in section 604 of the
 13 Fair Credit Reporting Act regardless of whether such
 14 person is a consumer reporting agency as defined in
 15 section 603(f) of the Fair Credit Reporting Act and re-
 16 gardless of whether the disclosure is a consumer
 17 report, except that such person shall not disclose any
 18 payment device number prior to receipt of an individual
 19 written certification from the requestor—
 20 "(A) containing the specific reason that the
 21 payment device number is required; and
 22 "(B) that the payment device number—
 23 "(i) cannot be obtained under a circum-
 24 stance specified in this section; or

1 “(ii) that such payment device number
2 is needed for security, or loss or fraud pre-
3 vention purposes.

4 “(b) No person shall intentionally obtain any payment
5 device number except as provided under this section.

6 “(c) Nothing in this section shall affect the rights or
7 limitations of persons to disclose payment device numbers to,
8 or at the direction of, governmental entities under any other
9 provision of law.

10 “(d) For purposes of this section—

11 “(1) the term ‘payment device number’ means any
12 code, account number, or other means of account
13 access (other than a check, draft, or other similar
14 paper instrument) that can be used to obtain money,
15 goods, services, or any thing of value, or for purposes
16 of initiating a transfer of funds; and

17 “(2) the term ‘holder’ means any person—

18 “(A) who was issued a payment device
19 number;

20 “(B) who is authorized by such holder to use
21 such payment device number; or

22 “(C) who is authorized at the specific request
23 of the holder to receive such payment device
24 number on behalf of the holder.

1 “(e) Any person who fails to comply with any require-
2 ment imposed under this section shall be a creditor for pur-
3 poses of section 130.”.

4 “(b) The table of sections contained at the beginning of
5 chapter 2 of the Truth in Lending Act is amended by adding
6 at the end thereof the following:

 “137. Restrictions on disclosure of payment device numbers.”.

7 FRAUDULENT USE OF A CREDIT CARD

8 SEC. 3. Section 134 of the Truth in Lending Act (15
9 U.S.C. 1644) is amended—

10 (1) in subsection (a)—

11 (A) by striking out “any” and inserting in
12 lieu thereof “one or more”; and

13 (B) by striking out “credit card” and insert-
14 ing in lieu thereof “payment devices”;

15 (2) in subsection (b), by striking out “credit card”
16 and inserting in lieu thereof “payment device”;

17 (3) in subsection (c), by striking out “credit card”
18 and inserting in lieu thereof “payment device”;

19 (4) in subsection (d)—

20 (A) by striking out “with a” and inserting in
21 lieu thereof “with one or more”; and

22 (B) by striking out “credit card” and insert-
23 ing in lieu thereof “payment devices”;

24 (5) in subsection (e)—

1 (A) by striking out "credit cards" and insert-
2 ing in lieu thereof "payment devices"; and

3 (B) by striking out "or" at the end thereof;
4 (6) in subsection (f)—

5 (A) by striking out "any" and inserting in
6 lieu thereof "one or more";

7 (B) by striking out "credit card" and insert-
8 ing in lieu thereof "payment devices"; and

9 (C) by striking out "obtained—" and insert-
10 ing in lieu thereof "obtained; or";

11 (7) by inserting before "shall be" the following:

12 "(g) Whoever, with unlawful or fraudulent intent, pos-
13 sesses ten or more counterfeit, fictitious, altered, forged, lost,
14 stolen, or fraudulently obtained payment devices that have
15 moved in, been part of, or constituted interstate or foreign
16 commerce"; and

17 (8) by adding at the end thereof the following:

18 "For purposes of this section, the term 'payment
19 device' means any card, plate, code, account number,
20 or other means of account access that can be used,
21 alone or in conjunction with another payment device,
22 to obtain money, goods, services, or any other things
23 of value, or for the purpose of initiating a transfer of
24 funds (other than a transfer originated by check, draft,
25 or other similar paper instrument)."

1 CONFORMING AMENDMENT

2 SEC. 4. Section 135 of the Truth in Lending Act (15
3 U.S.C. 1645) is amended by striking out "and 134" and in-
4 serting in lieu thereof "134, and 137".

5 EFFECTIVE DATE

6 SEC. 5. The amendments made by this Act shall take
7 effect sixty days after the date of enactment of this Act,
8 except that the amendment made by section 3 shall take
9 effect upon the date of enactment of this Act.

Chairman ANNUNZIO. Our witness this morning will outline for us in detail just how severe the credit card criminal epidemic has become, for at one time he was part of that epidemic. He has served time not only for credit card crimes, but for several other criminal activities. He has since become a police informant and has worked with police departments on credit card crimes. He has told the subcommittee that he is not currently under investigation for any crime, nor is he being sought or prosecuted for any previous crime.

He has not asked for nor has he been granted any form of immunity from this subcommittee. He is testifying voluntarily. He has not been subpoenaed, but he has asked, and the subcommittee has agreed, to allow him to testify in disguise because he fears that if his identity was revealed it could cost him his life.

Before calling on the witness, let me make it clear that any attempt on the part of anyone to learn the witness' identity or to take any reprisal against the witness will be dealt with in the strongest possible terms not only at the Federal level, but with as much vigor at the local level as this subcommittee can generate. Witnesses who take great risks to appear before the Congress deserve the protection of our Government, and I intend to make sure that protection is available.

Bring in the witness please.

Mr. Witness, raise your right hand.

Do you swear that the testimony that you are about to give is the truth and nothing but the truth, so help you God?

The WITNESS. I do.

Chairman ANNUNZIO. Thank you very much.

Because the subcommittee staff has spent many hours with the witness, I am going to ask Mr. Prins, the subcommittee staff director, to start with some questions so that members may get an idea about how severe the problem is. After that I will call on each member for 5 minutes of questioning.

On the second go-round, each member will have 10 minutes for questions.

Mr. Prins?

Mr. PRINS. Thank you, Mr. Chairman.

Before getting to the witness, I would like to take just a few seconds and show you how easy it is for criminals to get involved in the credit card operation through counterfeiting.

These cards, Mr. Chairman, are all plates of three well-known credit cards. They are very good quality but, unfortunately, they are all counterfeit. It is very simple for a criminal to take the card and with an overlay change the name of the bank, and all it takes is a very simple offset press which is available at most print shops. If you want to change to a different bank, you just put a different overlay on.

The one ingredient that is missing is another form of identification, so that when the criminal goes in to use one of these cards, they have to have a driver's license.

This is a pack of 200 stolen New York drivers' licenses, which are available anywhere from \$20 to \$50 in New York City. With a regular Polaroid camera, a few pieces of printing equipment, a

criminal can get into the credit card business and do almost as much money as one of the major credit card operations.

That is the counterfeit part of the operation.

Mr. Witness, for most of your life, what was your occupation?

TESTIMONY OF ANONYMOUS WITNESS

The WITNESS. I classify myself as a professional criminal.

Mr. PRINS. A professional criminal. What kind of crimes did you engage in?

The WITNESS. From being a pickpocket to credit cards, various sorts of crimes.

Mr. PRINS. Were you arrested for any of these crimes?

The WITNESS. Yes, I was.

Mr. PRINS. How many crimes would you say you have been arrested for.

The WITNESS. Maybe 20, 25.

Mr. PRINS. You say 20 or 25 different times?

The WITNESS. That is correct.

Mr. PRINS. Were you incarcerated for these crimes?

The WITNESS. Yes, I was.

Mr. PRINS. On how many occasions?

The WITNESS. Maybe 15, 20 times.

Mr. PRINS. I am sorry.

The WITNESS. Maybe 10, 15, 20 times. I really don't—

Mr. PRINS. Can you speak a little closer into the microphone, please?

Thank you.

Chairman ANNUNZIO. Would you push the mike closer to him, please.

Mr. PRINS. Would it be hard for you to go out in the streets of Washington or any other city today and obtain and use stolen or counterfeit credit cards?

The WITNESS. No; it would not.

Mr. PRINS. How would you obtain these cards?

The WITNESS. I would go to the closest place—a pool room.

Mr. PRINS. A pool room?

The WITNESS. A pool room.

Mr. PRINS. How would you get them in a pool room?

The WITNESS. Generally every card that is lost or stolen is brought to a pool room. I found like in any town, a pool room is like a clearinghouse for the cards or any other merchandise you need.

Mr. PRINS. That doesn't speak too well of pool rooms; does it?

The WITNESS. No.

Mr. PRINS. I have a credit card here, and I am going to hide the number, and we will find out later. I took this out of my pocket. The fact that I have my credit card in my pocket, am I safe from having somebody use this credit card since it is in my possession?

The WITNESS. No; you are not.

Mr. PRINS. Why is that?

The WITNESS. Well, let's put it to you like this. Did you eat breakfast this morning in a coffee shop?

Mr. PRINS. Yes.

The WITNESS. When you paid for it, did you pay for it by card?

Mr. PRINS. Yes.

The WITNESS. When you sign the receipt did you take the carbon slip?

Mr. PRINS. No.

The WITNESS. Well, that is our source of getting legitimate numbers, identification.

Mr. PRINS. Well, how would you get that carbon slip from the restaurant?

The WITNESS. From the garbage.

Mr. PRINS. From the garbage?

The WITNESS. Or get somebody in the place to sell me a batch of slips.

Mr. PRINS. Once you got my credit card number, how would you use it to make purchases against my account?

The WITNESS. Transfer it on to another card.

Mr. PRINS. A stolen card, a counterfeit card?

The WITNESS. Counterfeit card, stolen card, dead card.

Mr. PRINS. Now, you now have my number, and you have transferred it to another stolen credit card or a counterfeit card. Would you please take the subcommittee through a transaction as to how you would use that to go about making purchases?

The WITNESS. Well, I would take the card first, if I wanted to take it to a bank to get a cash withdrawal, I would call the bank to find out what kind of balance is left on the account. Then early in the morning I would take the card and go to the bank with proper identifications and—

Mr. PRINS. What kind of proper identification.

The WITNESS. Photo ID, drivers' license, whatever, social security card. All those pieces of material are very easy to get. Then I would take it to the bank, get me a cash slip withdrawal, for say like \$500, and then I would take the card and milk it.

Mr. PRINS. What do you mean by milk it?

The WITNESS. I would keep it under the limit, and work it for maybe 1 week, 2 weeks. And under that floor limit, some stores, \$35, some stores \$50, then I could take that and do \$10,000 \$15,000 \$20,000 on the card.

Mr. PRINS. By floor limit, that is the limit that as long as you would purchase, say, under \$25 or \$50, the store would not have to call for verification to the credit card company?

The WITNESS. That is correct.

Mr. PRINS. Now, using my credit card number, and putting it on a stolen credit card, how much do you estimate in a day that you could charge to my account?

The WITNESS. If you really got out and worked, you could do like \$10,000 easy.

Mr. PRINS. \$10,000 a day?

The WITNESS. Yes.

Mr. PRINS. How long do you think you could work that card?

The WITNESS. I could work that card, say if I got it at the beginning of the month, I could work it for like 30 days easy, under the floor.

Mr. PRINS. At \$10,000—that is \$300,000?

The WITNESS. Yes, sir, if I got out and worked. Mind you, the amount that I am saying is like what I would buy on the card. Now, what I get in cash retail value, it is like it would be less than what I actually charged.

Mr. PRINS. Thank you, Mr. Chairman.

I think you have a general idea what the magnitude of this is? Chairman ANNUNZIO. Thank you, Mr. Prins.

I want to say that the staff has done a tremendous job questioning and bringing this witness before the subcommittee.

I now recognize Mr. Vento of Minnesota for 5 minutes for questioning.

Mr. VENTO. Thank you, Mr. Chairman.

I just want to commend you for your work on this legislation. Obviously the investigative work of Curt Prins and the other members of the staff is very, very important if we are going to understand this. We get out and have some input as to exactly what the nature of the problem is. And of course, I wish to thank the witness for being here to provide us with the insights that only someone in his position could provide us with.

When you purchased this merchandise, would you say that there was any difference between retail establishments? Did you find any problems in presenting these cards?

The WITNESS. No; because a lot of places I go to, they are like setup places anyway. The main function is accepting cards.

Mr. VENTO. In other words, you say that they were conducive to it. They were part of it in a sense. You had completely broken down the integrity of the identification protections, simply by obtaining a number of these discarded carbon slips, you had completely broached the integrity of the credit card system; is that what you are saying?

The WITNESS. That is correct.

Mr. VENTO. In other words, there were no questions asked. It is as if it were a valid credit card that you were presenting to the retail establishment, is that accurate?

The WITNESS. Yes, sir. A lot of stores I go to, I don't even need identification.

Mr. VENTO. They didn't ask you for any identification. In fact, sometimes all that they require are the numbers off the credit card, is that correct?

The WITNESS. That is correct.

Chairman ANNUNZIO. Will the gentleman yield?

Mr. VENTO. I would be happy to yield.

Chairman ANNUNZIO. If I understand you correctly, in some of these stores, these proprietors or people working in the store were part of the setup.

Mr. VENTO. That is correct.

Chairman ANNUNZIO. What name would you call that?

Mr. VENTO. It is known as juice joint.

Chairman ANNUNZIO. You named it juice. Juice is a very familiar term, on interest rates. When you use the expression "juice," and I don't mean to take Mr. Vento's time—

Mr. VENTO. Please, Mr. Chairman.

Chairman ANNUNZIO. What you are doing on the term "juice," explain that. I know what it means. It means that if an item—I

think I know what it means—if an item costs \$50 and you went in and this guy was in on the scam, the proprietor, he would be charging you \$150 for the item on the credit card, and the juice is the difference between the actual cost and the charges that were made, and that is the reason that we have such astronomical figures of \$1 billion a year losses.

Do I have that correct?

The WITNESS. That is correct. Because a lot of the juice joints, the setup is as follows: I bring a card in and buy a TV that costs \$200. They charge me \$500 for it. I could take 5 or 500 cards in at one time and work them. There is no problem. I need no identification, nothing. The only thing I have to do is go in, print the card, they call the authorization. And if the card went through, then I got what I wanted.

Chairman ANNUNZIO. Thank you.

Mr. VENTO. Thank you, Mr. Chairman.

I appreciate your help with the witness.

My time is going to expire very quickly.

Did you actually obtain possession of, a television set; did you actually obtain possession of that item, is that correct?

The WITNESS. In some cases that was not so, the card I brought in was no good, and I got beat.

Mr. VENTO. If they didn't accept the card, in some instances that happened. But that obviously did not happen very often, is that correct?

The WITNESS. That is correct.

Mr. VENTO. But the point is, once you got possession of a television or other merchandise, other products, then you had to sell those. How do you go about selling it? It is one thing to go out and buy 10,000 dollars' worth of merchandise in a day.

The WITNESS. Well, there is a group of stores that will buy, purchase anything that is bought on a credit card. And then you get like a third to a half.

Mr. VENTO. Third to half of the price of that?

The WITNESS. Right.

Mr. VENTO. And then they go ahead and sell it as if it were new merchandise?

The WITNESS. That is correct.

Mr. VENTO. Actually, I guess it is new merchandise.

The WITNESS. That is correct.

Mr. VENTO. Aren't there numbers that could be traced on things like television sets and large items such as that, isn't there verification from the factory that could be traced?

The WITNESS. If you go into a store and buy something, and you get a deal, do you check the numbers.

Mr. VENTO. I don't know. I suppose that might influence someone. But eventually that could be traced back to that store if it were picked up someplace. But by then you are long gone and it is pretty hard to trace down.

The WITNESS. Maybe 6 months.

Mr. VENTO. You just don't maintain those—that type record.

In other words, this person that really is buying these items from you is cooperating; is that correct?

The WITNESS. That is correct.

Mr. VENTO. There are no questions asked.

The other aspect is, we heard the figure \$10,000 and up to \$300,000 a month, which is an astronomical figure. Most credit cards have some sort of limit on them. They have a limit of \$2,000 or \$3,000 or even \$4,000, and maybe a little higher than that in some cases. But the fact is, how can you go out and charge something \$10,000 in 1 day or \$300,000 or a third of a million dollars in 1 month, when you have these limits on the amount of credit that is supposed to be extended by a credit card?

The WITNESS. Because you look at it like this.

When I am purchasing on the credit card, I am doing it under the floor limit. Now, you won't receive the bill. Say I am using your number off your card. You won't receive the bill for 30 days. Generally what you do is, when you get a receipted bill, you throw it on the desk. You don't open it up right away. So I have an additional 10 or 15 days before you look at it to find out how much you owe.

Mr. VENTO. Let me interrupt the witness, Mr. Chairman.

I know my time has expired. The point is, though, it is not the consumer that has that limit. It is Bank of America, it is the financial institution that has issued it that has the limit.

In other words, there are limits, like a \$200 item, a TV set, would be probably an item that they might call up and check to see whether or not you have the credit. Now if you have someone cooperating with you, of course that completely breaks down the integrity of the system. But in every instance when you use it, you were not going to places that cooperate with you. If they make a call in to the bank or the financial institution, they would say, don't extend credit. This has happened to me, Mr. Chairman, on my credit cards.

The WITNESS. On those cards, you try to stay away from going over \$50. If you are going to milk a card, you won't take anything over \$50. So you can go into 100 stores a day, purchasing, \$30, \$35, \$40.

Mr. VENTO. My time has expired.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Vento.

Now, Mr. Witness, what are the main sources of obtaining stolen credit cards?

The WITNESS. Well, the main sources, prostitutes, we got sort of a setup called the clearinghouse, where they come in to you, and you buy it. They will supply a driver's license, photo ID's, everything you need.

Chairman ANNUNZIO. How do the prostitutes get the credit card numbers?

The WITNESS. Well, actually what they do is when they take a customer to a hotel, or wherever, and they lift their wallet, they take the cards out, put the wallet back, and sell it. In certain cases, I know where drugs were used to drug a victim. I heard there was a death behind one of the—

Chairman ANNUNZIO. What do you usually pay for a number, a card, a stolen credit card number?

The WITNESS. Just the number? I don't have to pay for a number. But you know, in some cases, they charge you like half a

hundred. And for preferred cards, they might go as far as a hundred.

Chairman ANNUNZIO. \$100 for a credit card.

What other sources? You mentioned this pool hall. Are there places similar to pool halls that are still in operation?

The WITNESS. Yes; they are in operation. They work 24 hours a day, because there are always cards brought to you. You go in, say, like in a poolroom, you go in, buy a card, you go out and work the card. If you don't know where to go, there will be somebody in there to tell you, give you a list of stores to go to, give you a list of stores you can buy from, they give you a name of a clerk that will go down with the deal. Then they will give you places that you can go and get rid of the merchandise.

Chairman ANNUNZIO. How do you go about getting the credit cards from the post office?

The WITNESS. You find a clerk, you find somebody in there that works that wants money. The name of the game is green. If you got dollars, you can buy anything. There is nobody without a price tag.

Chairman ANNUNZIO. These are Government employees?

The WITNESS. Yes, they are.

Chairman ANNUNZIO. Working in the post office?

The WITNESS. Postal employees.

Chairman ANNUNZIO. So the name of the game is to find somebody who is really hungry and looking for a buck?

The WITNESS. That is correct.

Mr. PRINS. Mr. Chairman, I think this part of it is very important.

Would you actually explain how the cards are stolen out of the post office?

The WITNESS. Sir, I have never worked in a post office in my life. I have never had too many jobs, other than working credit cards, which is a very lucrative business for me. In the post office, the cards are sent from the bank, they are delivered in trays. There is an individual set-down at a desk that routes the cards to the different boxes they are supposed to go to. In instances, a box is reserved for the cards he wants to take. He punches a key, the card will go to that box, a friend will pick it up, and bring it outside, out of the post office.

You can buy like—I know of instances where we have bought like 50 to 100 cards at a time, and these are fresh cards that have never been to the customer. So you got an additional 30, 40, 50 days on a card.

Chairman ANNUNZIO. Mr. Witness, once you have obtained this stolen credit card, how do you go about removing the signature on the card?

The WITNESS. Well, the best way and easiest way to do it is, you make a solution, Clorox solution. You like, just put a solution in the sink, drop the card in, and let it lay, stay there for maybe a half an hour, an hour, then you take it and wash it off, and use Vitalis hair spray. You spray that on the back, and everything comes off, all the ink. And then you resign it. You match it up with your driver's license, your social security card, and your photo ID.

Chairman ANNUNZIO. Getting back to the post office, are there stolen credit cards going out of the post office right now?

The WITNESS. The credit cards going out of there, there are checks going out, Government checks, returns on the tax returns.

Chairman ANNUNZIO. Goes on every day?

The WITNESS. Every day. When they come, somebody brings something out.

Chairman ANNUNZIO. How do criminals make pictures on identification cards?

The WITNESS. Well, you go to one of those—if you don't have the resources to buy a camera, then you go to an arcade. You just take Polaroid shots, and you cut them down. You go to the motor vehicle bureau. They have a camera set up. They have a camera set up where you can take a photograph of yourself for your license, and you take that.

Chairman ANNUNZIO. In other words, what the subcommittee has to understand is that this is a business, counterfeiting of credit cards is a business, that it is organized, that the players in this game know exactly what they are doing in order to extort the maximum amount of money and make the maximum amount of purchase through a counterfeit credit card?

The WITNESS. That is correct.

Chairman ANNUNZIO. In your opinion, this is a large country, this is probably going on in every large city in the United States. Would you think that was an accurate statement?

The WITNESS. That is a correct statement.

Chairman ANNUNZIO. So that when we estimate that there is \$1 billion lost every year by the banks in this country, did you ever stop to think about that? Would you say that the estimates of the committee are in line?

The WITNESS. You say \$1 billion. I think it would be more.

Chairman ANNUNZIO. \$1 billion?

The WITNESS. I think it would be more.

Chairman ANNUNZIO. You say that the committee is conservative?

The WITNESS. Very conservative in your estimate.

Chairman ANNUNZIO. Would you tell the committee something about the Magic Cue pool hall?

The WITNESS. The Magic Cue? That is like a shopping center. It is a shopping center. The cards come in one door, they are bought, they call up for authorization to find out if the card is good, they will sell it to you on the other side. Anything you want there with credit cards, about credit cards, or how to do credit cards, they will tell you there, for a price.

Mr. PRINS. Mr. Chairman, if I could just go on with that one little area.

Mr. Witness, in the Magic Cue, you just walk in and buy a credit card from one guy selling different kinds of cards, or was there each guy set up in a little area?

The WITNESS. Well, in there everybody had their own specialty. One guy would have Master Charge, another guy would have Visa, another guy would have American Express. And then you would have the guy with the driver's license, New Jersey, New York, and you have a guy who sets you up with photos.

Chairman ANNUNZIO. My time is up.

Mr. Lowry?

Mr. LOWRY. Thank you, Mr. Chairman.

I think obviously your legislation is pursuing a very important issue that I feel sort of ignorant not realizing what a major problem this was. I compliment you on that.

And I thank the witness. It is very important. Also, I am going to open my bills. They always lay there 15 or 20 days.

In the post office problem, this would require just a few individuals within a few large post offices, is that correct?

The WITNESS. That is correct.

Mr. LOWRY. Obviously the vast majority of the employees are not affected at all in this. It just takes a few individuals.

I wonder then, could you continue the authorities' trace back through and be able to identify and catch those individuals?

The WITNESS. No. It is impossible.

Mr. LOWRY. Why is that?

Why would that be so difficult for the authorities to be able to catch the people in the post office that are obviously stealing the credit cards and other things?

The WITNESS. The authorities could not say whether they came from the post office or from the mailbox, if it came from the individual. I have cards from responsible citizens, and they give up their card for a deal. So you really cannot say exactly where the card came from.

Mr. LOWRY. Do you know of law enforcement attempts of trying to trace back to sources, or primarily through the post office where cards were being stolen?

The WITNESS. I have heard from people I know in the post office that they were cracking down. But how can you stop it? You cannot stop it.

Mr. LOWRY. Do you know of law enforcement successes in being able to catch individuals?

The WITNESS. I really couldn't tell you that. I really don't know.

Mr. LOWRY. The people that are in this business, are they all part of organizations?

The WITNESS. Well, it is a business. It is a business itself. I don't know how to put it to you—it is a large business. It is money—of great magnitude.

So with that you have to have an organization, you have to have rules, it is like a Wall Street broker.

Mr. LOWRY. Would this organization extend all the way out—Chairman ANNUNZIO. Would you yield?

The witness says it is like being a Wall Street broker.

Mr. LOWRY. I heard him, Mr. Chairman.

Chairman ANNUNZIO. The way these figures are coming out, they are probably doing more business than some of the people on Wall Street.

Mr. LOWRY. Oh, yes.

Would the organization extend on out through the outlets, the stores through which the merchandise was obtained by using the fraudulent credit cards?

Would the organization be that extensive that it would go all the way from the source of stealing the card to buying the merchandise?

The WITNESS. I would say so. I would say that—again, I am stuck for words. Like things are set up in a way that now you can take anything you want with plastic, without any problem. And everybody down the line makes a dollar on it. The only person that suffers is John Doe out in the street.

Mr. LOWRY. Well, thank you. I want to thank the witness very much.

Obviously, Mr. Chairman, there is going to be strong pursuit in this area.

Thank you.

Chairman ANNUNZIO. Thank you.

Mr. RIDGE is recognized for 5 minutes.

Mr. RIDGE. Thank you, Mr. Chairman.

Mr. Witness, was your first involvement with the law through the use of stolen or counterfeit credit cards?

The WITNESS. No. My first involvement with the law was picking pockets, pickpocket.

Mr. RIDGE. How did you first become aware of the availability of this kind of involvement—how do you graduate from picking pockets to credit cards?

The WITNESS. Well, I got introduced to a fellow and he was working cards, and he kept telling me about the money that was surrounding it. And at that time I thought, like if I made a hit on a victim, I take the money out of the wallet, throw the card back in a mailbox, I had no use for it. But then I started to see, like, OK, I work a card for a week, it is easy money. It is no problem.

If you get busted, what are they going to do, slap you on your wrist?

Mr. RIDGE. You have described a rather sensitive system from the pool halls and the prostitutes getting the cards into a clearinghouse, the Magic Cue, and then from the clearinghouse to some graduates from your credit card schools, and then you work the cards, and go into juice joints and the clerk is going to go down with the deal, and you leave those places and go to fences and they are going to go down with the deal, and it is a rather elaborate system.

Now, do all the people that work these credit cards, are they all aware of the system as you are, from how the cards are acquired to where they can fence their goods, or is that something you get to know gradually as you get to be more and more trusted by those who are running this system?

The WITNESS. No. In certain cases the young bloods, the new bloods in the business, they are not aware. There are schools set up to educate them, teach them about how to use plastic, how to deal with cards, how to deal with clerks, how to dress, how to speak, how to act.

Mr. RIDGE. Now, getting back into this whole concept, you have described it, analogized it to kind of like a Wall Street brokerage firm. It is a big entity, and you have different players at different levels, all the way down the line. Yet if you have one or two of these players leaving the group, and maybe turning themselves in, or turning State's evidence, who enforces, who keeps all these players in line? I mean if you have a person inside in a post office, a

person inside in a store, you have a person inside in a credit card firm, how are the rules enforced, to keep these people in line?

The WITNESS. It depends on what level you are. The higher up you go, the stronger the personalities are if you step out of hand.

Mr. RIDGE. Are you personally aware of whatever the organization is running this business, having enforced any of the penalties, and what are the penalties?

The WITNESS. Death.

Mr. RIDGE. Are you personally aware of situations where this has occurred?

The WITNESS. Yes, not personally, but I know of instances where individuals were killed.

Mr. RIDGE. And do you know what the conduct of one of these players was in that system that resulted in their death?

What did they do that the enforcer concluded the only way to take care of it was to terminate it?

The WITNESS. Well, there is one individual I know of, he was like on a high management level, and he split away and made his own deal.

Mr. RIDGE. You are talking about a high management level. You mean within the business of credit card frauds, or was in the high management level of one of the credit card companies?

The WITNESS. No, in the business level of the credit card of our company.

Mr. RIDGE. Of your company. And he was going to spinoff and incorporate himself and go in competition with the existing company?

The WITNESS. Well, from what I heard, he cut somebody out of a large sum of money. He like stole from the industry.

Mr. RIDGE. They wouldn't tolerate that?

The WITNESS. No, because you got to look at it like this.

Chairman ANNUNZIO. They don't steal from each other?

The WITNESS. If you have one card and you can do \$10,000, \$20,000, \$30,000 a card by milking; if you have 1,000 cards, you are looking at megabucks. You are not dealing in street play. You are dealing in large money, large quantities of money. So if you were ahead and somebody broke away from you and stole say like a million dollars worth of merchandise from you, wouldn't you kill him?

Mr. RIDGE. My time has expired.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Well, Mr. Ridge, we are going to get back to you. Each member will be assigned 10 minutes.

Mr. Patman is recognized for 5 minutes.

Mr. PATMAN. Thank you, Mr. Chairman.

I would like to ask the witness if there were many deals that you made in the use of your credit cards in purchasing items with salespeople who were not a part of the arrangement?

The WITNESS. Yes.

Mr. PATMAN. Who did not receive payment or who were not sharing?

The WITNESS. Yes, it was. In that case I had proper identification to play the role of that individual.

Mr. PATMAN. What percentage of your operation was conducted with such people, and what percentage was conducted would you estimate with people who were really a part of the arrangement?

The WITNESS. I would say at least, well, 25 percent of the individuals were not—were not down with the deal.

Mr. PATMAN. So 75 percent of the transactions took place with people who were really a part of the—

The WITNESS. That is correct.

Mr. PATMAN [continuing]. Operation?

The WITNESS. That is correct.

Mr. PATMAN. And they were receiving money or something?

The WITNESS. They would receive money, or they would take merchandise. They would bill the card for something.

Mr. PATMAN. Why weren't there stronger penalties? You mentioned slaps on the wrist. You mean the authorities, when they would catch someone using a credit card that they didn't have any ownership to, would just look the other way, or would just—

The WITNESS. Well, you figure you are like this, dealing with the law on the credit cards. If—they will bust you. You can get out on bail. You don't have to worry about that case because you can stack them up. Stacking up, you can get busted 5, 10 times. Then when you go to court the last time, it is let's make a deal. All right, I will take 6 months, I will take a year.

Mr. PATMAN. You are talking about plea bargaining?

The WITNESS. That is correct.

Mr. PATMAN. Were you provided with legal representation at these by the organization?

The WITNESS. No. You won't need it. You use legal aid. Let the city pay for it.

Mr. PATMAN. Have you actually been represented by legal aid?

The WITNESS. Yes, I have.

Mr. PATMAN. What did you tell them about your situation, that you were innocent, and it was all a trumped-up charge?

The WITNESS. No, you don't have to plead innocent. You can tell them you are guilty because you won't get anything. You are going to get a fine, 30 days, 6 months. I will take that shot for \$20,000, \$30,000 any day of the week.

Mr. PATMAN. Did you find one or more credit cards more useful than others?

The WITNESS. Master Charge and Visa. Generally people use American Express for pleasure, you know, like restaurants, renting a car, getting airplane tickets. But for working, the working card was the Master Charge and Visa.

Mr. PATMAN. Did you find the credit card companies themselves employed agents or others to try to help curb this type of operation?

The WITNESS. Yes, sir, everybody is trying to. But they can't stop it. You will never stop this.

Mr. PATMAN. How about bank credit cards, where you could go to a teller, one of the automatic teller devices and get money. Did you ever try that?

The WITNESS. I have tried the cash withdrawal.

Mr. PATMAN. Sir?

The WITNESS. I have went to the bank using the live teller.

Mr. PATMAN. Did you ever use bank checks and that type of thing?

The WITNESS. No, I wouldn't want to, because using a check, it is like ridiculous. You go to sign a check, they want all kinds of ID's. You take a piece of plastic, you can get anything you want.

Mr. PATMAN. I think I will yield back, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Patman.

Mr. Witness, I would like to go back to the school. That intrigues me. Graduation time I suppose they have diplomas.

The WITNESS. Diplomas is the green.

Chairman ANNUNZIO. What can you tell us about the so-called credit card school?

The WITNESS. Well, schools are set up by old veterans that try to work it. They set up, they educate, they teach, they teach how to sign, how to talk, what to look for when you are in a store.

Chairman ANNUNZIO. How to dress, too?

The WITNESS. That is correct.

Chairman ANNUNZIO. As an example, they teach you how to talk, and they teach you how to dress. What kind of dress do they tell you to wear?

The WITNESS. You wouldn't expect me to use, say, an American Express card, Gold American Express card going into a bank, wearing blue jeans and sneakers.

The first thing you have to go into a store and get you a wardrobe. Once you get your wardrobe up to snuff, up to par, then you can work. Then you can go in any establishment without any problem.

Chairman ANNUNZIO. What cautions do they tell you to take when you are using a credit card?

The WITNESS. Generally the caution is if the clerk stays on the phone over, say, 5 or 10 seconds—because normally when they call for the code, then you have a delay period, where they are keying the number in. Once the number comes back, you get a code, they give you a code. What happens is, if the code is turned up red, which you will know because generally you call up for authorization before you go to anyplace and work the card. Now, you will see the clerk. The clerk will start looking, looking around.

Chairman ANNUNZIO. From the testimony that you have given, and the questions you have been answering, I can see unfolding here a very, very large racket that is operating in the United States of America presently untouched by law enforcement agencies, wouldn't you say?

The WITNESS. Well, I would say, the law enforcement agency, in my view of it, I don't think they think that credit cards is a dangerous crime.

Chairman ANNUNZIO. But this is an organized operation. There are people who set up these schools. There are people who recruit people to go to these schools. There must be some kind of an organized organization, organized crime that is operating this very, very lucrative racket that has not yet come to the full attention of the American people. Would you agree with that?

The WITNESS. Yes, sir, I would.

Chairman ANNUNZIO. Just like in any other racket where they have the bosses at the top and somebody is making a payoff, and

somebody is cutting up the profits, when you were operating as a credit card criminal, were you making payoffs?

The WITNESS. No, sir. I wasn't at that level. What I was, I was a street worker.

Chairman ANNUNZIO. You were a street worker.

Now, you got the money, and the street worker, did you report to anybody?

The WITNESS. The individual that gave me the cards to work.

Chairman ANNUNZIO. You reported to the fellow that gave you the cards?

The WITNESS. That is correct.

Chairman ANNUNZIO. And you reported your receipts?

The WITNESS. I gave him all the merchandise and the receipts of everything that I did that day, and I got a percentage out of that.

Chairman ANNUNZIO. How do you go about getting cash with your credit cards?

You know, you told us about merchandise. There are people who get cash for credit cards?

The WITNESS. Yes. Some stores you can go into and you do cash deals. If they can call up for—say they call up for \$500, they give you \$250, they keep \$250.

Chairman ANNUNZIO. Did you take advantage of that?

The WITNESS. Yes, I did. I took advantage of anything that I could.

Chairman ANNUNZIO. Anything you could make a buck on?

The WITNESS. That is correct.

Chairman ANNUNZIO. That is why you were the best in your business?

The WITNESS. I wouldn't say I was super, but I existed.

Chairman ANNUNZIO. But you made a living?

The WITNESS. I made a very good living. I went from hot dogs to caviar.

Chairman ANNUNZIO. The thing that would be interesting to the subcommittee—and I would like to know—is when you were a street man, you reported to somebody, and this somebody reported to somebody else, and they set up this entire procedure—could you tell the subcommittee if, to your knowledge, there was any law enforcement agency, local police, State police, county police, involved in the sense that they were getting a payoff, knowing who some of these bigwigs were, how they made their money?

The WITNESS. No, sir. I couldn't answer that, because I was never on that level to deal with those individuals like that. But I know from hearsay that there are people on the take.

Chairman ANNUNZIO. You know from hearsay that there are law enforcement people on the take?

The WITNESS. That is correct.

Chairman ANNUNZIO. In this racket?

The WITNESS. Yes, sir.

Chairman ANNUNZIO. In other words, there is really no racket that can ever exist just like prohibition—it wasn't the fact that everybody started to drink again; it was the fact that because people were on the take, nobody ever stopped beer and whisky from being made in the United States during prohibition?

The WITNESS. Yes, sir.

Chairman ANNUNZIO. My time has expired.

Mr. Prins, you have a question?

Mr. PRINS. Yes, sir, Mr. Chairman.

I think this will give the members a little more of an insight, perhaps induce some questions from them.

Mr. Witness, at one time you were part, as we talked earlier, of an organized credit card ring which operated every day with certain rules, you had patterns, you had cards, you had teams, you had places to go. And you had players in this game that were hitters and bumpers.

Would you tell the subcommittee, and take us through a typical day, as to how your group would go to work and what you would do?

The WITNESS. A typical day, the group that I were working with, we was working something like three to four cars deep, with three to four individuals in each car, each individual supplied with a fresh card to work. And we would work starting at the crack of opening stores, all the way through Manhattan, Brooklyn, Queens, Long Island. By the time we would wind up in the afternoon, we would drop off our merchandise to a specified location. Then we would go back to the city and start all over again. And that went on 6 days a week.

Mr. PRINS. What is a hitter?

The WITNESS. A hitter is the one that is in the front. That is the presenter of the card.

Mr. PRINS. That is the person that goes in and presents the card?

The WITNESS. That is correct.

Mr. PRINS. What is a bumper?

The WITNESS. The bumper is the protection man behind him. What happens is, if an individual is new to the game, he doesn't know the rules, how to work real well, then somebody would go along with him for a safeguard.

Mr. PRINS. So it was his job if someone was onto you to make sure they were thrown off?

The WITNESS. That is correct.

Mr. PRINS. Was this operation, was this how you got caught?

The WITNESS. I got caught through stupidity.

Mr. PRINS. Through stupidity?

The WITNESS. That is correct.

Mr. PRINS. Why don't you tell the subcommittee, then, how that happened.

The WITNESS. I got caught trying to go down an up escalator. I can't run too fast, and I don't like running. And when I got down to the bottom instead of going one way, the normal route that you would go, I bucked the system trying to go the opposite direction, and I was flagged.

Mr. PRINS. What actually alerted the store people to your activity?

The WITNESS. I was working a dupe card, a double card.

Mr. PRINS. What is a double card?

The WITNESS. A double card is like you receive a card for yourself and your wife. It will come in the same name, but you get two cards.

Mr. PRINS. So you were working one card, and who was working the other card?

The WITNESS. Somebody else had the other card, without my knowledge, working it.

Mr. PRINS. And they would charge things and you were charging things?

The WITNESS. That is correct. And from what I think happened to me was they were working on one end of the aisle and I was working in midtown Manhattan.

Mr. PRINS. In this group you were working with on a regular basis, how many people were in that?

The WITNESS. Well, it depends. Sometime there would be three cars, sometime four cars. And all the cars were filled. It would be three or four people. So you figure, say, 12 people working.

Mr. PRINS. Twelve people, and each person had two cards?

The WITNESS. Yes. You had a backup card with you at all times, in case the card, for some unknown reason, it came up you know, they rejected a sale or something. So you go and use another card.

Mr. PRINS. So let's say you had between 24 and 25 cards on a crew each day?

The WITNESS. That is correct.

Mr. PRINS. New cards each day?

The WITNESS. New cards, fresh cards each day.

Mr. PRINS. So you are turning over 25 new cards every day. How much would each person charge on each card roughly?

The WITNESS. Well, whatever you had on your list to buy.

You see, you receive a list at the beginning. In the morning when you start out, you receive a card and your identification and everything, and you receive a list of merchandise that you have to purchase.

Mr. PRINS. What was some of the merchandise?

The WITNESS. Cigarettes, vacuum cleaners, Mixmasters, blenders, seasonal resale items.

Mr. PRINS. What about film?

The WITNESS. Film was another aspect. Film was generally worked on a bust card. You take the card and you work film. You buy two rolls of film which costs you \$32, and you can resell the film for \$9.50, \$10 for each pack. And there are stores set up just for the specific purpose of buying the film.

Mr. PRINS. Stores that were set up just specifically to buy stolen film?

The WITNESS. That is correct.

Mr. PRINS. To come back to my question, you have 23 cards a day going out. And you each had a shopping list for each card. What roughly would each person have purchased on these stolen credit cards by the end of the day?

The WITNESS. It is hard to say. You have to know the individual, if he was really hungry.

Mr. PRINS. What was your best day?

The WITNESS. \$5,000.

Mr. PRINS. \$5,000. Were you at the top of your group?

The WITNESS. Yes; I was.

Mr. PRINS. So you were the best producer?

The WITNESS. There were a couple of other guys working with me that was equal. We had to see who could do the most.

Mr. PRINS. You had a sales contest?

The WITNESS. Yes, sir.

Mr. PRINS. What did the winner of the sales contest get?

The WITNESS. He would get more money.

Mr. PRINS. And what did the loser get?

The WITNESS. Less money.

Mr. PRINS. Let me ask you one final question, and my time has expired.

You have talked about bust out joints and juice joints, places that will knowingly accept a stolen credit card. In the area where you live, in New York City, are these common or are they hard to find or what?

The WITNESS. Just walk out the door, they are there. They are very easy to find.

Mr. PRINS. Well, in downtown New York, what percentage of the stores would you say knowingly would take a stolen credit card?

The WITNESS. Ninety-five percent.

Mr. PRINS. Ninety-five percent of the stores in New York City, downtown, would knowingly take a stolen credit card?

The WITNESS. That is correct. You see, New York City, it is like the mecca of credit cards. I would say there are more credit cards used in New York City than any other city in the world. There is more fraudulent cards in use there than any other city of the world. And there is more money there than any other city in the world.

Mr. PRINS. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Mr. Vento is recognized for 10 minutes.

Mr. VENTO. Thank you, Mr. Chairman.

In terms of this activity, where you had organized groups that you were working with, obviously you would almost have to have different credit cards and go to different stores, wouldn't you?

The WITNESS. Well, in certain instances. If you had 10 cards on you, you have a store that was favorable to take it; you could get a 10-card store.

Mr. VENTO. Assuming that a store that was favorable to you, obviously you would not expect any trouble there. But obviously, if you are going into a store that is not cooperating in an organized way, where you would have to keep changing the cards, and so forth, then you have to assume that you are involved in an adverse situation at least with the credit card, right?

The WITNESS. That is correct.

Mr. VENTO. In a situation that is adverse, that is a little different.

Now, what would happen if someone that was not part of this group were to start going into an area where you were working?

The WITNESS. They would be told politely to get out.

Mr. VENTO. By whom?

The WITNESS. There are enforcers in it.

Mr. VENTO. There are enforcers there, in other words, some of the people that knew. Can you spot, for instance, other people that are working fraudulently with a credit card, yourself? You think you can pick that up pretty quickly?

The WITNESS. Well, I could. I could go in anyplace and spot somebody using a card, because I have been in it so long.

Mr. VENTO. When you said that 95 percent of the stores would accept these credit cards knowingly, even if it was false, they did not give a damn because they were going to get their money from the financial institution.

The WITNESS. That is correct.

Mr. VENTO. They put in the slip, get back their money, and the fact is that the financial institution either accepts it as a loss or tries to collect it from the consumer whose account that was charged on; is that right?

The WITNESS. That is right.

Mr. VENTO. And God knows what happens to those folks, if it is a single or just a couple of items, they may not even notice it themselves at first.

The WITNESS. That is correct.

Mr. VENTO. And so that is the problem. Now, you were talking about, there is a whole number of different credit cards. You pointed out these Master Charge and American Express were the most frequently used, produced, and so forth and so on. But there are other credit cards, too, on a national basis, like Sears and many others.

Is there really any fundamental difference?

The WITNESS. Yes; there is.

Mr. VENTO. Is there a fundamental difference in the way that these companies approach the problem of trying to protect the integrity of that card, between, for instance, Visa, Master Charge, American Express, and I guess I would throw in Sears, but there are probably other cards, too—Diners.

The WITNESS. You see, sir, with the stores like Sears and Macy's, and those cards, you would not want to use those cards, because you cannot use them, but in one store. So why take money you can go in and shop once or twice in a store. You buy a Master Charge, and you use it any where, any place, any time.

Mr. VENTO. That is right. I suppose Sears even accepts Visa or Master Charge.

The WITNESS. That is correct.

Mr. VENTO. The point is, though, is there any difference? Is there any clue that you can give us as to how to write better legislation or laws? This is obviously a growing problem.

The WITNESS. Well, I have seen in certain instances where the credit card companies were trying to tighten up. But they are going to have to pull out all stops if they want to stop it.

Mr. VENTO. What are you saying? That the attempts are not very good, not successful? Are they very difficult to circumvent or to avoid, if you want to use those cards?

The WITNESS. Well, you look at it like this. For every stoppage or roadblock they put up, there is always going to be a way to escape it.

Mr. VENTO. What are some of the things you have noticed in your career of illegally using these credit cards? What are some of the things that you noticed that they did, and could you give us any insights as to perhaps what they might do down the road, maybe either later or now? What do they do?

The WITNESS. Well, they are coming up now with the online machines, the computerized machines which really, it is a slight stoppage. But if I get a card from, say, like—say, if I get somebody in the post office to give me a card, I have to turn around, and I can go to the bank, itself, and represent myself as that individual, and turn that around to get my information.

Mr. VENTO. No way they can defeat you, then. Some of the cards you get, is it possible to get the cards directly from the financial institution under some instance?

The WITNESS. Some instances I have heard that they have got the master list of cards, the numbers.

Mr. VENTO. They get the master list of the cards and then you reproduce the numbers. But on some of the cards there apparently is a codified computered type of code that you cannot read directly; it is not just numbers. That is what you are talking about, that piece of tape on there?

The WITNESS. That is correct.

Mr. VENTO. But if you get the cards out of the mail, you can do that?

The WITNESS. That is correct.

Mr. VENTO. Furthermore, if you get the number, and very often without the card you can call in and order something, I suppose.

The WITNESS. Well, there is a lot of phoning in places; you can phone for merchandise, and just give the number. You don't have to go through that.

Mr. VENTO. But you have to get rid of that particular merchandise. But you say there is basically very little difference between the major credit card companies in the way that they deal with this particular problem; is that right?

The WITNESS. That is correct.

Mr. VENTO. In other words, there has been very little done in recent years to try and correct that, or at least if it has been done, it has been very ineffective.

The WITNESS. That is correct.

Mr. VENTO. And literally there are hundreds of people working with these cards in every major metropolitan community across this country.

The WITNESS. That is correct.

Mr. VENTO. And so billions of dollars are being lost or accrued to the cost of those that are legitimate using those credit cards.

The WITNESS. That is correct.

Mr. VENTO. And that there is very little organized effort to deal with it right now. In other words, you felt pretty safe, and today you would feel safe if you went back in the street on my credit card, or some other card, to use it; is that accurate?

The WITNESS. That is very accurate.

Mr. VENTO. What would you say your chances are of getting caught? If you made 100 transactions in an adverse situation, a situation where someone was not cooperating with you in terms of committing a crime, what would you say your chances are in 100 of getting caught?

The WITNESS. If I even got stopped, I am not going nowhere with it, because the guy doesn't want to get involved.

Mr. VENTO. You just give it back. He will take the card, tear it up.

And that is the end of the story.

The WITNESS. That is the end of it.

Mr. VENTO. You have lost your \$50 credit card. You go back and buy another one from someone else?

The WITNESS. That is correct.

Mr. VENTO. And that is the end of it. People just don't want to get involved; is that right?

The WITNESS. That is correct.

Mr. VENTO. And so long as they find something wrong with it, that is the end of it. You just go on to your next credit card.

The WITNESS. No; why should you argue. You just get another card, and go someplace else.

Mr. VENTO. That is the end of the story.

Mr. Chairman, I hope we can change that story.

Chairman ANNUNZIO. Thank you, Mr. Vento.

Mr. Lowry is recognized for 10 minutes.

Mr. LOWRY. Thank you, Mr. Chairman.

I won't need that amount of time.

I just keep hearing "organization" and "organization." I don't know—I mean, I don't think some of us know what we mean when we say organized crime. But how could all of this organization be going on if it is an organized crime operation that ties everything together? Isn't it an organized crime operation?

The WITNESS. Yes; it is.

Mr. LOWRY. Are these by regions, by city, by nationwide? In other words, would the organization be by city, or would it be nationwide?

The WITNESS. You are trying to get me to answer something that I could not say whether it was tied in city to city, or whether it was just localized. But I know from the magnitude of it, and the money involved in it, I think it is nationwide.

Mr. LOWRY. All right. The organization you were familiar with was organized by the city, I mean citywide?

The WITNESS. I just worked in the city.

Mr. LOWRY. Within the city. Did you feel that the operation was essentially tied all the way across that particular city?

The WITNESS. Yes, sir.

Mr. LOWRY. So, it was an organization at least for that particular city.

The WITNESS. That is correct.

Mr. LOWRY. All right. Thank you very much.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you.

Mr. Ridge is recognized for 10 minutes.

Mr. RIDGE. Thank you, Mr. Chairman.

Mr. Witness, you have revealed disdain for the law enforcement agencies and their approach toward dealing with repeat credit card offenders. Basically, you suggested that punitive measures that exist today, a slap on the wrist, 30 days in jail, 6 months in jail, is something that you, and I presume your fellow associates, would take for a hit of \$20,000 or \$30,000.

Is your feeling reflective of those other men and women who were street workers?

The WITNESS. That is right. They say, why should I have to worry? I know as the law stands right now, I am not going to get anything. And if I made enough money, I might even touch somebody's pocket, and I won't have to go anywhere.

Mr. RIDGE. With the knowledge that you have and the access to people that have worked with you, could you give us, could you give the committee, an idea of the number of people that are involved today out on the street, in your territory, New York City, that may have been previously arrested and convicted and done time and they are back out again?

The WITNESS. Wait a minute, I didn't understand all of that.

Mr. RIDGE. Can you give me an estimate of the number of people that your business, or that this entity uses, or employs on the streets in New York City, how many people would you say this involves, in terms of street people going into the stores in downtown Manhattan?

The WITNESS. Is that from the start of obtaining the card, or just from the point of working the card?

Mr. RIDGE. How about just working the card?

The WITNESS. Hundreds.

Mr. RIDGE. Hundreds? Can you give us an idea, of the number of people involved, how many have been arrested and convicted and go back out on the street and do the same thing?

The WITNESS. Well, I would say a few have been arrested and a lot of them have not.

Mr. RIDGE. You say a few do and a few don't.

The WITNESS. That is right. Because there is not time—it is not too many times that you find you go into a store and you get caught with a card. Say, you go to a store, and the guy tells you, take a walk, or tells you the card is no good; he tears the card up, and sends in for the reward.

Mr. RIDGE. So it seems at different levels, the organization plays on almost an indifference. They have seen you or your kind so many times before, take the card, and get out of here, and you just walk out the door.

The WITNESS. That is correct.

Mr. RIDGE. And then if you do get arrested—before the point of getting arrested, are you aware of any of the street workers upon arrest? In addition to the information they give you about how to dress and how to act, and where to get the card, are you also supplied information with whom to call when you get arrested, or are you on your own then?

The WITNESS. No. Certain splinter groups, they have a lawyer set up, where he is on retainer. So when you get popped, you just call the lawyer and tell him to come down.

And another entity, you just use legal aid. Because the way it stands, what happens—you go to court, and they tell you, well, how do you plead? Not guilty. So then you have to come back another date. So they give you bail. If they give you bail, you make the bail then. If you get popped, say, half a dozen times, in between that, it doesn't mean anything, because when you go back, you say, listen,

I plead guilty with the stipulation—that you put all my cases together, I take 60 days, I take 6 months.

Mr. RIDGE. So you consolidate four or five arrests, you plead to one or two, plea bargain the sentence, and go on with it?

The WITNESS. That is correct.

Mr. RIDGE. Recognizing that most of the courts, probably all the courts in the major metropolitan cities have a backlog of cases, they are basically not indifferent to you, but again in terms of priority with violence and drug-related offenses and everything else, on the pecking order in terms of priority, you sense that credit card theft and use is just not a high priority item; is that correct?

The WITNESS. Yes. So, if I go—say, I go into a bank with a pistol, and I rob the bank, I get maybe \$1,000, \$5,000, whatever it may be. Now, I get front page. I am a news item. I take a card, and I work it—say, I work it for a day, I do the same amount of money; I get busted. To them it is no big deal. Let's say the bank has plenty of money. And the banks are not paying. You are paying. So they all realize what is entailed in all this.

Mr. RIDGE. Have you, within this whole system, yourself, ever been ripped off by anybody else in the system?

The WITNESS. I have been ripped off. I have been ripped off by merchants.

Mr. RIDGE. The merchant got over on you?

The WITNESS. That is correct.

Mr. RIDGE. How does that happen?

The WITNESS. Well, in the majority of the times you go in—say, I have a specified item I have to get for somebody. Now, it may cost \$1,000, may cost whatever it costs. I know an instance where I had two items I had to get, and one item was like \$800, \$900.

So I took two cards. I got the first item. And the second, when I went in to get the second piece of merchandise, it was \$1,100. I gave him the cards. They came back and said I needed an I.D. I said I didn't have any. Go and come back. He gave me the cards back.

Later on, I used the cards in another store, and come to find out, the cards were over the limit. Knowing I had just bought the cards, and the cards were fresh.

Mr. RIDGE. The merchant probably took your card in the back, reported a transaction, came back, told you you were over the limit.

The WITNESS. That is correct.

Mr. RIDGE. Is there any appreciable difference, depending on the store or the credit card, in terms of information demanded from you as a prospective purchaser of some item between the credit card?

The WITNESS. The only thing they ask for in normal times is just a driver's license.

Mr. RIDGE. A driver's license.

The WITNESS. You can get a stack of those. They don't cost you but \$20, \$25.

Mr. RIDGE. You said earlier more often than not, before you go into a place, to make a purchase, you will call as a safety check to make sure that there is plenty of authorization left on the card; is that right?

The WITNESS. What I would do is call up the authorization board, and I would give them a merchant's number, and I would give them the amount I am charging on the card, and they will give me, if the card is good, they will give me an authorization code. And then I take the card and go into the store and work.

Mr. RIDGE. You are pretty well assured that when you walk in, just because you have made this card, that it is a fairly safe transaction, and you shouldn't run into any difficulty.

The WITNESS. That is correct. And if I run into difficulty—say, they want to talk. I said, listen, I just made a purchase for \$35 down the street. So the last thing they got on there is that authorization for that amount. They say, well, this is the person.

Mr. RIDGE. You mentioned that a source of some of these cards involved obviously thefts from their owners. Have you run into situations where the card may have been reported stolen; that when the phone call from the retailer or wholesaler was made, you checked on the availability of credit, you know that that retailer discovered it had been stolen, and did they ever come back to you and relate that information to you, and tell you to get out?

The WITNESS. Well, in some of the stores that I have worked, that are down with the deals, they will come back and tell me, and then some of the stores I know, that I know personally, will come and tell me, listen, you want to keep the card or let me send it in and get the reward. Now, if I am going to use the card for something else, I will say, no, give me the card. If not, if I have more cards, I say, here, take it.

Mr. RIDGE. Thank you, Mr. Chairman.

Chairman ANNUNZIO. I can understand, if a criminal goes in and robs a bank, he has a gun or a shotgun, he can inflict great harm; he can kill a guard; he can kill a teller in a bank.

A man goes in to rob a liquor store, he is using guns, you see. So, that when an individual gets caught, although the remuneration might be less, robbing a liquor store or bank, the court does not look upon that as a meager crime, because the possibilities, the chances of killing someone are there. But when you are a credit card criminal, there is no gun; there are no knives. Am I right?

The WITNESS. That is correct.

Chairman ANNUNZIO. It is just a transaction between you and the clerk. And it is more or less a clean crime.

The WITNESS. That is correct.

Chairman ANNUNZIO. The others are like dirty crimes. So, the public, you see, as far as the public is concerned, well, he ripped off the store; it is a rip-off; it is a clean crime, and why should the poor man be penalized for ripping off a store for a couple of hundred dollars. And this has grown into one of the most lucrative rackets in this country, because the losses to the large banks in this country are about a billion dollars a year; then the loss to the consumers must run into the billions and billions of dollars, and the loss to the business community must run into billions and billions of dollars.

I am trying to make a summation here. Would you agree with my statement that when you go to court, even the judges say that this is really a petty crime, no one could get hurt, and they maybe give you a slap on the wrist? Is that right?

The WITNESS. That is correct.

Chairman ANNUNZIO. Mr. Patman is recognized for 10 minutes.

Mr. PATMAN. Thank you, Mr. Chairman.

I would like to ask the witness, you identify this type of activity as credit card fraud.

The WITNESS. Yes, sir.

Mr. PATMAN. That is what it is known as in the business. Are there certain areas of the country that are known to be tougher to work than others for credit card fraud?

The WITNESS. Not to my knowledge, sir. I know of places that is supposed to be like a piece of cake to work in.

Mr. PATMAN. What are those areas?

The WITNESS. Some parts of Florida.

Mr. PATMAN. Any others?

The WITNESS. Well, New York is easy.

Mr. PATMAN. What about Chicago?

The WITNESS. Chicago, I really couldn't say the extent of it, because I have never worked in Chicago.

Mr. PATMAN. Well, you have heard people talk about this.

The WITNESS. I have heard. I have heard it is easy to work anyplace in the United States with cards. There is no problem with that.

Mr. PATMAN. How about Dallas and Houston, the same thing?

The WITNESS. I couldn't say, because—I can only say that I have heard it is easy to work—period.

Mr. PATMAN. How about small towns versus large towns? wouldn't they be harder to work?

The WITNESS. Harder to work in a small town, because everybody in a small town knows each other.

Mr. PATMAN. Generally, would your people avoid small towns?

The WITNESS. Yes, sir.

Mr. PATMAN. Towns under 50,000?

The WITNESS. A very small town, you would not want to work in, because everybody there knows everybody else. It is like a family.

Mr. PATMAN. You are talking about a real small town.

If you were walking into Macy's up in New York, trying to find someone who was engaging in credit card fraud, what would you look for?

The WITNESS. I wouldn't walk into Macy's. But if I went in there, if I was looking for something to work with, I would come out and ask the guy.

Mr. PATMAN. I am talking about if you are employed by the store to look for people engaging in credit card fraud, what would you look for?

The WITNESS. I would look for some individual that is too sure of himself.

Mr. PATMAN. And would he be making certain purchases over others?

The WITNESS. Certain items that they were purchasing.

Mr. PATMAN. What would those be?

The WITNESS. Easy resellable items, like film, cameras, jewelry.

Mr. PATMAN. Are the places along camera row in New York City favorite spots for credit card fraud?

The WITNESS. Beg pardon?

Mr. PATMAN. Are places along what is known as camera row in New York City favorite spots for credit card fraud?

The WITNESS. Yes. They are favorite spots for two things: On camera row, you can work there; but also you can wait until after the store is closed at night, and you pick up fresh numbers.

Mr. PATMAN. What would you do in that case?

The WITNESS. You can pick up fresh numbers, fresh credit card numbers.

Mr. PATMAN. How would you do that?

The WITNESS. They put them out in plastic bags for you.

Mr. PATMAN. Would they be in garbage?

The WITNESS. Yes, in the garbage, in the plastic garbage bags.

Mr. PATMAN. Can you think of ways that would be helpful in trying to discourage this type of crime, aside from a stricter enforcement, and maybe heavier penalties. I suppose you think heavier penalties would be of some help.

The WITNESS. Well, heavy penalties, stricter enforcement, and elimination of plea bargaining. You see, if any individual knows that in a certain crime he is going to get a lot of time, he will not be involved with it; I don't care how much money it is.

Mr. PATMAN. Can you describe how you would alter a card by ironing out the numbers?

The WITNESS. Well, I can only give you a rough idea, because I have never been involved in that level of business.

Mr. PATMAN. Well, you say you could give us a rough idea.

The WITNESS. Well, generally you take a card, a card you bust out, if you have worked, you have cleaned, you have dried, and you will press it out. Once you press it out, the rough edges of the numbers, you sand it off. Then take that with the new numbers and put it in the machine and bring some new numbers up.

Mr. PATMAN. If you had gotten some of these cards from these plastic bags behind the shops at camera row, would you insert those numbers on the credit card?

The WITNESS. That is correct. In that way I have a life account, which is in somebody else's pocket, and I don't have to worry about it. I don't have to worry about where the card is. The only thing I have to worry about, if the number that I got has not cleared the standing account.

Mr. PATMAN. Now, you mentioned the characteristic of—a person as being too sure of himself as being one indication of a person's engaging in credit card fraud. What other indications would you look for? Or are there ways of really telling it?

The WITNESS. It is really hard, because, you see, the individual is taught to blend.

Mr. PATMAN. What?

The WITNESS. He is taught to blend in. He is taught to make himself appear to be—to belong in that shop, belong in that area.

Mr. PATMAN. Would it help if credit card companies required the salesperson to sign the credit card, so that he can be identified in the case credit card fraud has been involved—following a pattern, determining whether some salesmen just habitually were involved in that sort of thing in a store?

The WITNESS. Well, I think the salesmen already sign the card; they give their initial and number on the credit slip as it stands.

Mr. PATMAN. A lot of times an assistant manager or manager approves the transaction, too. Is that right?

The WITNESS. No; the sales girls call up for it, or send it through the interline system they have.

Mr. PATMAN. Some organizations are more careful about that than others. What are some of those that are more careful and what are some of those that are not?

The WITNESS. Well, I think—like American Express; they are pretty hard to get over. That is why the majority of people don't like to work them. When you call up for authorization on that, if they hit that magic mark, that number that they deem, you call up, the authorization person must talk to the client, must get some information from the client.

Mr. PATMAN. Is that true, also, of Diner's Club and Carte Blanche?

The WITNESS. I tend to stay away from them. I work Mastercharge and Visa.

Mr. PATMAN. You think Mastercharge and Visa are the ones most people use to engage in credit card fraud?

The WITNESS. That is correct.

Mr. PATMAN. Any others that are attractive to people who like to engage in this practice?

The WITNESS. The majority of people who work cards like Mastercharge and Visa, that is their bread and butter.

Mr. PATMAN. Either Visa or Mastercharge?

The WITNESS. Either Visa or Mastercharge.

Mr. PATMAN. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Patman.

You know, you are in a unique industry. You require no inventory.

The WITNESS. That is correct.

Chairman ANNUNZIO. You know, another point very, very important is this garbage that is put on the street, where they have private scavengers collect the garbage—you talk about the slips being placed in the plastic bags, and someone goes along. Does your group have people that they hire to go around and look at these plastic bags, so that they can collect the slips every night?

The WITNESS. You really don't have to do it every night. You can go out on a good day, like a Saturday, Saturday night, and you can pick up 400, 500 slips.

Chairman ANNUNZIO. Do it once a week and pick up 400 or 500 numbers.

The WITNESS. That is correct.

Chairman ANNUNZIO. And use these numbers to counterfeit these cards.

The WITNESS. That is correct.

Chairman ANNUNZIO. Who are the people that they use? People like yourself?

The WITNESS. Well, they generally get—somebody—

Chairman ANNUNZIO. You can get someone—

The WITNESS. You can get anybody to do that.

Chairman ANNUNZIO. You can get somebody helping them to defray expenses for college. Tuition is high today. He is not doing anything. Just looking at a plastic bag and picking out a slip.

The WITNESS. That is correct.

Chairman ANNUNZIO. So, if you get a few bucks for every slip, he can pick up 50, a couple of hundred on a Saturday night; is that right?

The WITNESS. That is correct.

Chairman ANNUNZIO. Pay for the numbers.

The WITNESS. That is right.

Chairman ANNUNZIO. Actually, you never run out of numbers.

The WITNESS. You never run out of numbers.

Chairman ANNUNZIO. Mr. Ridge?

Mr. RIDGE. Mr. Witness, I sense that the business calls for somebody with considerable street smarts, somebody that is willing to play by certain rules, go to your schools. But really all you need is a card, be patient, don't panic at the counter, chances are real good 90 to 95 percent of your transactions, the only thing you really need at the counter for a successful transaction is the card. Is that correct?

The WITNESS. That is correct.

Mr. RIDGE. The card and some cool.

The WITNESS. That is correct.

Mr. RIDGE. What would be the consequences if in addition to giving the card number, you also had to relate other personal information that could be cross-checked? Let's say, for example, you are talking about taking the slips out of the garbage, and you are going to remelt the card, and you work with cool and a number. You don't have a social security number. You are going to get that in most of the transactions?

The WITNESS. The normal way to do that is you find out where the individual lives at. You actually phone him, call him up on the telephone, and tell him you are his surveyor for any organization, that you need some pertinent information about the individual, you want to send him a free gift, night out on the town. They give you any information you want. You can ask him his social security number, driver's license number. They will give you everything, as long as they think that they are getting something free.

Mr. RIDGE. So that is the point I am trying to make. Are you equipped and prepared with that kind of information when you go in for the majority of these transactions?

The WITNESS. Not the majority of the transactions, because it is too time consuming. Time is money. When a store opens in the morning until it closes at night, you have to work. If you want money, you have to get out and work for it.

So, we don't have time to labor over the fact to find out whether a guy was born in Canada or wherever. So, you go to the stores that you are familiar with; you set up your stores; you set up a list of stores. Any man—say, he can get up 20 or 30 stores that he can work with constantly, you don't do anything else. The stores are milked out; you are. Everybody is happy.

Mr. RIDGE. The network is designed so that you really don't need this kind of information.

The WITNESS. Not really. Not unless you go into—you go into specified merchandise. And then you have to—you really have to—

Mr. RIDGE. Then you would prepare.

The WITNESS. Then you would prepare.

Mr. RIDGE. Thank you.

Chairman ANNUNZIO. Thank you, Mr. Ridge.

You know, Mr. Witness, the more I listen, and I know what we have written in our Credit Card Protection Act, but this racket of counterfeiting credit cards, using the credit card, is almost an impossibility, almost foolproof from the point of view of prevention of crime because it is so easy to, the way it is organized, to do business.

But under the Credit Card Protection Act, Mr. Witness, I don't know if you can shed some light, but we are going to make it illegal to distribute credit cards with credit card numbers except on a very limited basis. What do you think of that? We are talking about Federal law. There is no law today that covers it.

The WITNESS. You talk about now, instead of me dealing with the city law, I am dealing with—if I am dealing with FBI, I got to change my act.

Chairman ANNUNZIO. Now, second, you mentioned the FBI, and I was getting to that. Once we make this a Federal crime, then the FBI comes into play. It will make possession of 10 or more stolen or counterfeit credit or debit cards a Federal crime. Now, that brings the Federal Government into play. Will that have some effect?

The WITNESS. Yes, it would have some effect. But you look at it like this: You are telling me 10 or more cards. So you give me an out there; so instead of having 10 cards or more, I have 5. I am still dealing with five cards. You are giving me a stake there. You are giving me a point that I can work with.

Mr. PRINS. Mr. Chairman, if I might—that would be true for you as the hitter working on the street. You might only have two. But you have got to get your cards from a supplier. Isn't that going to make it more difficult for the supplier to get cards to you?

The WITNESS. All right. It will make it difficult for me to get the cards from the supplier, because he is not going to have the cards now. But then I can turn around and go out on the street and get one or two cards, three or four cards, whatever I want to work with that day.

Mr. PRINS. But if you knew that—on the street, what do they call the FBI?

The WITNESS. I really wouldn't like to say.

Mr. PRINS. What does the term long envelope mean?

The WITNESS. That means the guy with the three letters, FBI, is coming after you.

Mr. PRINS. On the street, don't they call the FBI the long envelopes?

The WITNESS. You don't want—you know it is over with, because when they come to get you, they got everything they need to get you.

Mr. PRINS. If the FBI or maybe even the Secret Service, if they got involved in this, it would scare people a little bit, wouldn't it?

The WITNESS. It would scare the hell out of me.

Mr. PRINS. Scare the hell out of you?

The WITNESS. That is correct.

Mr. PRINS. Would you stop?

The WITNESS. I would go to another type of business.

Chairman ANNUNZIO. The present Federal law comes into play when an individual charges more than \$1,000 on a single credit card. This particular change makes the \$1,000 figure applicable to one card or a group of cards.

I am trying to explain how we would bring Federal law into play. And when we say 10 or more, I realize the other problem, that you can operate well with 5 cards. But because of the amount of paperwork involved, we are not trying to get so much the street guy as we are the distributor who distributes the cards to the street men. We have got to tighten this up along the line, and that is the reason that I am asking for your opinion, and how you feel we can bring the Federal Government into play, because they don't fear the local law enforcement officials. Am I right?

The WITNESS. That is correct. You are not going to get anything.

Chairman ANNUNZIO. The local law enforcement officials are ineffective because they have got so much crime that is taking place on Broadway in New York—we have crime on Broadway—besides plays, the outstanding shows of the world, at the same time there is a hell of a show going on right on the street.

The WITNESS. A lot of show. And it is 24 hours a day.

Chairman ANNUNZIO. Twenty-four-hour-a-day show going on, right on the street.

But I wanted to have you tell us about the type of equipment that is used, what is necessary to make a counterfeit card.

The WITNESS. Sir, I really could not elaborate on that, because I have never been in that area of the business.

Mr. PRINS. If I might interrupt, isn't one of the reasons also why you are reluctant to talk about counterfeit credit cards, is that the last three people that tried to cooperate with authorities to explain credit card operations suddenly stopped breathing?

The WITNESS. Yes, sir.

Mr. PRINS. That is one of the reasons you are afraid to talk about it.

The WITNESS. That is correct.

Mr. PRINS. So, there is really, in the area of the fraud—the counterfeit operation is more of the hands-off type of area than buying a credit card from a prostitute.

The WITNESS. That is correct.

Mr. PRINS. That is the stuff that the smart guys want to stay out of; they don't want to talk about that, if they want to stay alive.

The WITNESS. That is correct.

Mr. PRINS. Do you fear if you talked about that today, that your days might be numbered?

The WITNESS. If they found out who I was.

Mr. PRINS. You think they would kill you?

The WITNESS. As likely as night and day.

Chairman ANNUNZIO. You know, this particular committee, speaking for myself, it has been about 18 years we have been involved in this problem of credit cards. The public is unaware, I am sure—they are unaware—but about 18 years ago, in my own city of Chicago, the large banks of that city mailed credit cards to everybody whose name appeared in the telephone book. There were no credit checks of any kind. Some of the largest banks in Chicago—

and I was a member of this committee—lost \$20 million, lost \$40 million.

We have been, throughout all the years, through legislation, attempting to refine the distribution of credit cards. I remember the electronic fund transfer system and the investigations that this committee made on debit cards, and the legislation that was passed in order to prevent abuses in that particular system. But I have noted throughout the years that the abuse of the credit cards to the American taxpayers has become more and more prevalent and more and more costly. And we have reached almost an impasse as to what to do with this tremendous problem, because so many people—I have even advocated a cash society.

Today, we live in a cashless society. If there is anything that irritates me, and I do quite a bit of shopping—being chairman of this Consumer Affairs Subcommittee, I like to know what is going on—today, you go into Dart Drug and People's Drug, and people up on the hill, everybody is so smart, they got a credit card, and you got to wait in line for the damned clerk to write out the slip, with the individual signing. No one seems to pay cash. You go to Safeway, and you have this problem.

Now, people might think they are getting away with something. You are not getting away with anything. Because the cost of whatever item you are buying, you can add another 5 cents or 10 cents, because of the stealing that is going on, because of these credit cards. And until the public educates themselves not to have so many credit cards for every item.

Now you might say, what about me? If I tell you this, you won't believe it. But I have one credit card that I have used, and that is my gasoline credit card, and that is all I have. I have been married 47 years, and I don't allow a credit card in my house. But I have got three married daughters, and they make up for what their mother has not used all these years.

But we are lazy; we don't want to draw our money out when we get paid—take a hundred out, go out and use cash. We want to make it easy.

Well, these credit cards that you have in your purses and in your pockets, these credit cards, when it hits you, you are going to find out how bad it is, because I get the mail, I know the people that have gotten hit, where they got a bill for \$1,000, \$2,000, \$3,000, merchandise that they never bought. The panic in this household. The frenzy that the women work themselves into, you see, after the bill comes.

Somebody has to pay the bill. And we are paying the bill through inflation, we are paying the bill through high interest rates, and we are paying the bill through higher prices that we pay.

We are going to continue these hearings at a later date on this legislation.

We want to gather some more information on how we can deal with this problem on the floor of the House. We have no problem in passing a bill in the subcommittee or even going to the committee, because the need is great.

But I know that, Mr. Witness, at great personal sacrifice and great risk, you agreed to testify. As chairman of this subcommittee, we appreciate your testimony. Your answers were frank, construc-

tive. I am sure that the American public will be the beneficiary of your good answers this morning.

One more request that I have in concluding this hearing: I would appreciate the people remaining while the witness is escorted out of the room. And once he leaves, then you may leave.

Thank you very much, Mr. Witness.

[Whereupon, at 11:55 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

THE CREDIT CARD PROTECTION ACT

WEDNESDAY, JULY 6, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Sarasota, Fla.

The subcommittee met, pursuant to call, at 9:40 a.m., in room 106, city council chambers, Sarasota, Fla.

Present: Representative Annunzio.

Also present: Representative Mack.

Chairman ANNUNZIO. The meeting of the subcommittee will come to order.

This morning I would like to welcome my distinguished colleague, Hon. Connie Mack, to the subcommittee. He is a first-term Republican Member of Congress and a banker by profession.

He has lived in the Cape Coral area since he was 11 years old. Congressman Mack was the only freshman appointed to the Budget Committee of the House of Representatives.

Everyone knows that Mr. Mack has a famous grandfather, and I am not referring to his baseball namesake, but the Senator, Morris Sheppard, who served 30 years as a Democrat from Texas.

Connie Mack, I welcome you to the hearings this morning.

Mr. MACK. Thank you. I appreciate the opportunity to be here, and I really thank you for providing me with the opportunity.

What you have done in the particular area we are going to discuss this morning and other related items are not only of interest to me but I think of great interest to the country.

And I thank you for what you are doing and, again, thank you for the opportunity of being here.

Chairman ANNUNZIO. I want you to feel free to participate as a full member of this subcommittee.

Mr. MACK. Thank you. I will.

Chairman ANNUNZIO. This morning the subcommittee is holding a hearing on H.R. 2885, the Credit Card Protection Act, with specific emphasis on the section of the legislation dealing with the distribution of credit card numbers.

At the present time credit card numbers are bought, sold, traded or exchanged like so many bubblegum cards. The ease with which credit card numbers are obtained has led to problems for consumers across the country.

It is a relatively easy matter for a person who has knowledge of another person's credit card number to use that number to make purchases. With the same ease, a company can use the account

(45)

number to bill a consumer for a product or service that they did not order.

Apparently this is what happened in a large number of cases dealing with Credit Marketing, Inc., [CMI] which was headquartered here in Sarasota. The company sold a credit card protection program through the mail or mainly by telephone solicitation.

Customers were sold either a 3-year, 7-year, or lifetime contract for fees ranging from \$36 to \$99.

The subcommittee has learned that in most of the cases CMI had the customer's credit card number prior to making the sale contact. There is a mountain of evidence that indicates that many people who were charged \$49 for a 7-year protection program never ordered the program but nevertheless their credit card accounts were charged for the service.

Our investigation has turned up thousands of letters and complaints about CMI's billing practices. In one case the company claimed that a consumer had agreed to buy its credit card protection plan when, in fact, that consumer had been dead for 2 years prior to the telephone solicitation.

In another case a consumer who supposedly had been contacted at his home and agreed to buy the plan had been out of the country for more than a year surrounding the time when the solicitation took place.

In another instance, the company billed a credit card account for a protection plan claiming that the individual who owned the card had ordered the plan. An investigation revealed that the credit card had been stolen months earlier and the account canceled, so it would have been impossible for the original owner of the account to authorize any billing to the closed account.

There are literally hundreds of such stories concerning CMI, and many of them will be told by witnesses before the subcommittee this morning.

We will hear of the thousands of consumers who tried to get refunds when they wanted to cancel the unwanted policy.

According to former employees interviewed by the staff, there were between 20,000 and 25,000 consumers seeking refunds when CMI closed its doors, and apparently those consumers will never get their money.

Financial institutions across the country have lost untold thousands of dollars because of CMI's operations. These financial institutions processed credit card charge slips for CMI and when customers complained about unauthorized charges, the banks removed the charges from the customers' accounts but were unable to recover the money from CMI.

The criminal and civil liability of CMI is not for this subcommittee to ascertain. That will be done, at least in part, by a U.S. Justice Department investigation currently under way.

I do know, however, that CMI would not have been able to gain access to thousands of consumer credit card accounts if they did not possess the numerical key—the credit card account number.

There was no need for CMI or for any company conducting sales solicitations to have possession of consumers' credit card account numbers without the direct authorization of the consumer. If a con-

sumer sincerely wants to purchase a product or service, they will be willing to disclose an account number.

This is why a portion of H.R. 2885 prohibits the purchase of account numbers in the manner that CMI operated. Had the law been in effect last year, the problem of CMI might not ever have occurred.

One of the incredible parts of the CMI story is the ease with which the company obtained account numbers.

In a number of cases, it purchased thousands of tissue copies of credit card sales slips from retail stores throughout the country.

In one instance, it was negotiating for the purchase of 50,000 credit card sales slips from a New York City retailer. It also purchased sales slips in this very area. It also purchased lists of prospective clients from financial institutions, gasoline companies, clothing stores and numerous mail order houses.

It had contracts with several individuals who were paid on a commission basis to obtain lists. Some of the lists did not contain credit card numbers, but it was the credit card number that CMI sought.

And, in fact, its contracts for list purchases specifically required credit card numbers. Where numbers were not available on the list, the company obtained literally thousands of credit reports which clearly showed the credit card numbers.

The blame for CMI does not rest entirely with the company. Much of the blame must be shared by those who assisted the company by either processing credit card slips, shared in the profits of CMI's solicitation, provided thousands of possible unauthorized credit reports, or supplied thousands of names, addresses, phone numbers and credit card numbers without so much as a casual inquiry as to how the company would use the information.

One witness before the subcommittee this morning was reluctant to testify because, as he stated, "We don't want any bad press." Had that witness and his company used that same precaution when dealing with CMI originally, they would not have had to worry about bad press.

Certainly if someone has not done anything wrong, they should have no fear of bad press.

It was the original intent of the subcommittee to subpoena the principal owners of CMI, Mr. John Guenther and Mr. Albert Loring. The subcommittee staff tried in vain to reach the two gentlemen to invite them to appear voluntarily.

But the staff was unable to locate Mr. Guenther and Mr. Loring. I rejected the subpoena idea after correspondence with the Justice Department that indicated there is an active, ongoing criminal investigation of CMI. The Justice Department felt that the subpoena might jeopardize the investigation.

I am disappointed that the Justice Department objected to the issuance of subpoenas. The Banking Committee has issued numerous subpoenas in the past in connection with bank failures. None of those subpoenas jeopardized any investigations, although the committee was investigating bank failures involving hundreds of millions of dollars.

Witnesses interviewed by the subcommittee staff repeatedly told of how they contacted the Federal Bureau of Investigation with information, but the FBI did not seem interested.

Months have gone by since the problems involving CMI were reported in the press and acted upon by the Florida Attorney General's office.

Tens of thousands of important documents were abandoned by CMI when it closed its office in March, but no officials contacted the landlord about these documents.

The Justice Department gave the subcommittee no explanation, even on a confidential basis, why subpoenas would jeopardize its investigation.

I sincerely hope, contrary to the evidence of inactivity, that the Justice Department is truly pursuing an active and aggressive investigation.

If criminal conduct took place on the part of CMI, I expect the Justice Department to move quickly to bring about indictments. If the Justice Department feels that there was no criminal or civil violations, then it should complete its investigation as rapidly as possible.

Before calling the first witness, let me point out that all witnesses appearing today have done so voluntarily. No witness has been promised immunity of any type and no expressed or implied immunity is in any way suggested or offered during these hearings.

All witnesses will be testifying under oath with the exception of those who are required to take an oath of office in the performance of their duties.

Our first witness scheduled this morning—I don't know whether he has arrived, but I will just make the announcement—is Mr. Kendrick Tucker, deputy attorney general of the State of Florida. He is having difficulty, like most of us do that use airplanes. Sometimes—most of the time—they are on schedule, but sometimes they are off schedule. So we will proceed with the hearings and when Mr. Tucker arrives and we get through with the witness, we will ask him to take the witness stand.

OK. Is Mr. Mike Ricco, Jr., former CMI employee, here?

Mr. Ricco, will you please take your seat?

[Witness sworn.]

Chairman ANNUNZIO. Thank you, Mr. Ricco. You may proceed in your own manner.

TESTIMONY OF MIKE RICCO, JR., FORMER CMI EMPLOYEE

Mr. Ricco. I have been asked by Mr. Prins to give basically my job description at CMI.

I was employed by CMI from September 3, 1982, to be exact, and I was hired as a customer service supervisor.

My job was to answer the calls that came in with whatever problems the customer might have, whether it be requesting a refund, cancellation of their service, or to report lost and stolen credit cards which we also handled quite often.

I worked there again from September 3 until the company closed, which was in the latter part of March.

Chairman ANNUNZIO. Mr. Ricco, you had a job as a customer service representative, is that true?

Mr. Ricco. That is correct.

Chairman ANNUNZIO. And as a customer service representative, how many complaints a day did you get?

Mr. Ricco. Well, that varied. When I started in September, the complaints were few, actually. They increased approximately November or December, and we took anywhere from 30 calls a day per person to probably the most we took was about 120 a day when we were down to a staff of just 2 in our department.

Chairman ANNUNZIO. In listening to these complaints, did you hear from the same people over and over again?

Mr. Ricco. Several times we did, yes.

Chairman ANNUNZIO. Just exactly what did you tell these people who called two, three and four times?

Mr. Ricco. Well, those calls in the beginning of my employment, that really didn't happen. It happened toward again the latter part of December and into January and February when we started getting a little bit backed up with the customers.

What I told them was I would try to get their credit out to them as quickly as possible, which again we tried to do in customer service.

Chairman ANNUNZIO. As a customer service representative, for the record I want to make it clear that your job was to service customers?

Mr. Ricco. That is correct.

Mr. PRINS. Mr. Chairman, if I might interrupt for a second so we could pursue that just a little bit further, were you, in fact, able to service customers and get them refunds?

Mr. Ricco. To an extent, but I had really no control over what credits were issued, and, again, in the beginning, we had no problem; the call came in one day, the following day the credits were issued.

Again, in the later part of December and January, it became more difficult, and that was something that unfortunately was out of my control.

Mr. PRINS. Whose control was it in, Mr. Ricco?

Mr. Ricco. Well, Mr. Prins, I am not exactly sure. The system was set up where we took a call, filled out a cancellation slip; that cancellation slip was paired with the sales order, the original sales order that had come into the company, and they were put in a processing center that we had constructed.

Mr. PRINS. One final question in that area. When CMI closed, how many charge-backs, how many credits would you estimate were in the office unprocessed, people still waiting for their money?

Mr. Ricco. Approximately?

Mr. PRINS. Yes, sir.

Mr. Ricco. I would say approximately 18,000 to 20,000.

Mr. PRINS. 18,000 to 20,000?

Mr. Ricco. Correct.

Mr. PRINS. And these would be \$49 charges, \$99 charges?

Mr. Ricco. Mostly \$49 charges. There were some \$36 charges. There were also some \$7 charges for 1 year plans.

Mr. PRINS. If my arithmetic is correct, that totals nearly \$1 million in refunds that people wanted. Would that be basically correct?

Mr. RICCO. I would say approximately. A lot of those people, or some of those people—a problem that we had run into also was that some of the people that were issued credits had also requested a credit from that bank and in turn got two credits.

Some of the people that were in those requests for their credits were at the same time applying to their banks for credits.

Mr. PRINS. Thank you, Mr. Chairman.

Mr. MACK. In your opening statement you made a comment having to do with handling lost or stolen cards.

Mr. RICCO. Right.

Mr. MACK. "This is something we also handled," which sounded as if it was a very insignificant part of your responsibility.

Mr. RICCO. Not at all. We had a separate department which was also under me as customer service that handled lost and stolen cards, and they did it all day. There were thousands that they had done.

I am sure they kept a log of the cards they reported. It was a very active part of it, actually.

Mr. MACK. I assume that you spent most of your time then in the customer service aspect of trying to follow up on individuals who had either called in indicating that they didn't know anything about what was going on and they never authorized the purchase, or they just decided to cancel it?

Mr. RICCO. Correct. That was the major part of my work.

Mr. MACK. In your opinion, what percentage of the people that called in canceled the contracts, so to speak? In other words, how many people had actually over the phone said, "OK. I am going to go ahead and buy this service," and then at a later date changed their mind?

Mr. RICCO. Of the calls I received?

Mr. MACK. Yes.

Mr. RICCO. I would say probably 60 percent.

Mr. MACK. You believe it is 60 percent? Well, let me back up and use some numbers again. Was the figure 18,000 or 20,000?

Mr. RICCO. They were the people that had contacted us to cancel and request a refund, correct.

Mr. MACK. And the refund at that point had not been taken care of?

Mr. RICCO. From our office, no.

Mr. MACK. You would estimate that about 60 percent of those people had actually agreed to the purchase over the phone but now had changed their mind?

Mr. RICCO. I would say 40 percent of them agreed to it and changed their mind.

Mr. MACK. So 60 percent of that figure then are the individuals who claimed that they never had agreed to make the purchase?

Mr. RICCO. I would say so.

Mr. MACK. When you were hired, did you have any inclination that your job was going to center around trying to determine who had actually made a legitimate purchase?

Mr. RICCO. Absolutely not. I had no idea.

Mr. MACK. What were you told when you were hired? I mean, customer service can include a lot of things. What did you feel like you were going to be doing?

Mr. RICCO. I felt like I would be processing lost and stolen credit cards, whatever problems a customer might have, whether it was a billing problem or a problem in ordering, any aspect of customer service. That's what I anticipated to encounter.

Mr. MACK. Thank you.

Chairman ANNUNZIO. In customer service, when you ran into a problem with a customer who finally discovered that they were charged for a service that they did not order, what happened at that point?

Mr. RICCO. What happened at the point where they had contacted me?

Chairman ANNUNZIO. Sure.

Mr. RICCO. We filled out a request for cancellation and that went through a system where we had people that came around and picked those up and paired them with the sales orders. And they again were lined up for processing for a refund.

Mr. PRINS. Who did those slips go to after they left you?

Mr. RICCO. Well, they really went into—we had an office where those slips were kept. We had a filing system set up where they were kept in this particular office. We received a credit line each day and we would draw from that file system.

Mr. PRINS. But some people did get refunds, I believe you said?

Mr. RICCO. That is correct. Certainly they did.

Mr. PRINS. Who determined who got a refund and who didn't? Somebody had to make that decision. Was it you?

Mr. RICCO. It was me, based on the amount of credits we were allotted for a particular day.

Mr. PRINS. Who allotted you these credits?

Mr. RICCO. It just came through the banking line that we had, which really would have been, I assume, the comptroller in conjunction with, I would imagine, the owners. I don't know.

Mr. PRINS. If 100 people said, "We want a refund on Monday," and if you got a quota from the bank that said, "We will only give you 50," would that mean that 50 people that wanted a refund couldn't get it?

Mr. RICCO. At that time, no, they could not. For that particular day we would select 50 of those 100 people and the basis that they were accepted on for their credits or selected for was really the order in which they came in.

Mr. PRINS. So it was really the financial institutions that put the limitation on how much you could chargeback or credit in a given day?

Mr. RICCO. Pretty much so.

Mr. PRINS. Why would they put a limitation? If a person wanted to cancel the service and they had paid their money, wouldn't you think that they would have the right to cancel?

Mr. RICCO. Certainly they would. What would happen, though, is the banking institution really—of course, they had no strict rule that they could govern the company by, but what they did was, they had a certain percentage which they allowed in credits in

your banking deposit. If you exceeded that, 9 times out of 10 they wound up dropping your account.

So it was not only the limitations of the company but it was also the limitations of the banking system. If you sent in a deposit and 80 percent of that deposit was cancellations and refunds and credits, you probably wouldn't wind up with that bank very long.

Mr. PRINS. What I am getting at though, wasn't it the consumer who was ultimately the victim in this thing because of this arbitrary system on how much the bank would accept in chargebacks?

Mr. RICCO. I would say so. It was the consumer that overall suffered from it.

Mr. MACK. Can I—

Chairman ANNUNZIO. Sure, go ahead.

Mr. MACK. I would assume that really the thing that determined what could be charged back was the cash available so far as the company was concerned?

Mr. RICCO. Yes, that is also a factor. But again, if the cash was available and you sent in your deposit and 80 percent of it was refunds or credits, again that bank would drop you.

Mr. MACK. It sounds to me like it was really not so much the limitations placed on you by the bank as far as credits available. The company basically understood that if too many refunds had to be made that the bank was going to drop them.

Mr. RICCO. That is correct. It was more of an implied limitation by the bank. But, yes, the company was aware of the fact that if they did send out too many credits at a particular time, your merchant account would be canceled by the financial institution.

Mr. MACK. Did the company ever go to the bank and attempt to make any kind of other arrangement other than this separate limitation? For example, did the company charge another account for these?

Mr. RICCO. I have no idea. That wasn't something that I dealt in. I have no idea.

Mr. MACK. Let me just follow up on this.

Your responsibility again was customer service, and it sounds like it was kind of divided into two areas, one area with the responsibility of following up on the actual lost or stolen credit cards, to report that information, and the other part would be specifically in dealing with trying to get the customer a refund?

Mr. RICCO. Correct.

Mr. MACK. And now, was someone working under you that was in charge of customer refunds or credits?

Mr. RICCO. No; we had other people under me in the department. We had two other people that were also answering the phones and handling customer complaints. They were customer service representatives, yes.

Mr. MACK. It sounds like your responsibility was more one of an accounting process, I guess, as you were answering the telephone and then taking down the information as to who was entitled to a refund.

Mr. RICCO. That is correct.

Mr. MACK. And that information was then placed in some kind of filing system that was basically first come, first serve. As soon as the credits were available, the customer would get a refund.

Mr. Ricco. That is correct.

Mr. MACK. And it sounds like that refund was strictly based on credits that were available to you in such a way that you wouldn't lose your banking relationship?

Mr. Ricco. Correct.

Mr. MACK. Now, in your relationship with your superiors, did you ever get into a discussion as to this rather quickly growing, rather large list of customers that were not getting refunds?

Mr. Ricco. Well, I had gotten into that discussion several times with the director of operations of the company who—his primary job was to oversee the sales offices.

Mr. PRINS. Who was that, Mr. Ricco.

Mr. Ricco. His name was Mark Lieberman, and he is the fellow that I took my problems to.

Mr. MACK. Would you tell me what you considered those problems to be or when you went to him?

Mr. Ricco. Sure. Someone that had called up and said they did not want the service, they didn't order the service, they were billed for it anyhow; someone that the wife may have ordered it, the husband called up and canceled it, said they didn't want it.

Whatever I felt was of not a normal nature in a sales cancellation, if it seemed like something out of the ordinary, a customer that claimed they didn't order the service, never spoke to them, those problems I took to Mr. Lieberman.

Mr. MACK. Did he voice any concern that this number was growing or how were we going to pay for these?

Mr. Ricco. He told me it really wasn't within his realm and wasn't his responsibility. That's the answer I received from him.

Mr. MACK. And Lieberman would have answered directly to one of the owners?

Mr. Ricco. I would imagine that he would. I think Mr. Lieberman had probably as much control in the company as he needed to get a particular function of his job done. I think he was given that.

Chairman ANNUNZIO. Did you feel like there was anything wrong going on? Were you comfortable in your job?

Mr. Ricco. I was until the last few months when I felt like the problem wasn't really being resolved as quickly as I felt that it should have been.

But I look at that retrospective back to September and October when I initially started with the company even through to November and December, when someone called for credit, they received it pretty much the following day or usually within a 7-day period.

Chairman ANNUNZIO. How many banks, to your knowledge, dropped CMI?

Mr. Ricco. I have no accurate figure on that.

Chairman ANNUNZIO. If they were getting pretty shaky at a bank and a bank would drop the account, they would have to have a new bank connection, is that correct?

Mr. Ricco. That is correct.

Chairman ANNUNZIO. And you have no knowledge of how many different banks participated with CMI?

Mr. Ricco. I have no knowledge. Anything I could furnish would be a guess.

Chairman ANNUNZIO. They couldn't operate without a bank?

Mr. RICCO. Absolutely not. They would have nowhere to put their deposits.

Mr. PRINS. Mr. Ricco, let me follow up on what the chairman had asked you.

When you filled out your credit slip, did you have to put the information on there as to what bank the credit would be processed through?

Mr. RICCO. No, I did not. The only information I furnished on the slip was the name, the address, the phone number, the assigned membership number, and if that person decided to give me that account number over the phone that they wanted the credit to, then I would also put that on the slip.

Quite often someone would have it billed to one account and request a credit to a different account. Or, if the account had been closed in the meantime, they would request it on a new account.

In those cases, I would take down the account numbers.

Mr. PRINS. There was no bank name on there?

Mr. RICCO. No. The bank name is only known by the index number which is the prefix number, the first four numbers on the Visa or Mastercard account.

Chairman ANNUNZIO. You mentioned a figure of 20,000 people directly involved.

Mr. RICCO. Approximately, correct.

Chairman ANNUNZIO. Approximately. Do you have any idea of how many people they contacted throughout the country?

Mr. RICCO. In which particular period of time?

Chairman ANNUNZIO. Let's say in 6 months.

Mr. RICCO. I wouldn't know. I would have to calculate it. I really couldn't.

Chairman ANNUNZIO. What would you calculate it to be?

Mr. RICCO. I would calculate an average of probably on the average of 50 calls a day multiplied by the 20 business days in a month and the number of months I was there.

Mr. PRINS. Mr. Ricco, regarding the calls that came in, was it your feeling that these were people who bought the service, changed their mind, and suddenly decided they didn't want to spend \$49 and got cold feet? Or, were these people ones who were never contacted or perhaps were people who were contacted and told, "We will send you some literature on the program?"

In other words—

Mr. RICCO. It was a combination of both of those. Every sales order that came in had a specific date, time and to whom the sales representative spoke. And that sales representative certified that they, in fact, spoke to that person and that person did order that service.

Mr. PRINS. What was the penalty if someone certified they spoke to a client that ordered the service and they, in fact, were lying? Was there a penalty?

Mr. RICCO. That again was something I didn't have control over. The fellow that oversaw the managers and the salespeople was responsible for deciding that.

Chairman ANNUNZIO. How long were you employed with the company?

Mr. RICCO. From September, the beginning of September through the end of March.

Chairman ANNUNZIO. 1983?

Mr. RICCO. Of 1983, correct.

Chairman ANNUNZIO. September?

Mr. RICCO. Through March.

Chairman ANNUNZIO. September of 1982?

Mr. RICCO. Right. Through March of 1983.

Chairman ANNUNZIO. When did you begin to get a feeling that there was a scam going on?

Mr. RICCO. Well, I never attributed it, Mr. Annunzio, to a scam. I got the feeling that things weren't moving as quickly as I would have liked them to.

That is, the business wasn't completely being taken care of the way I thought it should from a standpoint of corrections of sales representatives and so forth.

The term "scam" is one that I gave the people the benefit of the doubt.

Chairman ANNUNZIO. By the people, you mean the people you were working for?

Mr. RICCO. That is correct.

Mr. PRINS. Do you think it is a scam now?

Mr. RICCO. No, I don't, Mr. Prins. I don't feel it was a scam. I think it was a business that was started, a very good business initially. I think probably the fault lies in poor management.

Mr. PRINS. Why would you think the Justice Department would have an investigation underway, a criminal investigation, for poor management?

Mr. RICCO. Mr. Prins, I think the poor management resulted in problems which the division of Justice—

Chairman ANNUNZIO. Poor management created the problems?

Mr. RICCO. That is correct, not necessarily at the owners' level.

Chairman ANNUNZIO. Taking people's money and not producing any service?

Mr. RICCO. The service was there. Taking the money and, if requested, not releasing the credits.

Chairman ANNUNZIO. Or selling a plan that people didn't request?

Mr. RICCO. Yes, I think the poor management resulted in that end effect.

Chairman ANNUNZIO. Can you tell us the story of the customer who had ordered one-step protection even though he had been dead for 2 years?

When you start selling plans to dead people and start crediting their accounts, I mean I'm being nice by saying scam. Hell, this is a racket.

Mr. RICCO. Well, Mr. Annunzio, I didn't particularly sell it to that person. We did no sales at our Sarasota office. We strictly handled customer service.

What happened in that instance was the service was apparently ordered by that person's wife. The account that was billed for that service was an account which had been in the name of a deceased person.

Mr. PRINS. What about the verification? Wasn't the account verified as talking to the husband?

Mr. RICCO. The account number or the actual sale?

Mr. PRINS. The sale. Wasn't it on the slip? Didn't the verification say that the salesman or the verifier talked to the dead man?

Mr. RICCO. I don't recall the slip. I would have to see the actual sales slip.

Mr. PRINS. Was there, in fact, verification on every account?

Mr. RICCO. From the information I received, yes, every sales order that came into the office had to have a verification section completed or it was returned to the sales office for completion.

Mr. PRINS. But didn't you, in your capacity, kick back a lot of these things because you, yourself, questioned whether there was verification?

Mr. RICCO. Yes, I did.

Mr. PRINS. Well, I am getting a little confused. You just told me before that every sale had a verification. Now you have said that you, yourself, have kicked them back because there was no verification.

Mr. RICCO. Any sales order that came into the corporation office that did not have the verification section completed, we would not process. It was sent back to the sales office.

And quite often, we called ourselves. If we felt there may be an indiscretion, we would call from Sarasota to verify whether or not that person actually wanted the service.

If they, in fact, did and we verified it in Sarasota, they received the service.

If they did not, the order was canceled at that point and never processed.

Mr. MACK. Let me follow up on that point.

Mr. PRINS. Certainly.

Mr. MACK. When you took the information down as to the complaint and made a determination whether a credit was going to be given or not, you also took information down as to who the sales representative was?

Mr. RICCO. If there was a complaint on that particular request for the cancellation, we did.

Mr. MACK. In other words, it was not a normal course of business to try to identify the complaint with the salesperson?

Mr. RICCO. No, it was not necessary. What happened after the credit was issued, they went to a special department whose job it was to charge that particular sales representative back for that commission.

So that person that ran the computer, one of the computer operators that worked the charge-back system, they brought it on the screen with the sales number to see who the sales representative was.

Mr. MACK. Was there any scuttlebutt as to who the salesmen were that received the top number of complaints?

Mr. RICCO. We did not know the names of the salespeople; it was strictly a four-digit number.

Mr. MACK. When you talked to people over the phone, didn't they say Mr. or Mrs. So and So?

Mr. RICCO. Yes, they did. But we never paid attention to the names. We did not know the names. It was strictly a number code system that we went by.

Most of the time the people didn't really even know who they spoke to.

The temporary number they were given as of the phone call, since they were covered as of the phone call, was the four-digit number of the sales representative.

So they called in and said they spoke to 6102 or 4307. They went as much by the numbers as we did. Once again, that was their temporary identification number.

Mr. MACK. How did they get that number?

Mr. RICCO. The sales representative they spoke to on the phone.

Mr. MACK. As far as verification is concerned, was there really a verification going on, or was that something that was really just talk?

I understand what you said as far as company policy was if you received a sales slip; that you didn't really accept it until there was a verification on it.

Therefore, you would return it until the verification came back, then you would accept that slip?

Mr. RICCO. That is correct.

Mr. MACK. Did you ever get the feeling that there wasn't any verification going on—all you did was send this back to the original office and they would merely put down the information and send it back?

Mr. RICCO. If I felt that way, I checked up on it myself. If I felt they did that, I would separate out the order. When you sent an order back to an office for reverification, they didn't come in the normal course of business; they were sent back to me specifically in envelopes that were marked.

If I felt there was any indiscretion, I called the people back myself and verified it.

Mr. MACK. You called the individual purchaser?

Mr. RICCO. I called back the purchaser to make sure they wanted it.

Mr. MACK. Did you ever find that, in fact, verification had not taken place?

Mr. RICCO. I wouldn't say had not taken place. On a couple of cases, I would say quite possibly the verifier or the customer might not have understood that they were going to be billed for that service as of that particular time.

Mr. PRINS. Could I interrupt at this point?

Just one question. Wasn't it the company's policy that the minute they talked to a consumer and the consumer said, "Yes, I'll take the information to see if I want the service," the minute that that information was put in the mail, wasn't it company policy as written down, to immediately charge that person's credit card account for the service?

Mr. RICCO. Within the normal processing time, the orders were mailed in from our sales office, from the sales office of CMI. Then a membership kit was generated, which went out to people, 10 to 12 days after the membership kit was mailed that account was billed.

Now, when it was explained to people on the phone that they were covered as of the phone call, this was a regulation for the sale. They were covered as of that phone call. If, within 10 days of receiving the material, they decided they did not want the service, they were to call back and receive a refund, a full refund.

Mr. PRINS. Let me ask one more question.

I am a little bit confused here because I think the picture that is being painted here makes the attorney general of Florida look like he has got the wrong company here.

You have painted a picture of this wonderful company and the attorney general of Florida, according to your testimony, made a serious, serious mistake here in issuing a cease-and-desist order against this company that had just a few business problems.

Now, was the attorney general of Florida wrong in doing that?

Mr. RICCO. In issuing the cease and desist order?

Mr. PRINS. Yes.

Mr. RICCO. No, not wrong from the attorney general's viewpoint. I think problems went on in the company that again I attribute to poor management that did create some problems that were brought to the attention of the attorney general's office and, for that matter, what I understand, the FBI's office.

I learned shortly after the cease and desist order was issued, which I believe was December 28, that the FBI had an ongoing investigation of this company prior to that.

I don't know how long it takes the FBI to work. If it was such a problem and if the FBI was so concerned, I would have thought they would have gotten involved in this whole thing before it mounted to this point.

I don't think the attorney general's office made a serious mistake. I think it appeared to the attorney general that the company did have some problems, and I am not saying they did not. I am saying I think that is the case.

Mr. PRINS. I promise I will be quiet after this one question, but what bothers me is we have interviewed a number of former employees of CMI who are going to testify here later today who were running around trying to get someone to act, who were concerned about what they felt was not bad business practices; but they felt—these are their words, not mine—they felt there was criminal conduct going on in the company.

Mr. RICCO. In some cases I felt the same.

Mr. PRINS. But your testimony doesn't indicate that.

Mr. RICCO. Well then, let it indicate that, Mr. Prins. Yes, I feel there were some problems in the sales office. And again, it goes back to the reason I furnished these complaints to Mr. Lieberman who was in charge. He was the director of operations, and as far as I am concerned, pretty much ran the whole show.

His job was to take an accounting of this to the office manager who reported directly to Mr. Lieberman. I think there were problems with the sales representatives and one of the problems was that the sales representatives came and went.

I think the average stay for one of the sales representatives was 3 months. I think there were some really not great things going on in the sales office which we were all very concerned about.

Mr. PRINS. Do you think there was criminal conduct?

Mr. RICCO. Intentional criminal conduct? I don't know if I would attribute it to that. I think there were some sales representatives working for the company that saw an opportunity to make themselves some good money and quite often took advantage of that opportunity.

Mr. PRINS. Did the company do anything to stop these people from making the easy money?

Mr. RICCO. In some cases they did. Again, my recourse was to go to Mr. Lieberman whose job it was to report it to the sales manager, whose job it was to fire a particular sales representative.

Mr. PRINS. Did anybody ever get fired?

Mr. RICCO. On two occasions where I had a problem, a particular problem with two sales representatives, an ongoing problem. I think I took it to Mr. Loring and Mr. Guenther. Both of those people were fired.

As far as the people I took to Mr. Lieberman, there is one occasion I can remember a sales representative was fired.

Mr. PRINS. Thank you.

Chairman ANNUNZIO. You were promoted to supervisor of the customer service representatives? When were you promoted?

Mr. RICCO. I wasn't promoted. I was hired as a customer service supervisor. I started with the company at that position.

Chairman ANNUNZIO. And you never received a promotion from March to September in the company?

Mr. RICCO. From September to March, that is correct, I never received a promotion.

Chairman ANNUNZIO. All right. Did you track any of the sources of the customer complaints as to whether they came from a particular office or telephone sales representative?

Mr. RICCO. I did.

Chairman ANNUNZIO. How many instances?

Mr. RICCO. Again, I don't know. There were several instances that I felt that two of the offices were having an unusually high amount of problems, not just cancellations, problems.

Chairman ANNUNZIO. Can you tell us the offices?

Mr. RICCO. It would have been the Washington, D.C. office and the Fort Lauderdale office. I think they had an unusually high amount of complaints and cancellations.

Chairman ANNUNZIO. How many offices did you have around the country?

Mr. RICCO. One in Washington, D.C.; one in Fort Lauderdale; one in Tamarack, Fla. One was in Dallas, which was in operation. We had no problem with the Dallas office.

Very seldom did we have a problem with the Los Angeles office, and there was also one in St. Petersburg. But those three offices, the Dallas, St. Petersburg in particular, and the Los Angeles office, very rarely did we have any problems or cancellations from those particular offices. I think those offices were run very well.

Chairman ANNUNZIO. Can you tell us the names of some of the salesmen?

Mr. RICCO. I couldn't give you any names. I didn't have access to the names. I went on the account numbers.

Mr. PRINS. What about numbers? Can you give us the numbers of the salesmen that were bad, that were called in inordinately?

Mr. Ricco. 6257, 6247, 3102, 4118. These were some numbers we heard from repeatedly.

Mr. PRINS. These were the numbers of the salesmen?

Mr. MACK. You mentioned that you had to go to the owners in, I guess, one case.

Mr. RICCO. In two instances.

Mr. MACK. Two questions about that. What made you feel like you had to go to them as opposed to Mr. Lieberman? And you don't have any names for the two individuals you went to the owners about?

Mr. Ricco. No. Again, we worked strictly on the four-digit system. The Fort Lauderdale office prefix number was 6.

Mr. MACK. When you went to see the two owners, did you say, "These two numbers, these two four-digit numbers are causing us some problems and we really need to get them out of the company?"

Mr. Ricco. That is correct.

Mr. MACK. As far as you know, they may not have fired the two individuals at all; they could have reassigned numbers to them?

Mr. Ricco. Possibly. In both instances, I heard Mr. Loring and Mr. Guenther get on the phone and advise the office manager to fire them. I don't know whether they assigned them other numbers or not. At that point I considered that matter resolved, and I left it.

Mr. MACK. Let me follow up. Then we will get back to that.

Mr. Ricco. Sure.

Mr. MACK. Do you have any idea who the managers were of the Washington, D.C. and Fort Lauderdale offices?

Mr. Ricco. The Fort Lauderdale manager was Isadore Roth and the Washington, D.C. manager was Cliff Lavkoff.

Mr. MACK. Lavkoff?

Mr. Ricco. Lavkoff.

Mr. MACK. Did these two individuals that you went to the owners about, did they work one in each office, or were they both in the Fort Lauderdale office?

Mr. Ricco. Mr. Lavkoff was the manager of the Washington office and Mr. Roth was the manager of the Fort Lauderdale office.

Mr. MACK. What I mean is, the two sales numbers, the two four-digit numbers you went to the owners to complain about saying, "We need to replace them," which office did they work out of?

Mr. Ricco. The 6000 office, which was Mr. Roth's office.

Mr. MACK. Which was Fort Lauderdale?

Mr. Ricco. That is correct.

Mr. MACK. The two complaints you went to the owners about were out of the Fort Lauderdale office?

Mr. Ricco. That is correct.

Mr. MACK. It seems like a clever scheme to assign account numbers so they are not accountable; there's no direct possibility of getting directly back to the individual salesman.

Mr. Ricco. No; that's not the case. I could have personally tracked down and found out what the names were. There was a record kept of all that information.

I didn't particularly see that it was necessary. I brought them the TSR numbers, and they were called to their attention.

Mr. PRINS. TSR, telephone sales representative?

Mr. Ricco. That's correct.

Mr. MACK. What allowed you to come to the conclusion that the turnover was roughly every 3 months?

Again, you didn't know the sales people; all you knew was the number.

Mr. Ricco. I often discussed the problem with Mr. Lieberman. He said the problem was they couldn't keep good people there. The people didn't stay very long and they did have people taking advantage of the system set up for sales.

There was a monitoring system set up in each office where the manager could monitor what a salesman and consumer were saying.

Mr. MACK. Why did you feel you had to go to the owner? I assume you went around Mr. Lieberman?

Mr. Ricco. That is correct. I felt that my efforts to have anything straightened out through Mr. Lieberman was ineffective at best at any time, so I went directly to the owners.

Mr. MACK. Is there any way to determine what percentage of the complaints came from these two representatives?

Mr. Ricco. It could probably be calculated. I could only give a rough estimate. I would say probably 70 percent, a combination of the 2 offices.

Mr. MACK. 70 percent?

Mr. Ricco. From the two offices.

Mr. PRINS. Two offices, not two salesmen.

Mr. Ricco. Those two offices I would say attributed 70 percent to 80 percent of all the sales offices.

Mr. MACK. What percentage of that were the two salesmen.

Mr. Ricco. I wouldn't have any knowledge. I wouldn't want to guess. I wouldn't have any knowledge. There were enough continuous complaints about those two people that I thought something should be done about it or there would be a problem.

Mr. MACK. If I could follow up one more point, then I will stop.

You said earlier that you didn't really feel the business was a scam. I would be interested—I imagine the last several months you worked in the business was rather personally a very upsetting type of experience to go through.

Mr. Ricco. Yes; it was.

Mr. MACK. And you left employment when the company closed down, is that right, or did you leave prior to that?

Mr. Ricco. No; I left when the company closed down. In fact, we all left. We had gone to, I believe we had gone on until about the third week in March before the company was closed.

Mr. MACK. Were you paid all the way through that time?

Mr. Ricco. Yes; I was.

Mr. MACK. What makes you in retrospect—I sense a defensiveness for the company from you and I am just curious.

Mr. Ricco. No; that is not the case at all. It was probably just a matter of total frustration that I experienced and I am not defensive of the company per se. I am defensive of the particular situation.

I guess I take a little bit of concern into the fact that this was all in the public's attention. All these problems and complaints we had had been in the public's attention for quite some time, but whether

I particularly felt there was a scam or not, I know the news media, the television, the FBI, the Department of Justice, whoever, felt that there was a scam going on.

I am just a little concerned that nothing had been done prior to this, prior to the closing of the company, to investigate to see if really it was, whether it was poor management or whether it was intentional.

That is my defensiveness. I think this should have been investigated a while ago so we could find out if it was intentional or if it was just poor business practice.

Mr. MACK. But your conclusion basically is it was, I guess, poor business practice?

Mr. RICCO. Exactly. By the owners. I think there were some intentional criminal actions done by the sales representatives and verifiers in the offices.

Mr. MACK. Why wouldn't Mr. Lieberman act when you went to him with the concerns that you had?

Mr. RICCO. I really don't know. I was often puzzled by that myself. It was a very obvious problem we had with a very obvious solution, and nothing was done about it.

It may have been from a monetary standpoint, I don't know. He may have received—

Mr. PRINS. Do you know how they were paid, Mr. Ricco?

Mr. RICCO. Per sale.

Mr. PRINS. Do you know what the scale was?

Mr. RICCO. I don't exactly. They were paid a particular amount for every sale that was made. A portion of that was kept in a retained account to handle the cancellations and chargebacks.

Mr. PRINS. Didn't Mr. Lieberman get 25 cents for every sale across the country?

Mr. RICCO. He made a commission on each sale; whether it was 25 cents or 15 cents or 50 cents, I am not sure.

Mr. PRINS. So if they didn't make sales, he didn't get paid?

Mr. RICCO. I would say that is correct.

Mr. PRINS. Now, let me just add one thing to that. The salesmen had reserve accounts in case there were chargebacks, that they would go back to their account; is that correct?

Mr. RICCO. That is correct.

Mr. PRINS. Did Lieberman have one of these accounts?

Mr. RICCO. Not to my knowledge, but I was not in the payroll or accounting department. To my knowledge, no, he did not.

Mr. PRINS. I think you have family knowledge that Mr. Lieberman did not have a reserve account.

Mr. RICCO. As far as I know, no, he did not have a reserve account.

Mr. PRINS. So any chargebacks, any account that was sold erroneously did not affect Mr. Lieberman?

Mr. RICCO. I would assume not. I would say no.

Mr. PRINS. But the salesmen did. Were there occasions where the salesmen had so many accounts charged back that they actually had a debit or red, it was below the profit line?

Mr. RICCO. I would say so.

Mr. PRINS. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Was there any pattern to the complaints in that some offices received more complaints than others?

Mr. RICCO. Again, I had stated to Mr. Mack that I thought our Washington, D.C., and our Fort Lauderdale office had the majority of the complaints. They were in a very metropolitan, very heavily populated area. They did more volume sales. Proportionately, I would say they did have the most complaints.

Chairman ANNUNZIO. Can you tell us the procedure by which credits were supposed to be issued from the time you received the consumer complaint until the time the consumer account was actually credited?

Mr. RICCO. The process from the company's standpoint?

Chairman ANNUNZIO. Yes.

Mr. RICCO. Again, we took the order and request for cancellation and credit, and that particular slip that we filled out was paired with the sales order and the sales order was either processed for a credit until the latter part of December when we began to have somewhat of a build-up of these, they were then again kept in a file room that we had awaiting their credit.

Chairman ANNUNZIO. How many credits did you think were left unprocessed at the time CMI closed its door in March?

Mr. RICCO. Again, I said initially approximately 18,000 to 20,000.

Chairman ANNUNZIO. Would it be fair to estimate that the average value of each of those credits was \$50?

Mr. RICCO. I would say approximately, yes, that would be an average.

Chairman ANNUNZIO. That would be like \$1 million?

Mr. RICCO. Approximately, correct.

Chairman ANNUNZIO. Did you ever hear a story about pep rallies for the telephone sales representatives in which the office manager would tell them that he was going to show them ways to cheat and steal from consumers like they had never dreamed of before?

Mr. RICCO. I had heard that once before, indirectly. One of the sales representatives who was fired. In fact, I believe that was even told to a newspaper in one of the areas. I believe it was the Washington, D.C., area.

I had also seen that in the paper that an employee had been fired and had come out and said that.

Mr. PRINS. Do you know who the employee was?

Mr. RICCO. I don't know who the employee was, no. I don't even know the digits of the employee. I believe that had come about before I was employed in September. I heard about it later.

Mr. PRINS. Where did you hear it from?

Mr. RICCO. I heard it from one of the other employees actually. Again, that was just something that had gone through the office and everyone had heard about it.

Exactly where I heard it from, I am not sure. But an employee was fired from an office and that was the story that he told to one of the papers.

Chairman ANNUNZIO. In our questions to you, we are dwelling on only one phase of the operations of customer service. Did you know that this company bought literally thousands and thousands of numbers from very reputable companies throughout the country.

Mr. RICCO. I am aware of that, correct.

Chairman ANNUNZIO. Did you know that there was literally hundreds and hundreds of thousands of people billed for accounts that they had never ordered? So what we are doing here is just reaching out to the iceberg, and we haven't even got to the tip yet, you see, but we are hoping to get somewhere.

What I am interested in is to make sure that a situation like this does not occur again, and we can write the right kind of legislation by the end of July, I think the end of this month, so that what happened here in Sarasota, Washington, Fort Lauderdale, Dallas, Tex., and other places, at least the consumers in the country will have some protection that this situation will not occur again.

Then it is true about the pep rallies?

Mr. RICCO. Whether or not it is true, I don't know. I had heard that had been said.

Chairman ANNUNZIO. You did hear it?

Mr. RICCO. I had heard that, yes, from an ex-employee through again the company scuttlebutt.

Chairman ANNUNZIO. Did you ever have any discussions with Mr. Lieberman about the volume of complaints being generated by a particular office or particular sales representative? Did you ever sit down with him, he is the man you reported to, and say, "Gee, Mr. Lieberman, I am getting a whole lot of complaints here, I am getting complaints on this salesman. Don't you think we ought to look into it, do something about it?"

Mr. RICCO. I certainly did. I sat down quite often and discussed it.

Chairman ANNUNZIO. What did you discuss?

Mr. RICCO. Well, I discussed with him the fact that I thought again there were some sales representatives and verifiers not exactly following the system that had been set up.

Chairman ANNUNZIO. Did you ever make any suggestions to him how to correct these situations?

Mr. RICCO. Yes; I did.

Chairman ANNUNZIO. What did he do about it?

Mr. RICCO. From what I had seen, very little.

Chairman ANNUNZIO. Did he ever express any concern to you about complaints that you made? Did he ever say to you that he was going to look into these complaints, these complaints were serious, they were hurting the company?

Mr. RICCO. Yes; he told me that.

Chairman ANNUNZIO. What about the story about this representative of a Texas bank who showed up to personally deliver some chargebacks? Did you ever hear that story of the Texas bank?

Mr. RICCO. Yes, I did. It happened while I was working there.

Mr. PRINS. Tell us about it.

Mr. RICCO. I am not exactly sure what bank, but it was a bank in Texas that sent a woman in to discuss the chargebacks. She had come in to bring the paperwork for the chargebacks that came through the bank.

If a customer had written and requested a credit through the bank, the bank would process it and charge it back to the merchant account of CMI. There was a woman that came in and brought the paperwork in personally, I assume to discuss the problems.

Mr. PRINS. Did she bring in a file folder with two or three complaints?

Mr. RICCO. She brought in quite a few.

Mr. PRINS. Three suitcases full?

Mr. RICCO. She brought in suitcases, whether there were two or three, I am not sure, but there were quite a few.

Mr. PRINS. Were they bigger than a breadbox?

Mr. RICCO. Certainly.

Mr. PRINS. How big were they? Were they big suitcases, little suitcases?

Mr. RICCO. I would say average to large.

Mr. PRINS. Are we talking about 10 complaints or are we talking about 100 or 1,000?

Mr. RICCO. We are probably talking about 1,000, possibly 2,000.

Mr. PRINS. From one bank at a time?

Mr. RICCO. That is correct.

Mr. PRINS. That they personally brought in there?

Mr. RICCO. That is correct.

Mr. PRINS. I just have one other question, Mr. Chairman. From what the staff has been able to ascertain in looking at the deposits, an awful lot of money went through this company.

We saw a deposit, a 1-day deposit to one bank where the company deposited credit slips to charge consumers for \$491,000.

Mr. RICCO. In 1 day?

Mr. PRINS. In 1 day.

Mr. RICCO. Again, I have no knowledge of what the banking was, the total amount; I wasn't involved.

Mr. PRINS. I understand that. Let me go on for just a minute.

Mr. RICCO. Certainly.

Mr. PRINS. According to what we have been able to find out, apparently the company generated sales of about \$25,000 a day.

Mr. RICCO. I would say that is approximately correct, yes.

Mr. PRINS. That is \$250,000 every 10 days. Now, first of all, my first question is, Do you have any idea as to how many "customers" either legally or illegally—that is a bad term—either who wanted the service or who got it that didn't want it, the company actually had on its books?

Mr. RICCO. From the onset of the company, from the beginning of the company?

Mr. PRINS. Yes, sir.

Mr. RICCO. I would say approximately 300,000.

Mr. PRINS. 300,000 and the basic charge would be \$50, let's say?

Mr. RICCO. Correct. That was probably over a period of about 3 years, I would say, they averaged 300,000.

Mr. PRINS. 300,000 times \$50. That is \$15 million, my experts here tell me. I could never be in this business.

All right, \$15 million went through the company. I have seen the headquarters of the company. There is no gold inlaid walls, no fancy accommodations, no expensive dining room, and they didn't have a bathroom in the place.

Mr. RICCO. That is correct.

Mr. PRINS. So there wasn't a lot of money spent there. Apparently in talking to the employees, none of them got rich, including yourself.

Mr. RICCO. Again, that is correct.

Mr. PRINS. We have \$15 million floating around. The consumer sure didn't get it back. Do you have any idea, any inclination where that money is?

Mr. RICCO. Mr. Prins, I expect my personal feeling is probably one that will be doubted by yourself specifically, but I personally feel that all that money was spent; exactly where, I don't know.

They had, from what I understand, some very expensive computer systems throughout the company.

Mr. PRINS. Weren't they repossessed?

Mr. RICCO. Yes; they were.

Mr. PRINS. It certainly wasn't spent on the computers if they were repossessed.

Mr. RICCO. Certainly I think it was spent in the operation. Exactly how, I don't know.

Mr. PRINS. Wouldn't you think it would be tough to spend \$15 million? You have seen the operation.

Mr. RICCO. Within a 3-year period? Again, I don't know. I would say for me, it would be. The amount of overhead they had, again, I don't know. Personally, I know that Mr. Loring and Mr. Guenther both have had some personal financial problems after the closing of the company. What exactly happened to the money, I don't know. I have no idea. No accounting was ever given to me.

Mr. PRINS. Thank you very much. I have no further questions.

Do you have any more questions, Mr. Mack?

Mr. MACK. No.

Chairman ANNUNZIO. I want to express my appreciation, as chairman of the subcommittee, for your voluntary appearance before the subcommittee. Your testimony should help us in this ongoing investigation, especially in the type of legislation that we are endeavoring to write so that the situation that occurred here will not happen again.

Mr. RICCO. Well, I think it is something that is very definitely needed.

Chairman ANNUNZIO. I thank you.

Our next witness is Mr. Ken Tucker, deputy attorney general for the State of Florida.

As chairman of the subcommittee, Mr. Tucker, I want to express my profound gratitude for the trip you made that allows you to be with us today at the hearing, to give us the benefit of the work that your office has done.

This committee has had a long history with the attorney general in the State of Florida in several other investigations.

I want to compliment your office for an outstanding job in each and every one of these investigations. They have cooperated with the committee of the Congress of the United States in a manner that reflected credit to the people that run that office.

Mr. TUCKER. Thank you, sir.

Chairman ANNUNZIO. Will you proceed in your own manner?

TESTIMONY OF KEN TUCKER, DEPUTY ATTORNEY GENERAL FOR
THE STATE OF FLORIDA

Mr. TUCKER. Yes, sir. We appreciate the invitation to appear here this morning. I regret the delay in arriving. There was rather severe weather in Tallahassee which delayed our departure.

I would like to explain to the committee how this matter came to our attention and what our office has done to try to stop this kind of fraud and perhaps offer some suggestions what the Congress might do to prevent this from happening in the future.

Last November, it came to our attention that Credit Marketing, Inc., of Sarasota was soliciting credit card holders by telephone, offering what they call one-step protection to insure against loss of theft of credit cards.

Well, there is several things wrong with this type of solicitation. The first problem is no insurance, no insurance is provided against losses of credit cards, theft or loss of credit cards. Instead, the company simply notified the credit card companies or the bank that a particular credit card was lost or stolen.

So there was no compensation for damages due to unauthorized credit card use.

Second, most of the consumers that were solicited simply said no. They said they did not want the service. Instead, Credit Marketing, Inc., charged them for that service notwithstanding the refusal to accept it.

The third thing that was wrong with that kind of solicitation, there were some consumers who were not solicited at all but were charged by Credit Marketing, Inc., for a particular credit card service.

This came to our attention in, as I said, in November. And by around December 1, we had several dozen complaints from consumers. So on December 20, 1982, the attorney general issued a cease-and-desist order against the company, requiring that it cease this kind of solicitation and reimburse the consumers who did not authorize the specific charges.

Since that order was issued, the company, of course, has ceased its operation. And it has come to our attention that there are literally hundreds, if not thousands of consumers that have been, in our opinion, defrauded by this kind of solicitation, and unauthorized charges on credit cards.

It was clear to us that the company did not receive the credit card numbers from the credit card holders, from the consumers; it obviously got the credit card numbers from third parties. Just how they acquired these credit card numbers, we are not aware of at this time. They had to be purchased or stolen from third parties.

In any event, the company has left hundreds, if not thousands, of consumers high and dry on these types of charges. And our office have no criminal investigative authority, so we have referred the matter to the U.S. attorney in Tampa, who, we understand, pursued the problem of credit card fraud internationally in scope.

Operators such as Credit Marketing, Inc., typically operate through the use of WATS lines and operate nationally. This type of fraud is facilitated by the easy availability of credit card numbers. So the legislation you have under consideration would definitely

strengthen the laws against credit card fraud by making it a criminal—a Federal offense, and by preventing the disclosure of credit card numbers except by the consent of the consumer.

So this legislation is much needed and has the strong support of attorney Jim Smith. And we commend the committee's efforts in this regard. I will be happy to answer any questions.

Chairman ANNUNZIO. Mr. Tucker, you mentioned in your statement about the ability of this company to receive these credit card numbers, that they were stolen or purchased.

Information that the subcommittee has, I don't know if they received any credit—any numbers that were stolen; the information that I have, at least that I saw, is that they were doing business, buying these credit card numbers.

That is the reason I mentioned that I don't think any of us ever reached the tip of the iceberg, that this thing is huge. And it is going to take a great deal of effort.

And to give you an example, they were not dealing with small operators; they bought these slips from—they call them representative clients. They bought these slips from the American Automobile Association, the Altman Co., Bache & Co., Barnett Bank, and Belk Lindsey.

I could go on, I have a whole list here, Nieman-Marcus, the Palm Beach Times, the Gulf Oil Co., Hart, Schaffner & Marx.

These are all reputable, honest, great names in American industry that were selling their slips to these companies.

So this company could have the number, you see, and when they received these numbers, they went ahead, sold a policy, whether the consumer wanted the policy or not, and that is where the fraud, in my opinion, came in.

That is why I call it a scam. I will go further, it was one hell of a racket. But like all rackets, they get caught up to. But we don't seem to be able to close all the doors.

But their outlet was the fact that they had these client representatives, you see, this is what gave them the foundation for doing millions and millions of dollars of business, this company.

So I appreciate Mr. Ricco's testimony, but the top echelon of this company was not going to let the company's relationships representative know exactly how much was coming in, how the money was being received; where is the money? I can't find it, so it has got to be somewhere.

I think if we look far enough, like all these rackets we have investigated, the money will wind up someplace overseas or somebody has been living high on the hog.

But I am pleased that your office, when they received these complaints, worked so swiftly in issuing a cease and desist order. And we are going ahead with our legislation.

We held hearings in Washington, we are having these field hearings. I expect to hold more hearings on July 21 and 22. And by the end of July, hopefully, we can get—as you know, when legislation of this type is written, you try to get as many bugs out of the legislation so as to protect as many people as you can, so we don't unjustifiably hurt anyone.

We want to do what is right, especially as far as consumers of America are concerned. They have been victimized and billed for

too long, and it is about time that society becomes aware so that the Congress of the United States can appropriately act.

Mr. Mack.

Mr. MACK. Just a couple of questions. Do you think the legislation goes far enough? Are we missing some things? With your involvement in this activity, do you have some further suggestions?

Mr. TUCKER. No, sir, we think the legislation is adequate. The main thing is that we recognize the problem as a Federal offense and use the full resources of the Federal Government to help stop this and cut back on the disclosure of credit card numbers, which is really the most serious problem that facilitates that kind of fraud.

So we think the committee is headed in positively the right direction.

I might add one thing: We don't hold out a lot of hope of getting reimbursement to the consumers. But we are definitely pursuing that in the courts, including filing suit against the principals involved in this company to seek to hold them personally or individually liable.

But in the long term, legislation is the best preventative. And again, we commend the committee for its diligence in pursuing it.

Mr. PRINS. I have one quick question, a procedural question, Mr. Tucker, because I am not entirely familiar with Florida law. Your office issued a cease-and-desist order against CMI. Did they comply with that order?

Mr. TUCKER. They generally complied. It took some time, and it took a lot of negotiation. But generally, they did. And it put them—effectively—put them out of business.

Mr. PRINS. What I am getting at is, is there a next step that you can take, because apparently, 20,000 people didn't get the refunds that were in the office, and we don't know how many people are still out there that don't even know the company is out of business.

Is there a criminal step that the State can take through another aspect of the attorney general's office?

Mr. TUCKER. There is really two steps left. The criminal is one step, because it has been a national activity. We have submitted the matter to the U.S. attorney in Tampa, and they are pursuing it criminally.

And to my knowledge, the local State attorney is not. I believe he has deferred to the U.S. attorney for the criminal charge. And again, we are pursuing a civil liability for all the consumer reimbursements against the principals individually.

Obviously in this kind of situation, you don't have a lot of assets left in the corporation structure, and assets frequently are spent on high living and expenses. Sometimes, though, they are secreted in the hands of individuals, and we certainly will pursue these people individually, wherever that might lead and wherever we can go.

But I have to say, it has been our experience with this kind of situation that it is very difficult to get substantial reimbursement to the consumers.

Mr. PRINS. Thank you.

Chairman ANNUNZIO. Mr. Tucker, how would you answer the critics? When Congress and a committee are writing legislation and take the legislation to the floor, we listen to the critics on the floor of the House, "We have too many laws on the statute books al-

ready. People are burdened with all of these laws. We don't need all of these laws."

How would you answer the critics on legislation that this subcommittee is proposing at this time?

Mr. TUCKER. I would have to say that the technology and modern business practices have left the laws a little behind the times. The modern, extensive use of credit cards and availability of credit card numbers have left the laws a little antiquated and doesn't really adequately deal with that kind of activity.

And also, I think the proof is in the pudding. The laws simply aren't working. We are having more and more of this type of problem crop up that we see year after year. We think there is a need for change.

Chairman ANNUNZIO. Thank you. We have in use millions of credit cards that we never had before. We have created a cashless society. As chairman of this subcommittee, all I have ever endeavored to do with people is to convince them to watch their credit cards or throw them away, just as though it was cash, because it is cash.

You know, there is another angle to this, and that is the counterfeiting angle. If you get caught counterfeiting money, you go to jail, you deal with the Treasury, with the Secret Service.

But when we counterfeit a credit card, it is like counterfeiting money. It is money. And we have got to convince the public, through these hearings and through the media, which has been most cooperative. We hope to educate the people to protect themselves from different schemes and scams as far as credit cards are concerned.

Mr. MACK. It seems to me there are two questions from the consumer standpoint we ought to be interested in in addition to the information we have gathered. One is what is happening at this time with the two individuals who owned and operated this company?

Are they, in fact, in business again today somewhere else, doing a similar type of business or using the same types of methods? I think that is equally as important as trying to get reimbursements.

And that brings me to the second point. Are there no provisions within the law that provide personal liability as a result of criminal intent in carrying out a business?

Mr. TUCKER. In answer to your last question, it is possible to hold someone personally or individually liable, if they are using a corporate structure in a criminal manner, in a manner to defraud someone. And that is the theory upon which we would pursue.

And your first question, I am having difficulty recalling.

Mr. MACK. Basically, the individuals who were operating this business.

Mr. TUCKER. Yes; we are pursuing our civil fraud suits against them. And as I understand, I believe they have founded another company in Connecticut that will at least continue servicing and providing notice to credit card companies if these individuals' credit cards are lost or stolen.

So they would have gotten something out of that purchase that was charged against them.

And additionally, they also tell us that they will provide reimbursement to consumers. But we have yet to see any kind of money up front on that, although we are continuing to negotiate.

If we cannot reach agreement soon, we will go ahead and pursue the personal liability against the principals involved in the company, and that would be here in Florida in the State court.

And we have the ability to do that now, pursue personal liability to hold them, their personal assets accountable for reimbursement. But these are lengthy legal proceedings, and we don't always have the money there that we can see or the assets we can foreclose on.

Chairman ANNUNZIO. Has your office been in contact with Mr. Guenther?

Mr. TUCKER. And Mr. Loring, yes; through their counsel.

Mr. PRINS. How long ago was that?

Chairman ANNUNZIO. We haven't been able to find them.

Mr. PRINS. Their attorney tells me that they call him maybe every 4 to 6 weeks, and he has no idea where they are.

Mr. TUCKER. We haven't had personal contact with them. But through their counsel, our office has discussed various means of attempting to provide some reimbursement to the consumers for the last month or so.

Mr. PRINS. If you happen to see them, give them a little note that we would like to talk to them.

Mr. TUCKER. Yes, sir.

Chairman ANNUNZIO. If they don't talk to us, they are going to talk to the Justice Department, you know that.

We thank you very much, Mr. Attorney General, for being here this morning, and we appreciate your outstanding cooperation.

Thank you.

I would like to call the second panel. Cynthia Harold? Cynthia Harold, take your seat. Carol Norwoods, Pat Speth, Susan White, Mr. Ron Gabel.

[Witnesses sworn.]

Chairman ANNUNZIO. Ms. Harold?

Ms. HAROLD. I do.

Chairman ANNUNZIO. Ms. Norwoods?

Ms. NORWOODS. I do.

Chairman ANNUNZIO. Ms. Speth?

Ms. SPETH. I do.

Chairman ANNUNZIO. Ms. White?

Ms. WHITE. I do.

Chairman ANNUNZIO. Mr. Gabel?

Mr. GABEL. I do.

Chairman ANNUNZIO. I want each of you to proceed in your own manner. Ms. Harold, would you start the testimony?

TESTIMONY OF CYNTHIA HAROLD

Ms. HAROLD. OK. I was hired by Larry Smith from Credit Marketing in late August 1982, and my primary function was that of CRT operator for the newly formed third shift.

Mr. PRINS. Excuse me, Ms. Harold. The members of the subcommittee are a little bit unfamiliar with the terms, the abbreviations

and "the third shift." Would you be a little more specific what CRT is and what the third shift is?

Ms. HAROLD. I was a data entry, entered material into their system, their computer system. And the third shift was newly formed, as we were told by Mr. Smith, because of the overflow of work data that needed to be entered into the system.

At that time, there were approximately 10 people hired for the third shift.

Mr. PRINS. The third shift, is that a time sequence?

Ms. HAROLD. Oh, yes, I am sorry. It started at 12:30 p.m. until 7:50 a.m.

Mr. PRINS. Evening or afternoon?

Ms. HAROLD. Evening, midnight.

Mr. PRINS. You went to work at midnight and worked until 8 in the morning?

Ms. HAROLD. Yes. I entered data into the system consisting of credit card numbers, names, addresses, and phone numbers of potential customers, along with six other computer operators.

After learning the format and the computers, we were all expected to meet a quota of at least 100, which consisted of all this material or a card which we worked off of, of 100 cards per hour.

If there were any problems with the computer, an entry was restricted or prohibited, our duties went from filing and preparing the cards to be entered into the system.

Here there was also a production rate, but it was never really enforced. It was entering this material into the system that was more important.

As our production increased, so did the billing department's, because this is where they received their material.

Later on, three of the faster computer operators were chosen to—and most important, comprehend the system, that was very important—were chosen to do one-step protection billing, which was also known as OSP billing.

This was entering and charging those accounts that we had entered previously, the credit card numbers, \$49 for a 7-year plan or a \$99 charge for a lifetime plan.

And this went onto tape which later on was the method they used for billing.

I later transferred to the second shift which was 5 p.m. until the midnight shift came on, from 5 p.m. in the evening. And of course, my duties increased because of the size of personnel. It was a much larger shift.

And from that point on, we went to a system that they called or referred to as Vicky I and Vicky II, which was updating and correcting files of already-customers that were on the system on line.

Let's see, other than that, we also made authorizations, calling banks for credit card authorization to make sure that the credit cards were good, and the amounts that we requested authorization for were from \$49 to \$100.

And this is also connected with the OSP billing. From that point on, it would go to the billing department, entered into the system, to make sure we had good credit card numbers.

I also worked in the TRW room, which I don't know what the initials stand for, but this was a unit that was used to receive

credit reports on given names of customers from material that we were given.

I continued until the first and second layoff with sudden increases and decreases of requests to put in material into the system. There was like a big push to make sure we had as much information, and that consisted of names, credit card numbers, first of all, then the names and the addresses and phone numbers.

There was just a real hustle for this information to be input; and then as that information decreased, we were requested to get the authorizations from the bank.

And then suddenly, that stopped also because our merchant number that we needed to get authorizations was no longer accepted. I worked until December 9, and the reason for layoff that was given to us was because our phone sales had decreased. And that was the last day that I worked. That is all.

Chairman ANNUNZIO. Ms. Norwoods.

TESTIMONY OF CAROL NORWOODS

Ms. NORWOODS. Some of this, I might first say, will be redundant.

Mr. PRINS. You want to pull the microphone closer?

Ms. NORWOODS. Some of this, I would like to say, will probably be redundant. I would like to go ahead and read it as I wrote it.

I began working for Credit Marketing, Inc., the first part of May 1982, when, through an acquaintance, I learned they were adding a 9 p.m. to 1 a.m. additional data entry shift.

We keypunched mailing labels from tissue copies of original charge slips from Mastercard and Visa accounts with various retail merchants; basically, customer charge slips from J. Byrons, Beall's department store, Hutzler's out of Baltimore, Md.; Greeman Brothers department store out of New York; and Roman's, a mail order company.

There were also batches from Jack Eckerd's directly, Eckerd Drugs, and Well Foods out of Texas.

Mr. PRINS. May I interrupt you for just a second? Were these credit card slips you were being given?

Ms. NORWOODS. This was a portion of the original charge slip that the machine has whacked across as the customer buys merchandise.

Mr. PRINS. You were just given big boxes of these?

Ms. NORWOODS. Exactly.

Chairman ANNUNZIO. Did anybody tell you where the boxes came from?

Ms. NORWOODS. We obviously knew where they came from. They came from Beall's, J. Byrons; they were marked accordingly.

Chairman ANNUNZIO. Go ahead. I wanted you to say that for the record.

Ms. NORWOODS. We were told at that point that our job was keypunching and we were only concerned with keypunching. Sometime around the 1st of June, I was asked to take supervisor of the 9 to 1 shift.

At that time, there was a following shift. So there were daytime, Monday through Friday only, 8:30 to 4:30; 5 to 9 day entry. The

8:30 to 4:30, I might add, was what has been referred to as OSP, one-step protection.

That was the paperwork part of the deal. A 5 to 9 data entry shift and 9 to 1 which was also data entry. I had approximately eight people on the 9 to 1 shift at that time.

My direct supervisor was at that time the only one from Credit Marketing that we ever had contact with due to the strangeness of the hours.

Upon taking the supervisor of the 9 to 1 in June 1982, I was told by my supervisor that certain of the 12 incoming lines were to be answered "Credit Marketing." Others were to be—were the toll-free numbers, and were to be answered "One-Step Protection."

After hours, we were nothing more than an answering service in name only and could do nothing except take reports of lost or stolen credit cards; that was our basic reason for answering the phones. We put them on the appropriate desk for handling the next business day.

In other words, a report on a lost or stolen might come in at 5 p.m. It would be handled by the girl who took care of lost and stolen at 8:30 the next day.

After starting to help answer phones at night, I would write notes concerning irate callers. The lines rang constantly until about midnight asking for someone in customer service, someone on daytime shift, which is actually who these people needed to talk to.

Mr. PRINS. Let me interrupt you. You said that you were only supposed to answer calls of stolen credit cards?

Ms. NORWOODS. We were only supposed to take notes of the lost or stolen credit cards.

Mr. PRINS. Why would irate stolen credit card people call then?

Ms. NORWOODS. No, no; my point is, the phones were ringing practically almost constantly up until about midnight because we still had California, remember, to come in.

Mr. PRINS. These weren't stolen credit card people?

Ms. NORWOODS. No; these were people who had been trying all day to get the customer service line, to no avail, and they finally got through, and they were told, sorry, we can't help them; they need to call back during business hours.

I was told by my direct supervisor that we could not honor requests on callbacks; the people had to be told they just would have to keep trying for the toll-free numbers.

Chairman ANNUNZIO. Pardon me. You were getting calls from California?

Ms. NORWOODS. Of course. The sales were countrywide. In fact, we even ended up with a few out of country, but that was a fluke. I averaged one lost-and-stolen report a night; the rest being highly agitated people who had received their Visa or Mastercard bill to find a \$49 charge for one-step protection, and most of whom stated that they either did not speak to anyone concerning the protection or were adamant about us not calling—or most of which stated that they had not spoken to anyone concerning the protection.

And the company was adamant about us not calling it credit card insurance; it was to be called protection. There was a difference.

Now, all of these people suddenly find themselves billed anyway on their credit card after stating that they did not want the service.

I started asking questions and came up with a rough sequence of how the company worked. The tissue copy or a facsimile of the original charge with all pertinent information—name, address, phone number, credit card number, and purchase, plus purchase date bought from various retail outlets.

Data entry put this information into the computers, which spat out mailing lists to be sent to the various sales offices, Washington, D.C., Tamarac, Fort Lauderdale, Grand Prairie, Tex.; Eagle Rock, Calif.

Salesmen would then contact the customer, read a prewritten sales spiel of which I have a copy. And within 15 minutes, a verifier call should come from the same office.

The accepted sales would be mailed back to Sarasota and CMI kits containing information about the plan plus a membership number, cross-references in the computer would then be sent to the client.

It was stated on the kit that you could cancel within 90 days and receive a credit or your money back because, occasionally, a client would pay by check.

There was a form in the package for the client to list all of his credit cards, including not only the numbers but the issuing stores and banks, and then mail it back to CMI. These were filed by member numbers with cross-reference to name in the computer.

If they signed up with OSP, one-step protection, they were fully covered against liability for lost or stolen credit cards from that moment. If lost or stolen, they would simply call in on one of the toll-free lines and a report would be taken and turned into the lady who handled that particular part of the business. She would contact the issuing store back by phone and then follow up with the telex by Western Union.

Within 2 weeks, the client would have a new set of credit cards with new numbers in his or her possession. There was also a sweetener to the plan: It stated on the package that you could receive \$500, up to \$500 emergency cash through the plan.

A few clients were extremely disgruntled to find out that the \$500 advance was only good if your credit limit would take an additional \$500 cash advance, which is normally offered by most major credit card companies.

To my knowledge, not one request for \$500 was honored by Credit Marketing, Inc.

So far, the plan sounded as feasible as some I have heard across the phone lines in the State of Florida since I have moved here. Within 2 days of the telephone sale, the slip would come back to the Sarasota office. We would split them up and call them into Master Charge or Visa as telephone sales, getting the authorization.

Until the stories broke on the Turner News Network, and then I think the Associated Press picked it up, we were calling in authorizations on up to 1,200 \$49 basic plans.

The ones that were OK'd by Master Charge and Visa were handled through regular channels, that is, kit, letter-membership filing, et cetera.

The ones declined by the authorization centers were laid aside and a credit report run on them with the TRW machine.

For example, if a client had a bad Master Charge number, the TRW report would show whether or not it was a correct number we were using. Or if they also had a Visa, that number was then run through the authorization.

At the time I left there, there were well over 300,000 people listed in the computer as card-carrying members of one-step protection, whether they knew it or not.

The rub seemed to be when you found out that you were charged and for various reasons, did not want the plan. Getting it removed from the account was the hard part. The reasons that upset clients gave me at nights were good ones.

"Salesmen told me they represented Master Charge or Visa or inferred as much. They did not, they, the client, did not authorize the charge; they refused the plan, then found they were charged."

Or they did not ever talk to anyone from OSP; they were out of town, they were out of the country, they were having a gallbladder removed, they were having a baby. The OSP had signed up at one time a 10-year-old child when he answered the phone.

And they had been known to charge the account of persons having died months before, which comes as an added shock to families receiving the kit, saying that the deceased was now fully covered from loss or theft of their credit cards.

In roughly August, I took over as 5 p.m. to 1 a.m. supervisor and at that time had approximately 35 employees under my supervision in data entry.

Along about that time, actually it was a little before that in June, a 12 midnight to 8 a.m. shift was hired. This was again data entry. They had a weekend shift that encompassed Saturday and Sunday days, 8:30 to 5:30.

The chain of command was established to run shift supervisors to our immediate data entry supervisors to Mark Lieberman to Al Loring and John Guenther. We were not to jump the chain of command.

In other words, with problems, we went to our immediate supervisor. If it was not handled, it was not handled; there was nothing more you could do. Should you try to jump the chain of command, you were threatened with firing.

CMI was described to me as being a family-oriented company which had relatives working there, and basically, there seemed to be no problem in that. Basically, as far as the plan went, they followed up on what they said they were going to do. It was the sales tactics and the difficulty getting a charge removed that bothered some of us.

Of course, after the newscast and the newspapers and word-of-mouth concerning possible FBI probes, the cancellations started coming in hot and heavy. Others more involved in this aspect of the company would do better in explaining how this went than I.

However, after the charges were authorized, they were billed by computer tape to several banking institutions across the country

and appeared on the next month's statement of Visa or Master Charge. Getting the charge removed was the rub.

In December, when all the shifts were terminating except the day group, I transferred to days and worked doing charge-backs exclusively. I was not actually giving anyone back their money.

The letters of protest, card issuing banks had already refunded the client's money, in other words, removed the charge from their account. I was just updating the information in the computers.

For instance, OSP would send, say, a bank in California a tape with \$10,000 in authorized charges. This was a deposit. On it, this bank in California would have had \$6,000 in cancellations. Thus, the deposit immediately went to a credit of \$4,000. All of this was completely handled by tape.

I handled paperwork involving three or four letters from a client to the bank, paperwork from the bank to the client, paperwork from us to the client, giving dates, times, and who they had spoken to in customer service, and occasionally a red-faced letter apologizing for the charge and the charge was removed. Some of these were as much as 1 year old. Most were between 6 and 9 months.

The consumers had very little recourse in this. If he failed to pay his Mastercard or Visa bill because the charge was unauthorized, he had been told to go ahead and try it, you have got 90 days in which to cancel if you decide to cancel. He had called to cancel, only to find it is still on his next 2 months' statements plus finance charges.

If he still refused to pay through Master Charge or Visa for something he did not want, Master Charge and Visa would threaten—of course, this is hearsay, but it is what clients told me—would threaten to turn him in to the Credit Bureau and slash his future credit rating.

I think it is called between the devil and deep blue sea.

One furious man in California told me, "The only protection I need is against one-step protection."

Until I was laid off sometime in March, I handled up to 1,000 charge-backs a day, and there were three or four others doing the same work as I.

Toward the end, customer service was told by Mr. Loring and Mr. Guenther that no more credits would be issued by CMI, they were all to be issued by the card-issuing banks, and the people involved in that credit part of the organization were laid off.

I have no way of knowing if this current setup that is supposedly under another name is using the same mode of operation. Just keep in mind, if this is the case, they already have in excess of 300,000 names and addresses and charge account numbers from which to choose.

My concern stems from the fact that after working for CMI, I am no longer naive enough to think that your credit card numbers are yours and yours alone. They are as much public property as the Congressional Record and much easier to come by.

And by the way, do I have any credit cards? No.

Chairman ANNUNZIO. Thank you.

Ms. Speth?

TESTIMONY OF PAT SPETH

Ms. SPETH. Mine is also pretty much redundant. I worked there two different times. I started work originally on September 27 on the night shift which was 12 until 8 a.m. There were about 25 employees working on this shift.

At least 10 people worked on computer entry which consisted of entering names, addresses, telephone numbers, Visa-MasterCard number of each protective purchaser of one-step protection.

Two to three people spent about 3 hours each night on the phone talking to authorization centers in order to obtain authorizations to bill that account. We had four bank card centers to use.

Barnett and Harris bank centers were most often used. Each person had at least 150; sometimes more, some nights they had 350 authorizations.

We read the CMI account number to them, the MasterCard, Visa card number and the expiration date, and the amount to be charged. And were either given an authorization number, told the card was invalid, declined or that the bank wanted that card returned.

Invalid meant that the card number we gave was incorrect and the correct number would have to be obtained. Credit Marketing had a TRW, which was used to run credit reports.

I know that they used the TRW for Visa and MasterCard numbers because many of the phone order sales slips were attached to the credit reports, and there was a red check by the specific number we needed to verify.

Many times, several card numbers were called on before one was accepted and authorization given.

A lot of invalids were sent back to the telephone rooms to attempt to obtain the correct number. They did everything possible, including telling the customer they were from Visa and MasterCard and needed the correct number.

Declined meant that the account could not be charged the \$49 or it would be over the credit limit. The amount given for authorization was changed to \$76 after I had been there several weeks. This was done to insure that the customer's account could safely be charged the \$49.

At least five people spent the night sorting charge account lists which were purchased from J. Byron's, Beall's, Roman's, and Hutzler's. They were sorted into seven groups depending on the information needed before they were to be entered into the CRT. Another five people looked up the missing information.

I worked on the night shift until December 8. CMI was no longer able to purchase slips because of all the press they were getting, and both the p.m. and night shifts were laid off at that time. That was December 8.

On January 10—I started back on January 10, 1983. I started back on the day shift in customer service. This department consisted of, at the beginning, four people and then down to three people.

Each call was from a customer who either wished to cancel membership or was calling for a refund because he was charged for a service he hadn't ordered. We would fill out a form for each call; customer name, address, phone number, the date of the call, CMI

membership number, if we knew it, which card had been charged, and the amount charged.

A separate department handled refunds. Our slips were turned in to them each day.

Almost all the calls were from irate people who had been double-dealed, hadn't received a refund for 6 months, or people who received a charge on their Visa or MasterCard account and called to ask what they supposedly had purchased and how we obtained the card number since they hadn't told anyone that number, and especially never over the phone.

We heard all kinds of stories that the phone room people had used in order to make a sale. Because I had worked the night shift and knew how the card numbers were obtained, I started to realize that these irate customers actually never purchased the service, at least they didn't realize they had, and were charged because they answered the phone.

In some cases, people were charged on an account that had been closed for over 1 year. We even billed deceased people.

Credit Marketing allowed small credit lines, and some days, none at all.

I believe it was on February 10 or 12 that we were sent a memo by John Guenther saying that no more credits were to be issued from Credit Marketing. We were to tell the customers at that time that they would have to go back through their bank in order to have a charge-back done on Credit Marketing.

Since most of the requests were 6 months, at least 6 months old, it was a little impossible for a lot of these people to get a charge-back because the banks only allowed 90 days. All we could do was reassure them that the situation was being dealt with.

Mr. Loring, Guenther, and Mark Lieberman didn't seem the least concerned when confronted with the problems we were encountering. They kept right on billing people when they knew no credits would be issued.

The customer service department was used as a means to pacify rather than to remedy the situation. It was clear that the company was not interested in the customer. People who had purchased the plan were called again and asked if they would like a lifetime membership which was \$99.

Since they had already paid the original \$49, it would have been \$150 but they were getting a break for the \$49. Most of them said no, and were charged anyway. Some people were billed two times for the service, and it was blamed on computer error when, in fact, it was evident by the sales slip that it was billed on one day and billed again with the new date stamped on it.

In the middle of March, I am not sure of the date, the Brentwood Bank in California stopped accepting any charges or credits issued by CMI.

CMI was then left with a bank in Louisville, Ky., which only accepted charges. At this time, I noticed an increase in billing. People who had agreed to a split billing were now—

Mr. PRINS. Excuse me, you said they only accepted charges.

Ms. SPETH. From what I understand, that particular bank did not accept charge-backs or credits.

Mr. PRINS. So, in other words, if the consumer wanted their account corrected because they didn't order it, the bank wouldn't accept that?

Ms. SPETH. Brentwood Bank was the one that most of our charges were going to, from what I understand.

Mr. PRINS. The bank in Louisville, I think you said, would not take that.

Ms. SPETH. From what I understood, when Brentwood Bank dropped CMI, the only one we had left was Louisville. And I understood that Louisville would not accept any credits, only charges.

Mr. MACK. How did you get that understanding? Why did you come to that conclusion?

Ms. SPETH. It was pretty much office hearsay through everything that was going on at the time. There was a lot of talk among the employees because we were all catching on rather quickly to what was going on. I can't say anything specific as to how I know.

Mr. MACK. So at this point, you were working in the customer service area?

Ms. SPETH. Right, from January 10 until March 25, 27.

Mr. MACK. OK.

Ms. SPETH. OK.

People at that time were not being sent their membership forms because there were boxes of them in the back room. People who had actually been billed were not receiving the membership kits with the registration form or the information on the service.

On March 25, the customer service department, the lost-and-stolen department, ceased to exist. The company was no longer offering any service but kept on billing another week.

I believe they did this up until March 31. On April 1, which was payday, I called about picking up my paycheck because we weren't too sure if we were going to receive one, and all lines were disconnected.

On Monday—this is also hearsay from other people that continued with the company, they opened up a new company at a new address in the Whitfield area called the Auto and Travel Club of America.

Mr. MACK. In the Whitfield area?

Ms. SPETH. Uh-huh. I am not sure of the street. I went to the building one day when I was in that area looking for a job, but I am not sure of the address.

Mr. MACK. Did you find it?

Ms. SPETH. I found it.

Mr. MACK. They are in operation?

Ms. SPETH. Yes.

Mr. MACK. How could you identify that it was they, whoever "they" is, the two owners or the people that you had been working with before?

Ms. SPETH. Right, some of them. And the owners were there the day I walked in. I went to go to lunch with someone who was still working there.

Mr. MACK. OK.

Chairman ANNUNZIO. Ms. White.

TESTIMONY OF SUSAN WHITE

Ms. WHITE. I was a customer service representative. I started August 27, and my last day was March 29. My duties were, you know, to handle complaints, billing errors, the same basic things. We did not handle lost and stolen, the area that I worked in; it turned out to be actually a complaint department.

I would handle problems where people were supposed to have received credits and whereby our records, it appeared that a credit was issued, and that turned out to be another problem we had, it appeared that the credits were issued.

I would tell people that a credit was issued, and say in early September, come to find out the credits were not issued where on our records it had been.

Mr. MACK. What record was that, now?

Ms. WHITE. On the sale slip, something might be stamped credit, or on the computer, the date itself, the date of credit, or even like a hand credit.

I found out later that what had happened was—this was the rumor, I don't know how much rumor it was—but back in June and July, they were issuing credits like before they went to computer, like the regular credit slips. And they would attach a piece of that credit slip to the sales slip and put it back in the file. The part that was supposed to go to the bank never got there.

For the first month I worked there, there would be people I told they had received their credit because the evidence I had was that it was.

This was done prior to it being computerized sometime in June.

My first month I started there, when I was hired, I was told, now, you are going to be having a difficult job here at first. We had a few problems this summer with salespeople. And we are looking for some complaints to be coming in, but that everything was going to be worked out. We are straightening the thing out, and the biggest problem they had was switching over to computer, which sounded reasonable to me.

I have heard a thousand times over that the switching over to computers was what caused all the problems.

My first month I started in, basically it was what I expected. Then all I started hearing was, "I never wanted the service, I told them I never wanted it. I never received anything in the mail."

After a few weeks of this, it got to where a lot of people were saying the same thing.

Well, then we would have a meeting. Mark Lieberman was in charge of all the salespeople. And he would sit down with the customer service people and we would say, "Now, there is something not right going on here; we are getting a lot of the same stories." I know—

Mr. MACK. Let me interrupt you. You said you had a joint meeting with Mr. Lieberman and with some of the sales representatives?

Ms. WHITE. No, no; with the salespeople, just customer service.

Mr. MACK. OK.

Ms. WHITE. OK.

And so, anyway, we would go to him because he was in charge of all these people. After the first meeting—and we said, “Now, we are getting a lot of, like with Michael and all of us, a lot of complaints going on.”

And he said, “I know, but that all happened in the past. We are getting things really straightened out here. I want you to start writing up complaints on the salespeople themselves.”

That became an extra detail and responsibility we had to take care of besides listening to people’s problems and complaints and everything.

And we would sit down with all these assurances and write a report on 3102 and write down explicitly what the complaint was and make photostatic copies, and make sure they were handed in so they would do something about that.

Mr. MACK. Were you ever able to make a contact with a name from a number as far as the salespeople were concerned?

Ms. WHITE. I have a list of them. This I obtained when I worked nights.

Mr. MACK. So that is a list of the numbers?

Ms. WHITE. Verifiers, sales numbers, and the Credit Marketing location, and the person in charge of each. We used this on nights at different times for filing information.

Chairman ANNUNZIO. Do you have any objection to turning that over to the subcommittee?

Ms. WHITE. No.

Chairman ANNUNZIO. Would you take that?

Ms. WHITE. Oftentimes during the day, I didn’t know the people’s names. They quit so often, like Michael said earlier, we didn’t have that information available.

Mr. PRINS. Why would they quit? Why should there be such a turnover?

Ms. WHITE. I imagine it wasn’t a very pleasant job.

Mr. MACK. It sounds to me like the job you all had was probably the most unpleasant.

Ms. WHITE. Well, I would have to say it certainly was interesting.

Mr. MACK. What possessed you to start putting names with numbers?

Ms. WHITE. Names with numbers?

Mr. MACK. You had four-digit numbers to identify the salespeople.

Ms. WHITE. I had worked there two different times. Like Mike had said, when you were doing customer service, the numbers didn’t mean a thing. If the people called and complained, they might have had it wrong or they didn’t even know what we were talking about.

So we ignored that because there wasn’t anything we could do about it anyway.

That was used at night. We had a special project one time where we had to look up the people; I believe it was who made the sale or something. But we needed to know the initials and what names went with them. That is why I was given that. It was not available on days.

Chairman ANNUNZIO. Ms. White, continue with your testimony.

Ms. WHITE. In that line, for me to know the salesperson’s name was totally irrelevant. That number was more important. They used fictitious names, so that had nothing to do with anything.

I would say, “This girl in Miami, whichever Spanish-speaking person there is, is doing something with these.”

And Mark Lieberman’s response would be, “I know, but they have billed a lot of sales, given us a lot of sales.”

That is when I said such a thing as “maybe those sales are not all good.”

Mr. PRINS. What would his response be?

Ms. WHITE. Well, he goes, “Well, we will check on it. You keep writing them up.”

So we did. We would write everything up that we possibly could in, like, December and January. Then I realized they were not doing anything with them, and I realized I had wasted all that time.

Like I said, the sequence is so important as to what was happening in the company and to me as far as when I was working and the money was coming. I don’t know what they did in June and July; all I know is when a sale was made, it took 30 to 60 days before it hit customer service.

And if somebody was smart enough, as soon as they got the membership kit and decided to open it and look at it, of course, they could call for cancellation.

Back in August, September, that was my first full month, what was happening was we were getting calls that had been done in June and July. And you know, people would give me the same type of response the second month I came on.

And then again, we would have another meeting, “Things don’t seem to be getting a lot better here. We are still experiencing some difficulty.”

And there again, “We are working on it.” We tried to get them to write a new script to help. They said the script was straightforward, but I always felt it wasn’t straightforward.

Mr. PRINS. The script was what the telephone solicitor would say when they would call?

Ms. WHITE. That is correct.

Mr. PRINS. They would read from the script?

Ms. WHITE. That is right. We needed to know what the people were saying.

What would happen with these people—like I say, I never worked outside my home until this particular job, I never worked for 10 years. People were just as dumb as I was when it came to the fact that when they received this pamphlet, they opened it up, and it said, “You will be billed on your next statement for this particular service.”

I am sure they assumed, as I would have, if you did not give out your credit card number, how in the world were you going to be billed?

People used to say to me, “I opened it up, but you didn’t have my number. Where did you get my number?” And it became a complete nightmare to work there, people going on and on.

But the point that we had that was good about working in customer service where you had all the yelling and screaming and

hysterical people, we were the one part of the department that was doing something for people, because in August and September and even in October, credits were going out. And we would write them up because they were billing heavily.

As long as they were billing heavily, a good portion of credits were going out. And it was like a game they would play.

Anyway, it took me a couple of months to really realize what was going on and get the whole score. There were enough people saying, "Where did you get my number? How did you get my number? This person didn't call me. How was this done and that done?"

By the third month, let's say, I think it was in November is when they took out the TRW machines where they got all the information that they needed on anybody.

Like I said, I was amazed to find out that you could find out anything about anybody and their credit card number. They were at anybody's disposal. I think this was the frightening thing.

People sent us lists of all the credit cards thinking they were confidential files. They were there to the janitors, anybody who had access to their files.

Anyway, when the TRW machines were taken out, that was a devastating blow to the company because without a credit card number, this company could not function. And that was the final downfall.

If they lost that access—now, of course, they were still purchasing or trying to purchase through dealers, but it wasn't in the magnitude of a credit report. Because when the credit report would come back—like I said, I never worked in that department.

But every single sale, when someone would call me, I would have to track from the very beginning of that conversation, my job was to figure out what had happened, where it went to from there. And then I would see how they got the credit card number.

If it was on the TRW report, if someone had four or five credit cards, Visa, they would all be listed. And if one didn't work, it was filled, they just kept on until we began to call it at the end a Pac-Man because it would just go crazy eating up every credit card number they possibly could.

Anyway, so when the TRW machine was taken out, this was what put them in the crunch. Of course, that is when people were laid off. And to me, it was evident what was going on; they had to do something.

Mr. MACK. When was this machine taken out?

Ms. WHITE. I am not exactly sure; sometime in November, if I am not mistaken. I had only walked in that room one time, so I couldn't know that.

In December, right after that was taken out—like I said, that was their main source of money, what they could always count on. As long as that machine was there, they had access to credit card numbers they could bill.

Well, what happened here was they had to go back to people that they already had their credit card number.

This, to me, was the most complete unbelievable thing they could do. And they went back and tried to resell, as she said, a \$99 plan

to people. People would call up who were still trying to get their \$49 plan and say, "Now, I am billed for \$99."

Then the "oops" that we would have on the computer, that was the thing. Sometimes we had people billed \$99, \$99, \$49, \$36. And we had a lot of "oops" on our computers.

Mr. MACK. "Oops?"

Ms. WHITE. That is what they would call them. But we determined there couldn't be that many "oops" going on. From the "oops" you could make several hundred thousand dollars, I could figure that up, in just a week's time.

It was just if you could get the money back that quickly. But here was the problem as far as I was concerned. In December, which was when the cease and desist order came in and the TRW machines were gone, they went crazy billing people for lifetime.

Up until then, the credits, we were holding onto our own. By the end of December, the boxes had started piling up and we were working there, and we could see they were having a problem, and we were saying, "I don't know how they are going to be able to do this."

And the \$99 lifetime plans became a complete nightmare. They made the money that they needed temporarily, but the people did not want the \$99 lifetime plan.

Then January came and February and all we did was start—it got so bad—before, there was just like a little space where a couple of girls would work to issue out credits. Then it came to the point where they had to set aside a room because there were mass boxes and quantities of credits to be issued.

And we would have on there, third request, fourth request. I got to talk to people five and six times. I knew them by their first names. They would say, "Hi, Sue, I can't get this credit."

And I would say, "I am trying. I am doing everything I possibly can," which was the one good fact. We used to laugh and say that the customer service are the only guys that can wear the white hats around here because we were trying our best to get money out to these people.

Then, of course, we did get the memo that credits were not to be sent out, they were by bank request only. Then we realized the devastating effect to people who had been trying for several months because, of course, a bank would not charge back someone's account only, say, after 30 days or 60 days.

So those people, we would still try, try our best to get out on the fourth or fifth request, try to get the money out.

Then the time came where all there was was boxes of thousands of people to receive credits. And the day came when you just realized that these are not going to ever be issued, it is not going to go out. And right toward the end, that is what we told them. And it was true.

The quickest way for a person who first was billed would be to say, "Go to your bank; do everything you can to see that they take it off for you." Like I said, we had urgent, super urgent, and past urgent requests that we were trying to get out.

As the days went by, less and less credits were issued. And it got down to the point finally—I think she spoke of Louisville; that is

when I decided to leave the company, when they told me it looked like the credits were not being accepted.

And we thought, without a credit line, they will be forced to close in a week. I knew at that point that I was lying to people.

Before I had told them, "You are going to get your credit." Before I kept trying, doing everything I possibly could.

But at this point, I told them, "You are not going to get your credit." And I decided to leave the company. I said, "This is it. That is the last thing I am going to say to these people."

Then when my last day came—I just happened to stay, I didn't know everybody was going to be laid off. But they were laid off before my last day, which was quite ironic.

I was there on the final Monday of that week before the company closed. And I was absolutely shocked. I went back into data entry and I said, "Please, do not tell me that you are sitting here billing people, knowing these doors are closing." I said, "I can't believe this."

And you know, I told my husband before I went in there, I said, "I feel like taking every one of those billing slips and throwing them right out the window."

And I probably would have if I didn't think there would be some kind of charge brought against me. But they were sitting here billing these people, knowing that they were moving to a different location.

And like I said, here there were people who had bought the service with kits that didn't even have the money apparently at that time to spend. Now they weren't even mailing the kits to the people that they charged the \$99.

So that was my final day, which was on that Monday.

That was just an unbelievable thing to find out what could happen to a person and their credit card. It was absolutely amazing. And it goes back to the bottom line, had they been unable to receive their credit card numbers, they would never have been able to do what they did.

That was proven because that is what broke the company. And that is why we need this legislation, I believe.

Chairman ANNUNZIO. Thank you, Ms. White.

Mr. Gabel.

TESTIMONY OF RONALD GABEL

Mr. GABEL. Mr. Chairman and subcommittee members, my name is Ronald Gabel. I am president of a marketing consulting firm which I founded in 1974.

In 1978, my marketing consulting service attracted the attention of Albert Loring and John Guenther of Consumer Marketing Institute. At that time, its primary service was offering new homeowners the opportunity to apply for several credit cards.

These homeowners received a brochure in the mail and subsequently were called by telephone for card solicitation. In addition, other credit card promotional services were offered to credit grantors including direct mail and telephone prescreening solicitation and new-store-hosting programs.

The telephone operation at that time in 1978 consisted of one office in the St. Petersburg, Fla., area.

In May of 1978, I met with Mr. Loring and Mr. Guenther in Sarasota and agreed to consult with and represent CMI. During these years, 1978, 1979, 1980, and 1981, I provided sales representation and marketing consultation to CMI, primarily in the area of credit card promotion.

I was directly responsible for developing the new homeowners' credit card promotion in Washington, D.C., Atlanta, Dallas, Houston, as well as three regional promotions in Florida.

As the credit card promotion business grew, CMI requested that I assist in recruitment and training of sales representatives in each of these cities. The responsibilities of these representatives was to sell and service the various credit grantors.

By the end of 1980, CMI was promoting credit cards from some of the most prestigious, largest credit grantors in the United States, including banks, major department stores, oil, car rentals, airlines, and travel and entertainment companies.

In 1981, CMI informed me that they were offering a credit card registration service. I designed its brochure and test marketed the service to those credit grantors with which CMI was doing business.

During this timeframe, CMI was contacted by a credit card merchandise market that acted as a syndicator for merchandise products via monthly statements to credit card holders.

This company's sales force was subsequently given the right to market CMI's credit card registration service.

Mr. Loring and Mr. Guenther were not involved in the auditing or supervision of these salespersons. In fact, a consulting relationship was requested.

During the latter part of 1981 and in 1982, CMI grew dramatically. As the business grew, the telephone capacity expanded. Offices were opened in Washington, D.C., Fort Lauderdale, Tamarac, Dallas, and Los Angeles.

My consulting services, however, never overlapped into the operation of the telephone rooms, nor did any of the sales representatives that I recruited have phone room operating responsibilities.

Each telephone office had a phone supervisor which reported directly to Mr. Loring and Mr. Guenther. This telephone capacity became awesome. I was requested by CMI to market that capacity. I placed advertisements in national periodicals.

I was ultimately given the assignment to find new products to market by phone. Each new product introduced, however, met with little enthusiasm from the management and was discarded by the telephone room personnel.

The product development concept was excellent, but the execution was an exercise in futility.

The credit card registration service and the money to be made at all levels within the company became a self-defeating competitor against all means of diversification.

In 1982, it became apparent that my service to CMI was of little value. CMI's phone operation was continually destroying every client relationship I had established because of the overzealous, aggressive actions of the phone solicitation.

The lack of control and in some cases, the actual encouragement by the phone supervisors and the apparently condoning actions of the management eventually caused every sponsor of the credit card registration service to cancel.

At this point, my consulting relationship with CMI soured.

After 4 years of building and enjoying the rewards, it was difficult to witness and be a part of the self-destruction.

Mr. Chairman and committee members present here today, it is not a pleasant experience to find myself in the awkward position of admitting to have consulted with a company that literally created an uncontrollable monster and a phone capacity that could reach nearly half a million people monthly. And in the pursuit of utilizing this awesome capacity, stumbled onto the very weakness in the existing credit card truth in lending laws which you have addressed yourself to.

In summary, I would offer my entire support to H.R. 2885.

Chairman ANNUNZIO. Thank you, Mr. Gabel.

I appreciate the testimony of each and every one of you. It is invaluable to the subcommittee. You have already answered most of the questions that I was going to ask through your testimony.

Ms. White, did you feel like a babysitter of sorts as a customer relations representative? If a customer had a problem, they called the customer relations representative and they explained the problem to that representative and the representative had the authority and know how with which to follow through and resolve the problem?

Ms. WHITE. Yes; it definitely got out of hand. I felt, "I am not working as a customer service representative anymore. I am not customer servicing anybody. I am trying to finagle and figure out some way to get these people their money back."

Like I said, when I realized that my attempts to straighten things out or make complaints about certain salespeople through Mark Lieberman weren't doing any good, I quit writing them up. And I knew all I could do was answer the phone and try to do the best I possibly could to do something for people.

I felt extremely—we would hear some very sad stories, you know. I know people probably think—and I hate even the thought that the heads of the company would think, "What is \$49?" I personally know what that did to people. I do know it ruined people's credit.

I do know I called certain banks before and tried to explain to them that it was an error and should not mess up people's accounts.

Toward the end, it was nothing but being able to answer the phones and trying to appease these people the best way we could.

Chairman ANNUNZIO. Mr. Gabel, how long did you say, 4 years, you were associated with it?

Mr. GABEL. Since May 1978, yes, sir.

Chairman ANNUNZIO. About 4 years. When did you first become aware of the fact that there was something wrong?

Mr. GABEL. I would have to say early in 1982.

Chairman ANNUNZIO. 1982. That is about when the attorney general—

Mr. GABEL. When they started the credit registration service, which was called OSP or One-Step Protection.

It seemed like the extension and the ability to generate just an unbelievable amount of revenue.

Chairman ANNUNZIO. You said they had about 500,000 names in their computer?

Mr. GABEL. I don't know how many names they had in their computer. What I referenced here in my statement was that they had the telephone calling capacity to reach 500,000 people a month.

Chairman ANNUNZIO. Each month.

Mr. GABEL. Which was, as I said, was awesome, unbelievable.

Chairman ANNUNZIO. Do you have any questions?

Mr. MACK. Just to follow up, you said that after building up these relationships with these companies over the years, this began destroying those relationships. Could you expand on that?

Mr. GABEL. Well, as I mentioned here, we took the new service credit card registration service back to those credit grantors, the department stores, banks, oil companies, whatever, to see if they would be interested in sponsoring this credit card registration service to their own credit cardholders.

We would go to a bank, a department store, whatever, and then we would develop a program whereby we would call their credit cardholder list which they would supply to us.

Mr. MACK. And what period of time was this?

Mr. GABEL. This was, as I said, the latter part of 1981 and the early part of 1982.

And again, the telephone operations, the aggressiveness of those operations and some of the stories that were related here of the individuals who obviously called the credit grantors and complained at that time because when the person, the telephone solicitor, made that call to the individual to offer them service, he was calling for that department store or that bank.

So the complaints then went back to the department store or the bank. They, in turn, felt that this was something that was destroying their reputation and their relationship with their own credit cardholders. So they would cancel.

So in every case where we had a sponsor, credit grantor, we ended up with a canceled program. And this obviously signaled to me then that the extension in the telephone capacity was just totally not under control.

Chairman ANNUNZIO. Mr. Prins.

Mr. PRINS. A couple of questions, Mr. Chairman.

First of all, I would like to point out for the subcommittee's information that most of the witnesses in this panel came to us voluntarily and in fact, sought us out to tell us their stories. And I think that we owe them a great deal of appreciation for coming forward instead of us trying to track them down. They came to us, and most of them complained that they couldn't get anybody to listen to their story, and that they were pleased that we were willing to talk to them.

Having said that, Ms. Norwoods, did I understand you to say that in a typical night shift, you would bill 1,200 customers?

Ms. NORWOODS. Actually, our shift never did the actual billing, but we would authorize. And we are talking during the months of July, August, and perhaps even the first part of September, before it really hit the media and spread across the country.

CONTINUED

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Yes, we authorized up to 1,200 a night. That was basically the \$49 plan. You do some quick arithmetic and that is \$1,200,000 a month.

Mr. PRINS. Almost \$60,000 a night. That is staggering.

Ms. NORWOODS. Of course, this is not counting cancellations, but this is only sales that were authorized and billed.

Mr. PRINS. Thank you.

Mr. GABEL, I know some of these things are difficult for you, and I don't want to imply that you were a part of any of these things, but I would like to discuss some of the things that you and I have talked about before.

Did you have occasion to sit in on a meeting that Mr. Guenther and Mr. Loring and Mr. Lieberman held with the various TSR's around the country here in Sarasota?

Mr. GABEL. I was invited to the telephone supervisors managers meeting, the purpose being I was introducing at that time new products to sell on the telephone.

So I was trying to sell them on the idea that we have some new products to sell and let's get some enthusiasm behind it, et cetera, because it was the company's desire to diversify.

But as I mentioned here, it was an exercise in futility. So consequently, I was involved in one meeting. There were several managers' meetings, to my understanding, but one in particular I did happen to sit in on and witness what was going on, yes.

Mr. PRINS. Could you tell us what went on at that meeting?

Mr. GABEL. Well, essentially it was, I guess what I would have to term a wrist-slapping exercise, where some of the customers' complaints that the other members of this panel and Mike Ricco presented to the supervisors, pleading with them to put some sort of controls on the telephone solicitors in their various offices.

And some of those, you might say some of those complaints that were brought forth in these meetings were the horror stories that you heard again today.

Mr. PRINS. Now, you said it was a wrist-slapping. Who did the slapping and who got slapped?

Mr. GABEL. The various telephone room managers were reprimanded. My terminology of wrist-slapping is that it seemed like it happened, but shortly after the meeting, everybody went back and everything was back to normal again.

Mr. PRINS. Now, at this meeting that you attended, other than those phone supervisors from around the country, who would have been at that meeting?

Mr. GABEL. Well, in this particular meeting, the marketing representatives that I recruited in these various cities who were out selling the service, et cetera, the credit card promotion service, et cetera, to the credit grantors, they were in attendance.

Mr. PRINS. Were Mr. Guenther and Mr. Loring there?

Mr. GABEL. Mr. Loring and Mr. Guenther were there.

Mr. PRINS. Mr. Lieberman?

Mr. GABEL. Mr. Lieberman and the four or five phone room managers were all present, and those representatives.

Mr. PRINS. Do you recall an occasion where you attended a trade show or convention in Miami—and let me just digress to explain something. Mr. Ricco who testified earlier, his father previously

had worked for the company or worked at the same time in a different capacity.

So the Mr. Ricco we are going to talk about now was the father of our earlier witness.

Do you recall attending a trade show in Miami with Ricco, Senior?

Mr. GABEL. Yes, I do, sir.

Mr. PRINS. Do you recall that after the trade show, you all went out for some refreshment and to discuss the practices of CMI?

Mr. GABEL. Yes.

Mr. PRINS. What did Mr. Ricco say to you?

Mr. GABEL. Well, I think it was what I was saying to him. However, he shared my concerns. Those concerns were that there were just a mounting amount of complaints from customers of poor solicitation, overzealous solicitation, you know, all kinds of unbelievable activities going on in the phone rooms. And it wasn't improving. And he absolutely concurred with me because certainly he was the inside man in the customer service area that was receiving the brunt of those complaints. I just got them from hearsay.

Mr. PRINS. Did he say to you, almost as a plea or something, that "I can't get anybody to do anything about this," or words to that effect?

Mr. GABEL. I would say words to that effect; yes.

Mr. PRINS. He was trying but no one wanted to listen?

Mr. GABEL. Absolutely.

Mr. PRINS. Did he ever say to you, "I have gone to Mr. Guenther, Mr. Loring and Mr. Lieberman, and I can't get them to do anything?"

Mr. GABEL. Well, as I mentioned earlier, I attended one of those managers' meetings. And I heard Mr. Ricco, Senior, absolutely plead with everybody in the room, which included Mr. Guenther, Mr. Loring, Mr. Lieberman, and all the other telephone managers and including myself, "Please, let's stop this activity out there in the phone rooms. It is eventually going to be self-destructive."

Mr. PRINS. And what was their response?

Mr. GABEL. As I said, during the meeting, everybody concurred, it has to be stopped, let's do it. There were some words mentioned by Mr. Loring and Mr. Guenther that it needs to be stopped. But apparently, as soon as they walked out of that meeting and went back to their respective offices, their practices continued.

Chairman ANNUNZIO. They never stopped it, it was the attorney general here in Florida.

Mr. GABEL. I agree with you, sir.

Mr. PRINS. That is all the questions I have, Mr. Chairman.

Chairman ANNUNZIO. There is one thing I would like to clarify in my mind before I ask that you be excused. You were talking about, one of you, feeding into the computer, putting all of this information on computer tapes, names, addresses, and credit card numbers and so forth and so on. What happened to all of these tapes? Could anybody tell me?

Ms. NORWOODS. I have no idea.

Mr. PRINS. Who was there the week that they closed down? You were, Mrs. White?

Ms. WHITE. I was there on that Monday. The actual word did not come out that they were leaving until Thursday. There was a rumor that they were going to close that week, but I wasn't there the last day.

Chairman ANNUNZIO. Somebody said they were going to continue to operate.

Ms. NORWOODS. They have. They are operating as we now speak.

Chairman ANNUNZIO. Is it possible that they have moved some of the equipment to the other company? Why was there such a push to get the information into the system? The computers were taken away, but the tapes were their property. That is where all that information is.

When you were pushing so hard to get the information into the computers, into the other machines, it was the purpose they were already anticipating, already planning.

Ms. HAROLD. It was being planned. We all knew something was happening.

Chairman ANNUNZIO. Where are they operating the other office?

Mr. PRINS. If I might interrupt to explain this to you. When they closed CMI, the company officers moved to the Whitfield Industrial Park and opened up a new company to sponsor a travel plan incorporation.

Chairman ANNUNZIO. Where is Whitfield?

Mr. PRINS. Down 301 a couple miles. Let me continue more under this.

It is in cooperation with Arco, Atlantic Richfield Co. Mr. Guenther and Mr. Loring took many of the former employees of CMI and started a new company.

We interviewed official employees of the new company, and they told us Mr. Loring and Mr. Guenther resigned their interest in the company as of March of this year. The company is still operating. In fact, I see one of the office managers or the operations head of the company here today.

We have checked and found that many former employees of CMI, including the telephone solicitors, are working for the new company. And one of the people who supplied credit card names to CMI, we were told, has apparently purchased the new company and is now the owner-operator of the company.

Chairman ANNUNZIO. Doing what kind of business?

Mr. PRINS. They are selling a travel-type club. If you break down on the highway, you get towing, that kind of thing.

Chairman ANNUNZIO. I want to thank each one of you for appearing today voluntarily.

Mr. MACK. Let me ask a question, if I could.

You raised a point a minute ago indicating that you all attempted to go to other sources for assistance. Did you not receive it? Wasn't there anything within the law that could be done?

Ms. HAROLD. Right after I was laid off, which was in December, I was pretty mad because things were happening that we couldn't do anything about. So I went to—I don't know if I should mention them or not—but I went to the Better Business Bureau. I called Tampa, some agencies, and they were operating on this side of the law. There was nothing they could do to them.

And I said, "Isn't there someone we could report this to because, you know, like hours we weren't getting paid for. We were just being paid for 7½ hours, and there was vacation time that we had accumulated that we couldn't get."

And it was because they were operating on this side of the law. And actually, to go after them, they needed something more concrete. And that, I couldn't furnish at all.

And I went to the paper, and I had a long discussion with someone, an editor of—I have forgotten his department. But he told me the same thing; they couldn't help us because they were on this side of the law and they needed concrete evidence.

And it was only because the FBI contacted me. And I had left my name and I said, "If you ever want any information to get these people, because they were getting rich off of this, you know, it's obvious, you just look us up."

And we all agreed that if ever someone ever took an interest in this, you know, to call us.

Mr. MACK. Anybody else want to expand on that?

Ms. NORWOODS. Within the system, when all of this first started breaking with the media, if we had any doubts before then, our doubts were verified at this time, that there was indeed something wrong with this operation, whether it be neither operating in the white nor the black, but possibly a grey area; there was something amiss.

I followed the chain of command. I went to my direct supervisor, who set up a meeting with his supervisor, who was Mark Lieberman.

Mr. MACK. I guess I was referring to outside sources. The feel I was getting—

Ms. NORWOODS. OK. This has to do with the FBI. It was simply pushed under the carpet and I said, "Fine."

Ms. WHITE. How we knew without a doubt that things were folding and crumbling was something that is a very important point.

When things were put in the computer, they were telling you how they were done, but when things were put on the computer, the normal time was 10 days later, there would be a billing.

And we were getting a lot of calls, "I want to cancel this. I got this in the mail and decided I don't want it. I do not want this service." And we would type up on the computer a cancellation. Fine, then there would be no billing.

But the time came within the last week when I quit where when they put them on the computer, they were billed. You could not stop anybody from being billed.

Everybody knew then that that is when the problems would be. When it was put on the computer, the people didn't have a chance to call in; when it was put on the computer, it was automatically billed, and there were no kits to be sent.

Mr. MACK. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Again, I would like to express the appreciation of the subcommittee. And in your own way, you have made a very constructive contribution to the subcommittee by coming forward voluntarily. Your testimony has all been taken down.

Our lawyers and staff in Washington will review all the testimony as we mark up this legislation. And hopefully, we can prevent a situation like this from recurring again.

Hopefully, if this happens, you can feel that you have played a role as citizens, and I want to compliment each and every one of you for coming forward like you did. Without the help of people like you, it is impossible, as you found out, when they operate within the law making money, conducting a racket within the law, there is not much we can do about it.

But in this particular situation, I feel that we are going to come up with some good legislation to prevent a situation like this from ever occurring again.

Thank you very much for being with us this morning.

The subcommittee will take a 5-minute break. Our next panel can get ready; Mr. Arnold Wenzloff, Mr. David Baker, Mr. George Beyer, and Ms. Kate Holton.

The subcommittee will come to order.

Our panel is Mr. Arnold Wenzloff, vice president of Southeast Services, Inc., Miami, Fla.; Mr. David Baker, director of finance and planning, Beall's Department Store, Bradenton, Fla.; Mr. George Beyer, regional vice president, the Credit Bureau, Inc., Miami, Fla.

Is Ms. Kate Holton here?

Mr. Wenzloff, you can proceed in your own manner.

**STATEMENT OF ARNOLD WENZLOFF, VICE PRESIDENT,
SOUTHEAST SERVICES, INC.**

Mr. WENZLOFF. Thank you, Mr. Chairman.

My name is Arnold Wenzloff. I am a vice president with Southeast Services, Inc., known as Southeast for the rest of my discussion.

I have been employed with Southeast banks in their consumer lending functions since 1961. Our company is responsible for servicing 625,000 MasterCard and Visa cardholder relationships and 15,000 merchant relationships in predominantly the Florida marketplace. Southeast is extremely pleased to have this opportunity to come before this committee today in order to help focus attention on the operations of Credit Marketing, Inc., CMI.

During my comments, we will relate both fact and opinion, because only with both can we depict the CMI operation.

We received our first cardholder inquiry regarding an unauthorized charge by CMI in November 1981. Today, 19 months and over 4,292 charge backs later, we are still receiving cardholder inquiries and processing charge backs. Unfortunately, it was not until August 1982 that we began to keep records on the number of CMI inquiries and their relationship to our total cardholder inquiries. At that time, CMI was responsible for 35 percent of all cardholder charge backs.

The following month, which coincidentally was the peak of CMI's unauthorized cardholder activity at Southeast, they accounted for one of every two charge backs, an unbelievable share of the total. This activity is reflected in our exhibit 1.

Our customer letters and telephone calls, our customer service staff, our conversations with other Florida bank members, our conversations with other Visa and MasterCard members and staff nationwide, and CMI telephone solicitations actually received by our staff has enabled us to piece together this pattern of activity. Additionally, R. Foster Winans' article in the Wall Street Journal, dated February 24, 1983, exhibit 2, can increase the committee's understanding of CMI's activity.

Both valid and invalid cardholder account numbers along with cardholder names and addresses were obtained by CMI with, but mostly without, the cardholders' permission. By invalid account numbers, I mean account numbers that had been converted from 13 digits to 16 digits; numbers which had been closed or canceled and lost or stolen many, many months before the CMI activity. The account data was obtained from credit bureaus who were convinced that it would be used for legitimate purposes.

List brokers were another source of account data. Retailers were paid for their copy of legitimate transactions, which in most cases contained the cardholder's address and telephone number. Additionally, account data can be obtained from cardholders directly over the telephone by utilizing a variety of questionable techniques varying from purported canvassing, to representations that the caller is a bank or bankcard representative confirming account information.

Merchant relationships were then established and reestablished with one or more financial institutions in Sarasota, Fla.; Galveston, Tex.; Grand Prairie, Tex.; Denver, Colo.; and Pasadena, Calif., using corporate and trade style names of One-Step Protection, CMI, Credit Marketing, Inc., CM in Sarasota, CM in Galveston, Consumer Marketing Institute, Bankcard Bureau, Credit Mutual, and Credit Mutual International, Inc.

The account data was distributed via computer reports to telephone solicitors. The well-orchestrated sales pitch promised to send our cardholders some literature and simultaneously allowed the salesperson to confirm account data.

The literature required our cardholder to decline the offer of 7 years credit card protection for \$49; otherwise, we all know the results. It is our opinion that as the velocity of activity increased, CMI dispensed with parts of the procedure. Literature was not dispatched or was sent to old addresses, account numbers and addresses were not confirmed, telephone solicitations were discontinued.

This opinion is supported by the sample cardholder letters that we have included as exhibit 3, and with the more than 250 cardholder letters that we have brought with us.

Unfortunately, we have had to delete our account data since we did not have our cardholders' permission to distribute the letters.

It was not until the cardholders received their next monthly statements that they realized that CMI had charged them with an unauthorized purchase of \$49. This usually generated both a telephone call and a subsequent letter to our customer service department who, in turn, created a credit to our cardholder's account and a charge back to CMI's Merchant Bank.

As you will recall from exhibit 1, we charged back 4,292 unauthorized purchases during the recorded 10-month period. This cost

a minimum of \$79,574 based upon our chargeback processing costs of \$18.54. If we multiply the 4,294 chargebacks by the unauthorized sale of \$49, we posted and then credited our cardholders for \$210,308 in unauthorized activity. These figures do not include our November 1981 to July 1982 CMI activity. Neither do they begin to reflect the costs of all bankcard issuers who were affected, nor do they reflect the costs that the Merchant Bank incurs to process the chargeback or their losses.

Added to this, the unquantifiable costs associated with the cardholders' irritation of having to deal with the unauthorized charges, the overburdened customer service departments, the canceled accounts, and the injury to our account relationship, you reach a disastrous result.

Fortunately, these CMI activities and our burgeoning fraud activity have produced some very excellent and innovative responses from our industry.

Visa has implemented the merchant reference service and MasterCard, the terminated merchant file.

Merchant contracts now prohibit the distribution of account data unless connected with legitimate activity.

Southeast Bank's merchant contract contains a security interest on the funds created by bankcard activity. Zero floor limits have been mandated via electronic terminals where risk is abnormal.

New carbonless sales drafts are replacing carboned ones.

Southeast, and this is a very important point, has always provided the two major credit bureaus with truncated and distorted account number information. Recently we suggested the implementation of this routine for all subscribers to one of the bureaus.

At the committee's request, I have limited my comments to the operation of CMI. However, before we conclude, we would like to ask the committee as it moves forward with H.R. 2885 to balance the illegitimate activities of a few against the legitimate industry needs to utilize account data. A prohibition of illegitimate activities is much preferred to a definition of legitimate activities.

On behalf of Southeast, I want to thank you for the opportunity of expressing our views and for your attention to this vexing problem.

I will be pleased to try and answer any questions you might have.

Chairman ANNUNZIO. Mr. Wenzloff, I note on the desk that you have a statement that you've submitted for the record. Without objection, I'm going to make this entire statement part of the official record.

Mr. WENZLOFF. Thank you, Mr. Chairman.

[Mr. Wenzloff's prepared statement, on behalf of Southeast Services, follows:]

Statement

of

Arnold Wenzloff

on Behalf of

SOUTHEAST SERVICES, INC.

a wholly owned subsidiary of

SOUTHEAST BANK, N.A.

before the

House Banking, Finance and Urban Affairs
Subcommittee on Consumer Affairs and Coinage

July 6, 1983

Good morning. My name is Arnold Wenzloff. I am a Vice President with Southeast Services, Inc. (Southeast) I have been employed with Southeast Banks in their Consumer Lending functions since 1961. Our company is responsible for servicing 625,000 MasterCard and Visa cardholder relationships and 15,000 merchant relationships in predominantly, the Florida marketplace. Southeast is extremely pleased to have this opportunity to come before this committee today in order to help focus attention on the operations of Credit Marketing, Inc. (CMI)

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On behalf of Southeast, I want to thank you for the opportunity of expressing our views and for your attention to this vexing problem. I will be pleased to try and answer any question you might have.

Southeast Services, Inc.
 MASTERCARD AND VISA
 Customer Service Activity as related to Credit Marketing, Inc.

	Total Cardholder Research Inquiries	Total Chargebacks		Total Credit Marketing, Inc. Chargebacks	
	#	#	%	#	%
August '82	8,780	1,399	16	490	35
September '82	11,148	1,717	15	859	50
October '82	8,431	1,721	20	602	35
November '82	8,546	1,793	21	663	37
December '82	7,477	1,799	24	498	28
January '83	8,345	1,811	22	525	29
February '83	6,769	1,424	21	342	24
March '83	7,322	1,458	20	175	12
April '83	6,206	1,327	21	93	7
May '83	<u>6,877</u>	<u>1,189</u>	17	<u>45</u>	4
GRAND TOTAL	79,901	15,618	20%	4,292	27%

Exhibit 1

Services That Protect Credit Cards Irritate Many Cardholders'

Phony Orders, High Pressure
Spark Storm of Complaints;
Create Losses for Banks

By R. FOSTER WINANS

Staff Reporter of THE WALL STREET JOURNAL
Mildred Abbott was surprised, to put it mildly, when she opened her mail not long ago. The 73-year-old Miami housewife noticed that her monthly MasterCard bill contained a \$49 charge for seven years of credit-card protection.

The bill indicated that she had signed up for the protection plan on a particular day in the previous month. "I was in North Shore Medical Center that day having a tumor removed from one of my lungs," she recalls. "I was in no condition to buy anything."

Mrs. Abbott's problem was not, as she first suspected, the result of a computer mixup. Thousands of other credit-card holders are complaining that they are being ripped off by firms selling protection for lost or stolen cards. They say that they have been billed for the service even though they didn't want it—and sometimes never even spoke with a sales representative of the service firm.

Service firms that solicit cardholders generally offer to keep a record of the cardholders' various account numbers, report lost or stolen cards, arrange for replacements and notify card issuers of the customers' address changes. Some of the services also provide stranded travelers with emergency cash advances and plane tickets. Annual fees average about \$12, although lower annual rates often can be obtained by signing up for a block of years into the future.

A Business In Turmoil

Profit margins are robust, typically about 50% after expenses. Predictably the card-registration industry has attracted "lots of people who want to make money in a hurry and get out," says H. Spencer Nilson, a former Diners Club International executive who has been writing about the business since 1952 and who publishes the Nilson Report, a credit-card newsletter.

Mr. Nilson estimates that 30 protection-service companies have folded in the past 20 years. "The whole business is in turmoil," he says.

When a credit-card holder gets a bill for a service that he hasn't ordered, he may be puzzled or outraged, but in most cases it is the bank that is the real loser. As a routine practice, nearly all banks cancel or refund a questionable credit-card charge immediately. But there is a catch. The bank already has paid out the sum in question to the protection-service firm. (Few people realize that a credit-card charge slip has most of the attributes of a bank check and can be converted into cash immediately on presentation.) Meanwhile, usually a month or more elapses before the customer gets his credit-card bill and complains about the charge. And so the bank is left holding the bag.

In situations like this, the bank attempts to recover its money from the protection firm by a "charge-back," which can take the form of a withdrawal from the protection firm's bank account, or, if the firm has no such account, a bill for the sum in question. In numerous cases, however, the protection firms have refused to pay. Although the individual sums involved are small, collectively they can amount to a sizable drain on a bank, and so more and more banks are going to court to get their money.

Booming Volume

The disputes come at a time when the credit-card protection business is enjoying a boom, despite the recession, because of consumers' fears of what might happen if their cards were lost or stolen. About six million cards were lost or stolen. About six million of the nation's 94 million cardholders have registered with a service, up from 2.8 million in 1980, according to the Nilson Report. It says that the industry's revenue has doubled in the past two years to about \$75 million and probably will double again by 1985.

Credit-card protection is a legitimate business, of course, even though some financial advisers question the average consumer's need for it. Few, if any, complaints have come to public notice about such firms as Credit Card Sentinel of Canoga Park, Calif., which has a rigid policy against using telephones to solicit customers for its card-protection business, or SafeCard Services Inc. of Fort Lauderdale, Fla., which has contracts with both Diners Club International and American Express to provide protection for a fee for their members' cards.

But some banks and card-issuing merchants have lists of protection firms with which they will no longer deal. A notable example is Secure-A-Card of Kensington, Md. It has operated under several names, including Card Saver. The company is defunct, and its owner, Joel Katz, is believed by investigators for the Maryland attorney general's office to be operating through a new company.

Thousands of cardholders have complained to Maryland banks that they have been billed for services by Katz-owned companies.

Please Turn to Page 21, Column 1

Exhibit 2

Continued From First Page

panies without their permission. Julian Federal Savings & Loan Co., a subsidiary of American Federal Savings & Loan Co. of Alexandria, Va., has sued Mr. Katz in Montgomery County Circuit Court. The thrift firm alleges that he ran a "credit-card scam" and left it in the hole for more than \$70,000 in refunds that it made to its Visa and MasterCard customers. Mr. Katz couldn't be reached, and his attorney refused to comment on the suit.

Credit Card Service Bureau of Alexandria, Va., likewise has generated numerous complaints. It was cited by the Federal Trade Commission in the early 1970s for deceptive advertising practices. And the Better Business Bureau of Washington, D.C., says it has a file of complaints on the company dating back to 1963. A spokesman for the watchdog agency says that the company also was named in numerous billing disputes in 1982. Citing litigation with another credit-card protection firm, officials of Credit Card Service Bureau declined to comment.

Another protection firm that has been touched by controversy is Credit Marketing Inc. of Sarasota, Fla., which says it had sales last year of about \$7 million. Credit Marketing's officers and attorneys freely discussed the firm's billing problems. In many cases, they said, the fault really lay with banks that "panicked" when confronted with cardholder challenges to their credit-card bills.

Many Credit Marketing's disgruntled customers are in Florida. Great American Bank of Tampa last year sued in county court to reclaim money the bank says it had to refund for disputed billings for Credit Marketing's \$49 "One Step Protection" program. Southeast Bank of Miami said it had to hire "three or four people full time to handle complaints from cardholders," and Sun Banks of (Orlando) Florida also says its customer-service staff has been snowed under with complaints about the company.

In New York, a lawyer for Chase Manhattan Bank says the bank still is owed \$46,000 in refunds it issued and is considering legal action against Credit Marketing. An attorney for Zale Corp., the big Dallas-based jewelry retailer, also says that Credit Marketing still owes Zale for refunds. "I can't say how much we are in the red," the attorney says, "but I can tell you we're not happy."

A Federal Probe

Florida's attorney general has filed a complaint with the state's legal department accusing Credit Marketing of billing customers who either declined the service or were never asked to join. And Credit Marketing confirms that Terence Zitek, the U.S. attorney based in Tampa, and the local office of the FBI have been investigating bankers' claims that the company has refused to honor refund claims.

However, Beiran V. Dannheiser, a Credit Marketing attorney, says he shortly expects to settle the attorney general's suit. As for the federal investigation, Mr. Dannheiser says, "I'm sure we'll be able to resolve that problem also."

Threatened by Visa U.S.A. with a lawsuit that could further damage its credibility and choke off its ability to deposit charge slips and collect cash, Credit Marketing says it recently signed an agreement with the charge-card association promising to repay merchant banks for their refunds.

"We're going to make every bank whole," Albert Loring, the president of Credit Marketing, says. He and John Guenther, the chairman of the company, say they have scaled back their operations, which employ about 300 persons in six locations across the nation, and have installed extra controls to prevent the problem from continuing.

Buyer's Remorse

Mr. Loring, nonetheless, denies that the company billed anyone without permission. "People sometimes forget, between the time of the sale and when they get their bill, that they ordered it," he says. "Also, many people change their minds when they get the bill." This is a common occurrence in mail and telephone marketing campaigns, he says, and is known as "buyer's remorse."

Mr. Loring and Mr. Dannheiser, Credit Marketing's defense counsel, portray themselves as victims of the banking community's ignorance of the typically high rate of cancellations in telephone marketing. They claim that they warned the banks that the number of refunds would be high.

But, they say, the banks, finding themselves buried in paper work, panicked and closed Credit Marketing's depository accounts without warning, forcing the company to scramble to find new banks that would accept its accounts.

Many of the industry's billing disputes that have emerged have occurred after intensive telephone blitzes of an area teams of salespeople for protection-service firms. Unsettling to the banks is the impression given by some of the salesmen that they are bank employees.

Avoiding Insurance Regulation

Although many people apparently believe that a protection service provides "insurance," the one thing that most credit-card protection firms avoid, in their printed material at least, is the promise that they will reimburse customers for financial losses suffered as a result of lost or stolen credit cards. To offer such protection would subject the firms to the regulation of various state insurance commissions—a burden they obviously prefer to avoid.

As it is, cardholders' losses are limited by Federal Reserve board edict to 50 per cent, and most banks and merchants are loath to collect even this amount from victims, believing it is poor public relations. This has led to criticisms that the protection industry provides a service for which there is no real need. In 1978, in fact, the Federal Trade Commission considered, and then dropped, an investigation that such services were carrying on "an inherent deception."

Where the credit-card protection-service firms get their prospect lists is a matter of concern to some banking and credit-card officials. In certain cases there is no mystery: Some banks have turned over their credit-card lists to protection-service firms in return for a "wholesaler's" cut of 75 cents to \$1.25 for each registration contract that is sold.

But often the banks have no idea how their cardholder lists got into the hands of the service firms' salesmen. In some instances, it is known that the service firms assembled their prospects list by buying old credit-card sales slips from retailers. And sometimes the lists are obtained by subterfuge from retail credit agencies.

One large Florida credit-reporting agency cut off a credit-card protection service from access to its files when the firm was unable to prove that it was checking credit-worthiness and not just getting sales leads with account numbers. Before that, an official of the credit agency says, "they were pulling files, through a terminal we gave them, every minute our computer was turned on, from 7 a.m. to midnight, five days a week."

A congressional subcommittee is considering legislation that would regulate trading in the lists that telephone marketers of all kinds use to contact potential customers.

Says a Visa lawyer, "The most interesting aspect of all this may be how these companies get lists that include credit-card account numbers." He adds, "This is a privacy issue that won't easily go away."

September 3, 1982

Customer Service Department
P.O. Box 523500
Miami, FL 33152

Re: [REDACTED]

To Whom It May Concern:

I am writing in reference to an unauthorized charge on the above-mentioned account by Credit Marketing, Incorporated.

According to my billing, this company charged my account forty-nine (\$49) dollars on 7/13/82, and the transaction was posted on 7/19/82 (reference number 46630007161430087359610).

When I received the initial telephone call from this company, the representative did not make clear that this contact was on behalf of an independent company. Rather, she gave the impression that she was calling from Southeast Bank to verify information she had at hand on my Visa charge account. After explaining quickly the one step credit card protection, I indicated to her that I was not particularly interested. She insisted that it was worthwhile, still giving the impression that she represented the bank. She ended her conversation by asking whether I would be at home for the next fifteen minutes. Suspicious at this point, I said yes, and she hung up. Immediately thereafter I became ill ("morning sickness"). Simultaneously the telephone rang. I answered in hopes that it was my husband (so that I could explain the previous, now-suspicious telephone call). Instead, it was a gentleman who clearly identified himself as a representative of Credit Marketing, Inc. He said he was selling one step credit card protection and asked whether I was interested. At this point I felt quite ill and told him that I was sick and couldn't talk. As I began to hang up he quickly asked if his company could send me information on this service. Unable to speak, I uttered a "no" and hung up, running immediately to the bathroom.

I strongly object to this company's presumption in charging my account for something I did not authorize and do not want. I believe this telephone "scam" is a serious misrepresentation of Southeast Bank to its credit card customers. Above all, I believe the ready access not only to my credit card account number but also to any outstanding balance and/or credit limit on said account by other than Southeast Bank for the sole purpose of cajoling unsuspecting consumers is a gross violation of privacy and consumer rights.

I trust that you will correct this charge on my account, and hope that such an incident does not again take place in future. Thank you for your cooperation in attending to this matter.

Yours truly,
[REDACTED]

Exhibit 3

FRAUDULANT CHARGE LINE READS AS FOLLOWS:

08-18-82 75106202232262143002064 08-23 CREDIT MARKETING, INC. GALVESTON, TEXAS \$49.00

F.C.

September 10, 1982

Customer Service Department RE: Card [REDACTED]
Card Holder Claims
P.O. Box 523500
Miami, Florida 33152

Dear Sirs:

As per my conversation with the Customer Service Department I am writing this letter to outline to you what occurred on my charge with regard to "One Step Protection" which supposedly is a service for credit card theft and loss protection. I was contacted over the phone and asked if I was interested. As this phone call was made during the dinner hour I was in a hurry and said that I was not interested in any such service. The lady on the phone insisted that she send me a letter outlining their service. As I was in a hurry and as I could see no harm in a letter being sent, I agreed and hastily asked IF THERE WAS ANY CHARGE FOR THIS TO WHICH SHE REPLIED NO. The next thing I knew I received my statement with a "mysterious" \$49.00 charge on it from Texas. I had kept the garbage that she had sent me and the \$49.00 rang a bell. Sure enough, that was where the charge came from and I called the next day and raised holy hell.

The thing that disturbs me the most in all this is where they obtained my Master Card number and how they so blatantly abused their authority of which they had none, to use my card. I honestly was infuriated beyond what I could describe in this letter to you. It honestly frightened me that this could be done inasmuch as I pay my bills on time and take my charging privileges with you very seriously. I would appreciate it if you could see that this \$49.00 charge is removed. I have attached a copy of my bill and have highlighted that abuse. I personally hope that this is stopped and that perhaps some legal action can be taken to stop this sort of thing.

I want to take this time to thank you for your attention in this matter and I trust you will contact me by mail or phone should you have any further questions.

July 20, 1982

Better Business Bureau Council
Sarasota County Chamber of Commerce
Attention: Bobbi Keller
Manager Better Business Bureau Council
P. O. Box 308
Sarasota, FL 33578

Dear Bobbi Keller:

This letter is in reference to a problem we acquired with a business in your area. Credit Marketing Inc., of 1718 Main Street, billed MasterCard \$49.00 for services that we did not request. They sent a brochure explaining their services. They said that MasterCard had automatically been billed and if we didn't want the service we had to call them. Well we called but MasterCard sent us the bill anyway. I do not know how they got our account number because we didn't give it to them nor do they have a written signature. The problem is not only are we being billed for something we do not want, we had already cancelled our account. Now, MasterCard thinks it has been reopened. We feel that companies of this type are a menace. This form of operation where they bill the consumer and then place the burden on the consumer to notify them is unfair.

Enclosed are copies that we've sent to MasterCard and Credit Marketing Inc. If there is anything you can do to help us and prevent this from happening to someone else we certainly would appreciate it. Thank you in advance.

Sincerely,


July, 19, 1982

Credit Marketing Inc.
1718 Main Street
Sarasota, FL 33578

Credit Marketing Inc:

This letter is in regards to a MasterCard bill we just received. The bill was for services by your company. We did not authorize any services. We are curious to know how you obtained our charge card number particularly since we've cancelled our account. Being careful consumers we've always looked carefully into what we purchase. It's our custom to decide what we want then purchase it not the other way around. We are appalled by your method of operation. We do not feel that you should bill for services, then make it our responsibility to inform you if we do not want it. Apparently that method didn't work. As soon as we received your brochure we called and said we weren't interested. This is a terrible inconvenience for us especially since we've cancelled MasterCard.

We advised that we have no intentions of paying the bill. We suggest you straighten it out with MasterCard. We are forwarding a copy of this letter to the Better Business Bureau in Sarasota and expressing our dissatisfaction to them.

Sincerely:


P.O. BOX 308
SARASOTA, FLORIDA 33578

August 3, 1982



by _____
do not wish to have the
item. By advising his
company for the plan he
item removed from his
account within 60 days as
if it is not, we suggest

RE: One Step Protection

Dear Mr. _____

Attached please find a copy of the
reply we received regarding your
complaint filed with this Division.

We hope this matter has been handled
to your satisfaction.

Thank you for contacting the Better
Business Council for assistance.

BETTER BUSINESS COUNCIL

Enclosure

~~xx~~ Have adjusted (cancelled) _____ Will adjust by _____

Unwilling to consider (explain below)

When advised by this customer that they did not wish to have the
One Step Protection Plan, we cancelled the order. By advising his
credit card company of his intention not to pay for the plan he
instituted a charge back action to have the item removed from his
account. It should be deleted from his account within 60 days as
a result of his notice to his card company. If it is not, we suggest

He have his bank write to our accounting department for a proper
handling of the removal of any charges.

M.A. Richards
Customer Service

DEC 1 1982

CEDA
82-0214

November 29th 1982

State Attorney's Office
Fraud Division

Dear Sirs,

Please find enclosed a copy of my letter to South East Bank on a very interesting and bold scheme, which as I understand is new in South Florida, please look into this matter and do not hesitate to call me if you need further information.

Thank you,

[REDACTED]

[REDACTED]

November 28, 1982

Master Charge/South East Banks
P.O. Box 012325
Miami, Fla. 33107

Customer Service.

Ref: Acct. [REDACTED]

Dear Sirs,

Per my telephone conversation of Friday the 26th, the charges of \$49.00 was not authorized by us. I am forwarding a copy of this letter to the State Attorney's office, since I consider this situation a fraud, an invasion of privacy and somehow a security leak on the South East Bank, confidential information.

A person called our home sometime in the early evening, and identified his company as a South East Bank Insurance services; for a fee of \$49.00 this company would insure our credit cards against loss in case of theft. After he finished his pitch, he verified our credit card number, I requested a written literature on his service to be mailed to us, and did not agree to subscribe to this services.

The literature never was received, and we forgot about the phone call until now. How did this people get our correct names, our telephone number is not listed under our name (but in my mother's maiden name, so we are protected from random calls) most important how did they get the credit card number?

We feel South East Bank has a security problem, we feel our privacy has been invaded, and we are at the mercy of who ever wants to use our card number and name, never mind charge on it too.

We demand this charge to be deleted right now, and a letter from Master Charge explaining how this people can take a chance on doing this, we do not want to think that some one in Master Charge is selling out a list of the customers but we can't help to think this is possible.

Both my husband and myself use our credit card for business and if you check our records we are careful card users, and very good paying customers, at this time we need a good explanation to keep us from cancelling our credit card and going to American Express.

Sincerely,



STATE ATTORNEY
METROPOLITAN JUSTICE BUILDING
MIAMI, FLORIDA 33125

JANET RENO
STATE ATTORNEY

December 10, 1982

TELEPHONE (305) 547-5200

Southeast Services
P.O. Box 012555
Miami, Florida 33101

Attention: Dennis Sickle

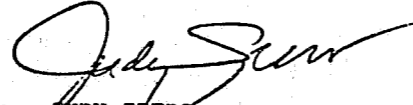
Re: Credit Marketing, Inc.
CED NO. 82-0214

Dear Mr. Sickle:

Enclosed is a copy you requested of the complaint
sent to your Consumer Service Department
and to our office.

We appreciate your interest in this matter. Again,
I would like to suggest that you contact Barbara Briggs,
Assistant State Attorney with the Office of the State
Attorney in Sarasota. Her telephone number is (813)
957-0432, and her address is: Office of the State Attorney,
Consumer Fraud Division, 2002 Ringling Boulevard, Sarasota,
Florida 33577.

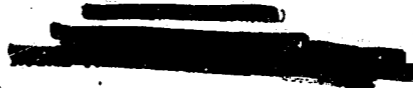
Sincerely,
JANET RENO
State Attorney


By: JUDY SPERO
Legal Assistant
Consumer & Economic Crime Division

JS/lb

Enclosure

F.C.


CB
CMC

September 18, 1982

Master Card
Customer Service Department
P.O. Box 523500
Miami, Florida 33152

Re: 


Gentlemen:

The attached ^{XEROXED} statement was received by me on September 16th. An
inspection of the charges noted thereon revealed that the first charged item
viz. "Credit Marketing Inc. Tx \$49.00" should not have been charged. I never
authorized Credit Marketing Inc. or any of their agents or employees to make
such a charge. How ^{do} they get away with ^{THIS} kind of dealing?

On or about July 16, 1982, prior to my departure for ~~max~~ points north,
I received a telephone call around 8 P.M. from an individual who couched his
sales pitch in such manner as to make me believe he was a representative of
Master Card; that if I purchased credit card insurance (lost or stolen), I
would be allowed 90 days free insurance before paying for it. Instead I was
immediately charged. I don't go for that kind of dealing.

I, therefore, request that you delete this item from my current statement.

An early reply will be appreciated. Thank you.

Very truly yours,


ONE STEP PROTECTION.
1718 Main Street
Sarasota, FL 33577

CONGRATULATIONS on your decision to join thousands of other credit cardholders in the fight to protect against theft, loss and fraudulent use of cards.

This notice serves as confirmation that your protection has been in force since 11/18/82 when during a phone conversation with our representative you acknowledged your desire to enroll in ONE STEP PROTECTION, a credit registration and protection service.

Your enrollment kit will be mailed to you shortly.

Your membership is for 7 years and covers all credit cards that have been or will be issued in the future to you and your immediate family.

You will be billed \$49.00 for your membership on your _____ account.

If you should lose your credit cards or have any questions please contact our

Mr. Riccio: 1-800-237-9648 (In Florida 1-800-282-2270).

Phone Sales Representative # 3102

CB
CMC

Miami, Fla, August 27th 1982

One Step Protection
1718 Main Street
Sarasota, Fla. 33577.

Attn: General Manager

Gentlemen:

I have received a congratulations card from your firm, stating that I have accepted this membership that is good for 7 years at a price of \$49.00. As you can see I'm sending copy of this letter to Master Card, Visa and The Better Business Bureau in order to set the record straight.

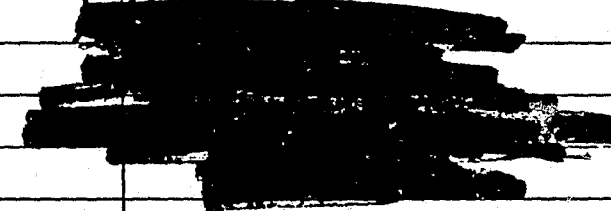
To begin, let me tell you that I myself am a business owner for quite a while and dealing with the people daily and I can tell when they are forcing a product or a sale to you. The lady that made the phone call to my residence (which is a private number by the way and not to be used for soliciting) never gave me the opportunity to tell her that I did not want the offer she was making to me. She memorized the speech very well or perhaps was reading it at such speed in order to avoid any interruption on my part. Her Number is : 3102

_____ type of product or service

CB/CMC
to return my comment:

Please give me a credit for the amount of 49.00 with interest. My transaction date 10/8/82 reference number is 707002300008 00001413 posting date 11/5 credit marketing dept. please return \$49.00

Thank you



cb/mc

Nov. 20, 1982

From: [redacted]

F.C.

On our Nov. bill - just received, we are charged for an item of \$49.50 charged by Credit Marketing Inc Sarasota Fl.

This charge is incorrect as we have never done business with this Co. nor have ever been in Sarasota in the past ten years.

If you will check the slip submitted, by this Co. you will not find either my signature or my wife's.

Sincerely yours,
[redacted]

IA/kmc August 29, 1982

F.C.

Account Number # [redacted]

Customer Service Department
P.O. Box 523500
Miami, Florida 33152

To whom it may concern:

On June 9, 1982, we were charged for One Step Credit Card Protection for \$ 49.50. We called One Step Credit Card Protection and cancelled it on June 23, 1982. Now on our July bill it shows the credit of \$ 49.50. But on the same bill we are charged once again for the Credit Card Protection on June 11, 1982, without a credit to accompany it. We then called Master Card and spoke to Mrs. Palant and she told us to write a letter to Master Card and state that we were charged twice and credited only once. Now on the August billing it is still being charged plus interest. We called once again today and spoke to Miss. Olds she suggested we write another letter and explain our problem once again. I am enclosing copies of our bills and they show the facts that there are two charges and one credit, which we had already written a letter about and now we are being charged interest on this disputed amount.

Your prompt attention to this matter would be greatly appreciated.

Thank you,
[redacted]

enc:

August 18, 1982

Customer Service Department
P. O. Box 523500
Miami, Florida 33152

cb
cmc **F.C.**

RE: Account # [REDACTED]

Dear Sir/Madam:

This is to inform you that there is an error in my Visa statement. I have been charged for a service I did not want.

Last month I received a call from a representative of One Step Protection, a credit card protection agency. He asked me if I wanted their services, and I said no. He replied that I was under no obligation to buy their services, but he insisted in sending me some literature. I told him that he could send the literature but I wanted to be sure that I was under no obligation to buy anything. His reply was that if after receiving and reading the literature I was not interested, I could discard said papers. Later that same day a lady called me to verify my address, again I emphasized to her that I was under no obligation to buy and she agreed.

After receiving their literature, I never returned any registration forms. Now, as you can see in the enclosed copy of my statement, I have been charged for their services.

I would appreciate it if you could get this matter resolved as soon as possible, and communicate to the company in question that I am very disappointed with the way that they have conducted their business.

Sincerely,

[REDACTED]

Non-Paid

cb
cmc

F.C.

[REDACTED]

September 13, 1982

VISA
Customer Service Department
P.O. Box 523500
Miami, Fla. 33152

[REDACTED]

Gentlemen:

Regarding the highlighted charge of \$49.00 to my account...

I would ask that you remove this charge from my account immediately, along with any interest that accrued while said charge was posted to my account.

I did not authorize this charge. The understanding was that I was under no obligation. I was to look over the necessary documents and if interested, I was to sign the appropriate form and return same to sender in order for this coverage to be valid. This was, in fact, stated on the form - signature required to be valid.

I did not sign the necessary form and, therefore, did not authorize purchase of this coverage. Nor did I do so via telephone.

I am absolutely furious that someone could charge something to my account without my authorization. I feel the manner in which this was handled is illegal on the part of Credit Marketing, Inc.

Please remove said charge from my account.

Very truly yours,

[REDACTED]

/v1
Enc.

CB
/ OMC

F.C.

[REDACTED]
August 31, 1982

VISA Customer Service Department
P. O. Box 523500
Miami, FL 33152

Dear Sir/Madam:

On my August statement, I show a purchase made for \$49.00 on 8/20/82 at Credit Marketing, Inc. in Galveston, TX.

After checking my records and sales slips, I find that this purchase, attributed to my account [REDACTED] was never made by me or anyone in my family. Therefore, I am requesting an investigation and consequently a credit from Visa.

In speaking with Mrs. Perez, of your Customer Service Department, I do not have to pay for this amount in question; although I will pay for the other charges in my billing statement.

I would very much appreciate that this correction be made before my next billing date which is 9/22/82.

Thank you for all your assistance, and if you need to contact me by phone, you can reach me at my office number, [REDACTED]

Sincerely,
[REDACTED]

/mv

Enclosure (copy of statement)

27 Aug. 1982

FC

CB
/ OMC

To whom it May Concern,

I thought this was resolved when on July 28, 1982 your Miss CARDONA verified that this account is a closed account and has been since 1980.

I have not authorized nor do I want the service indicated.

Please remove the attached charge and verify its removal.

Thank you.
[REDACTED]

FC

*UB
CME*

Sept. 15, 1982

VISA - Customer Service Department
Attn: Cardholders Merchant Claims
P. O. Box 523500
Miami, Fla. 33152

Dear Sir or Madam:

I am attaching a copy of my VISA September statement on which a \$49.00 charge appears for a "One Step Protection" service. I have at no time authorized such service or have requested this company's service. Previously at my home I received a phone call from this company in which they asked to send some information to my home and I told them I was not interested.

Kindly remove this charge of \$49.00 from my statement as it was not in any way authorized.

Thank you,

[Handwritten signature]

[Redacted]

[Redacted]

CPM F.C.

Miami Sept 16/82

Southeast Bank N.A. P.E. [Redacted]
Customer Service Dept

Gentlemen:

Enclosed you'll find the last statement you sent me showing a new balance of \$49.00 for a purchase I never made, and because I have not used my Visa card for over a year please check for the signature on the purchase order.

Hoping to hear from you about this matter soon.

Thanks

[Redacted]

September 17, 1982

MasterCard
Customer Service Department
P.O. Box 523500
Miami, Florida
33152

F.C. *cb*
cmc

Re: Invoice Billing Date 9-10-82
Acct# [REDACTED]

Gentlemen:

I am writing to you in hopes that I will be able to get this matter on the above referenced rectified.

I have received the attached billing with an error. I make reference to the first charge listed on the attached. There seems to be an error in the billing.

I have never been in Sarasota, Florida, not even on that date. I have no knowledge of the company listed or the charge. I have not ordered anything by phone nor has my wife. Therefore I would like for you to review this matter and credit my account.

I have been informed by one of your telephone operators in the service department that all I would have to do at this time would be to pay the annual membership fee which I have enclosed and to wait for 30 to 45 days until the matter can be investigated, therefore I have enclosed the annual fee and I will await word from you.

Very truly yours,

[REDACTED]

Encl

*Don't you
read your
mail?*

[REDACTED]
July 19, 1982
Former Act. # [REDACTED]

MasterCard
P. O. Box 012325
Miami, FL 33107

MasterCard:

This letter is to advise that our letter to you dated May 27, 1982 still stands firm. We no longer wish to maintain our MasterCard account.

We recently received a bill for \$49.00 for the service of Credit Marketing Inc. We did not agree to this service. There is no written signature from us saying that we do. Their methods of operation does not impress us. Please be advised that we have no intention of paying the \$49.00. If you have any questions please contact Credit Marketing Inc. As before we do not want a MasterCard account. Enclosed are our cut up cards.

Sincerely,

[REDACTED]

CB/ame

November 23, 1982

FC

Master Card
Customer Service Dept.
P.O. Box 523500
Miami, Florida 33152

Dear Sir:

Please be advised that a charge of \$49.00 from Credit Marketing, Inc., Sarasota, Fla. should NOT be placed on our bill.

That firm telephoned my home, outlined their service and asked if they could forward more detailed information to us in order for us to look it over. I said they could send the information. I did NOT say I would purchase their service.

When the material arrived at our home, I looked it over and decided it was not necessary. I called their toll-free number the same day and told a customer service representative I did NOT want their service. I was told we would not be billed.

I signed nothing and gave no verbal authorization that would allow them to charge our account for their service. I did not give them our account number.

I am annoyed that your company would allow charges to be placed on customer accounts without that customer's signature to verify that the customer did, indeed, make such a purchase.

Furthermore, our telephone number had to have been purchased from a credit card company in order for them to contact us to begin with - an invasion of privacy, as far as I'm concerned.

Frankly, we have been Master Card customers for many years, we have chosen to close all our other credit accounts because we have been satisfied with your service to date. Please clear this matter up quickly, and we will remain so.

Sincerely,

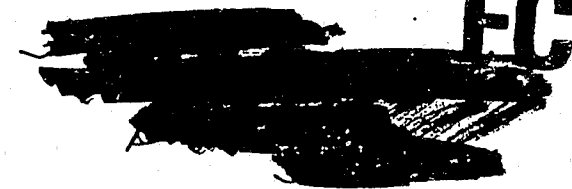


cc: our file
Enc: copy bill dated 11-12-82

of my Bill

Nov 30 1982

CB/ame

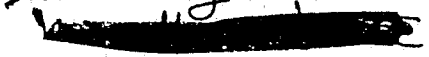


FC

Customer Service Dept.

On 9/23/82 I was called by phone. And was offered Bankcard services one step protection. This Company already had my credit Card No. I told them I would think about it. they sent forms to be filled out. But decided not to. I didn't fill out the forms or sign anything. Therefore I thought the matter closed, until I received my statement from you on Nov 27th and found that I was charged \$49.00 from Credit Marketing Inc. I got in touch with them and was advised that they would credit my ^{account} ~~account~~. I spoke with a Mrs. Green. I shall pay my bill omitting the \$49.00 Dollars. I hope I have made myself clear. Thank you

Sincerely,



CB/CMC

11/15/82

To Whom It May Concern:

On my Master Card billing dated 11/8/82 there appeared a charge of \$49.00 from a Credit Marketing Co. I know of no such company and have never done business with any company in Sarasota. Therefore I am not paying this charge and am deducting from my bill.

Furthermore I am questioning how this company got my Master Card number. My number is protected by me and I expect the same from your company.

Thank you

Acct. # [redacted]

CB/CMC

[redacted]

FC

November 29, 1982

MasterCard
Customer Service Department
P.O. Box 523500
Miami, Florida 33152

RE: Acct. No. [redacted]

Dear Sir;

Enclosed find a copy of my statement for November. On this statement there is a charge for \$49.00 by Credit Marketing, Inc, Grand Prairie, Texas. This is an unauthorized charge by this company. I never gave them my account number via telecon and would like to know how they obtained it.

Please delete this charge from my account along with any interest that might have been incurred.

Also, please do not charge me for anything which you have not received a copy of either my husbands or my signature. This will eliminate any future problems which might occur.

Sincerely

[redacted signature]

Computer Products, inc.

*CB
CMC*

November 15, 1982

Bankcard Services One Step Protection
1718 Main Street
Sarasota, Florida 33577

Gentlemen:

I am returning the membership kit which was mailed to me and which I have not signed. I do not wish this service and did not give you authorization to bill me.

You billed me \$49 on my Mastercard account and I am advising them by copy of this letter that I wish credit immediately.

I do not think this is ethical business, since I did not agree to accept this service and yet you billed me.

I will expect immediate action on this or will have to resort to other means.

Yours very truly,

[Redacted signature]

Encls.

cc: MasterCard
[Redacted]

February 25, 1983

FC

CB/CMC

Mastercard
Customer Service Department
P.O. Box 523500
Miami, Florida 33152

Gentlemen:

I am writing regarding the \$49.00 charge added to my account from One Step of Sarasota, Florida. I believe this is a charge for some sort of credit card insurance against loss or theft of your credit cards. I did not authorize this to be charged to my account and am at this time, requesting you remove the charge from my account.

I received a telephone call the latter part of December asking if I was interested in purchasing this credit card insurance. Apparently, the call was from a company named One Step. I was told I would receive 10 or 15 days free coverage while they mailed me an application. I was under the assumption that after I received the application and reviewed it, if I wanted the coverage I would be charged after I completed the application and returned it to them. When I received the application through the mail, I decided I did not want the insurance; therefore, I discarded all the material that was sent to me. I now find that I have been charged the fee of \$49.00.

As I no longer have any material from this company, I do not even have their address or phone number to contact them regarding this bill; therefore, I am requesting you credit my account and advise this company I did not authorize them to charge my account in the first place and I definitely do not want their services!!

I appreciate your help and prompt attention to this matter. If I should contact the company directly, please send me the name and address and phone number of this One Step and I will be glad to do so.

Sincerely,

[Redacted signature]

Mastercard Account [Redacted]

*4/1
SR-NS
TE-NA
Chernyjs*

FC

November 18, 1982

CB/CM

Customer Service Department
Attn: C.M.C.
P. O. Box 523500
Miami, Fla. 33152

Attention Sirs:

Enclosed find photo-copy of my mastercard statement. I did not authorize or give permission to anyone for the Credit Marketing Inc. to charge me for the credit card protection program. I did call the company the day after I got information on it in the mail, to let them know I was not interested in this. Please credit my account for the \$49.00 on my next statement.

Sincerely,


Account # 

Chairman ANNUNZIO. I have another statement from Mr. Beyer, and without objection, Mr. Beyer, your entire statement will be made part of the official record.

Is there a statement from Mr. Baker?

Mr. BAKER. No, sir, there is not.

Chairman ANNUNZIO. Mr. Baker, would you proceed in your own manner?

STATEMENT OF DAVID BAKER, DIRECTOR OF FINANCE AND PLANNING, BEALL'S DEPARTMENT STORE

Mr. BAKER. Yes, David Baker, from Beall's Department Store. As you asked to define our relationship with Credit Marketing, we started in the fall of 1982. A Credit Marketing representative presented us his promotion of the one-step protection plan.

The list of retail and other organizations participating in this program included many well-established department stores and other organizations.

We did check with the Better Business Council of Sarasota and received no indication of wrongdoing on the company at that time.

We chose not to participate in the instore promotion as it was presented, but to participate in the list, be it phone or mail promotion.

The procedure was for Credit Marketing to take VISA and MasterCard slips as were described and enter them into their computer name, address, and develop a call list for referral. We were paid 6 cents per slip.

We gave them slips in the month of October, I believe, or November. I can't quite tell from our records on that, and either in the latter part of November or the early part of December.

In January, we had some inquiries from our east coast stores about some of the practices that may have been happening with this. We requested a statement of the phone conversation or the script, as it was referred to here today, which we did receive along with the verification procedure.

And although it appeared to us to be in order, we decided at that time to stop doing business.

I should point out that Beall's is a full-line service department store that depends on loyal, repeat customers that return again and again. And therefore, we strive to keep our customers happy. So with that in mind, we did stop doing business at that time.

Shortly thereafter, things came out in the press that we have heard today. With respect to H.R. 2885, sir, we support the strengthening of legislation to control credit card fraud, and the extension of the act to cover credit card account numbers, debit cards, electronic banking, and other electronic devices to charge an account.

The expansion of electronic debit in the future requires this change. However, you must be careful in changing and modifying your bill from its present state not to overlap truth in lending or create excessive paperwork.

As I read it now, I think it does very well what you intend it to do.

On the subject of credit card fraud, the use of this information for legitimate reasons must remain free to be used by all concerned. The publishing of electronic delinquent, stolen or fraud numbers or so-called hot lists is necessary to prevent fraudulent use of credit cards.

In fact, the free interchange of such data electronically is the best hope we have of stopping a very major cause of fraudulent use of credit cards and a reduction in the stolen card process.

That's all I have, sir.

Chairman ANNUNZIO. Thank you, Mr. Baker.

Mr. Beyer, would you proceed in your own manner?

**STATEMENT OF GEORGE F. BEYER, REGIONAL VICE PRESIDENT,
FLORIDA REGION, CREDIT BUREAU, INC., OF GEORGIA**

Mr. BEYER. Yes, sir.

Chairman Annunzio and members of the subcommittee, my name is George F. Beyer, and I am regional vice president for the Florida region of the Credit Bureau, Inc., of Georgia, CBI. I am the officer responsible for our operations in the State of Florida, and I held this position during the 1981-82 period when we did business with Credit Marketing, Inc., of Sarasota.

Today my testimony will be limited, as your staff has requested, to our business dealings with Credit Marketing, Inc.

CBI acquired the Credit Bureau of Sarasota in June 1981, but was affiliated with the bureau prior to this time under a contract to provide automated and managerial services.

The Sarasota Credit Bureau began doing business with Credit Marketing, Inc., on January 31, 1977. After the account was opened with Credit Marketing, the firm appeared to have continuing cash flow problems, and it failed to pay its bills for services provided in a satisfactory manner. CBI eventually charged off the account balance as a bad debt and terminated services to Credit Marketing because of these financial problems.

Subsequently, in November 1981, Credit Marketing's officials contacted CBI and asked to purchase services again from us. They indicated that they were engaged in a different type of marketing activity and that they could now keep their financial commitments.

These officials stated that Credit Marketing was offering a one-step protection plan for protecting consumers' credit cards, for reporting lost or stolen cards, and for providing a \$500 line of credit for members of the plan for emergency cash when a member's credit cards were lost or stolen.

Since Credit Marketing was contemplating a direct and apparently legitimate business transaction with consumers, which included a line of credit as a part of its one-step service, we concluded that it was permissible under the FCRA to provide Credit Marketing with promotional lists and credit reports on respondents from the lists we provided. However, we insisted that they make advance payments to cover part of the cost of services we agreed to provide them. An account with Credit Marketing was opened on November 13, 1981, to do business as I have described.

We furnished a total of 222,943 names to Credit Marketing between December 1981 and February 1982. This service was provided out of our Atlanta office.

In addition, Credit Marketing was authorized to order backup credit reports on individuals who had responded to their solicitation, desiring to become clients of one-step protection. These reports were furnished through our Sarasota Credit Bureau Office.

We provided Credit Marketing slightly over 31,000 reports during the approximately 11-month period that CBI did business under our promotional agreement for their one-step protection program.

In late September 1982, several things came to my attention that suggested that something irregular was occurring with the Credit Marketing account. I noted, in reviewing the business records which come to me, that Sarasota seemed to be processing a higher number of backup reports than seemed reasonable in light of what I knew of the volume of promotions. After further checking, I found that Credit Marketing was ordering an increasing number of backup credit reports at a time when we normally expect a decrease in report usage due to the time which had elapsed since we had delivered a promotional list to Credit Marketing.

I also heard rumors in the financial community during September that some banks were experiencing problems with Credit Marketing because some of their cardholders were disputing billing charges for Credit Marketing's services.

About September 30, we received a copy of a complaint letter about Credit Marketing from a consumer, as well as a Virginia newspaper article from one of our employees, that raised concerns about Credit Marketing's business practices in dealing with consumers.

In light of these developments, I did further checking internally and concluded that we should terminate service since I found that Credit Marketing was ordering credit reports on persons not covered by the lists we had processed. I feel my local manager should have discovered this irregularity sooner.

We made a business decision to terminate our services and advised Credit Marketing of this fact by telephone on Friday, October 22, 1982. Our local manager met with Credit Marketing officials on Monday morning, October 25, at their request to more fully explain why we had decided to stop providing services.

Credit Marketing officials assured us that they were acting legally and were certain to get some complaints given the large number of solicitations they made to consumers.

They also advised us that they were receiving account numbers from many different sources, including retail stores that provided them with copies of customer bank card charge slips at an alleged cost of 10 cents per name.

Credit Marketing's officials also stated that they were about to contact us to request an additional promotion of approximately 500,000 names.

Mr. Albert Loring, Credit Marketing's president immediately wrote CBI's local manager following up on the October 25 meeting. He sought to assure CBI that Credit Marketing was not engaging in improper practices and requested to have their services reinstat-

ed. A copy of Mr. Loring's letter has been submitted to the subcommittee.

Despite Credit Marketing's representations, we felt that our business decision not to provide further services to this organization was correct, and we refused to change our position.

Mr. Chairman, I hope this summary of our dealings with Credit Marketing has been helpful to you. CBI would be pleased to work with your subcommittee as you consider legislative solutions to the growing problem of credit card fraud.

I am available for any questions you may have in this area.

[Mr. Beyer's prepared statement, on behalf of the Credit Bureau, Inc., of Georgia, follows:]

PREPARED STATEMENT OF GEORGE F. BEYER, REGIONAL VICE PRESIDENT, THE CREDIT BUREAU, INC.

Chairman Annunzio and members of the Subcommittee, my name is George F. Beyer, and I am Regional Vice President for the Florida region of the Credit Bureau, Inc. of Georgia ("CBI"). As Regional Vice President, I am the officer responsible for our operations in the State of Florida, and I held this position during the 1981-1982 period when we did business with Credit Marketing, Inc. of Sarasota. Accompanying me today is Brian Garrett of our Corporate staff. I am pleased to appear in response to your June 27 invitation to testify at these hearings on H.R. 2885, the Credit Card Protection Act, and specifically on the business relationship existing between CBI and Credit Marketing, Inc. in 1981 and 1982.

Along with most of the American financial community, our company has become increasingly concerned over the growing problem of credit fraud now being brought to public attention. CBI's President, John Baker, explained our general views on this subject in testimony last May before the Consumer Affairs Subcommittee of the Senate Banking Committee in Washington. We commend you and this Subcommittee for seeking practical solutions to this growing national problem and we would support additional legislation where appropriate to establish stricter penalties for proven credit fraud.

Today my testimony will be limited, as your staff has requested, to our business dealings with Credit Marketing, Inc. At the outset, let me state that CBI closed its account with

Credit Marketing, Inc. on October 22, 1982 because we found evidence that Credit Marketing, Inc. had breached its agreement with us. We found that Credit Marketing, Inc. was ordering reports on persons not anticipated in our service agreement, thereby obtaining reports for a fraction of the cost of a regular in-file credit report. We also became concerned that Credit Marketing, Inc. may have been using our credit reports in connection with alleged business practices which had recently been criticized in the press, including charges to consumer card accounts which consumers said were not authorized. Let me now give you some background on CBI, our dealings with Credit Marketing, Inc., and how we discovered that organization was acting improperly.

CBI is a "consumer reporting agency" as that term is defined in the Fair Credit Reporting Act ("FCRA"). Our operations are similar to other automated consumer reporting agencies, and we provide a variety of services which assist businesses in the analysis and management of financial risks, and which help consumers obtain the goods and services they want and need. Among these is the service of providing lists of qualified prospects to businesses seeking new customers. This service is provided by the credit marketing division of CBI which should not be confused with Credit Marketing, Inc.

CBI acquired the Credit Bureau of Sarasota in mid-1981, but was affiliated with the bureau prior to that time

under a contract to provide computer and managerial services. The Sarasota Credit Bureau began doing business with Credit Marketing, Inc. on January 31, 1977, which was then operating under the trade name of "Community Marketing Institute." Credit Marketing, Inc. also did business at one time as "Credit Mutual International." For convenience, I will simply refer to this organization as "Credit Marketing." When Credit Marketing opened its account with the Sarasota Credit Bureau in 1977, its officials stated that it primarily engaged in promotional work in acquiring new charge accounts for established reputable business firms, including major department stores. I have attached promotional material which we obtained at that time describing Credit Marketing's account acquisition services. (See Appendix "A")

After the account was opened with Credit Marketing, the firm appeared to have continuing cash flow problems, and it failed to pay its bills for services provided in a satisfactory manner. CBI eventually charged off the balance as a bad debt and stopped offering services to Credit Marketing because of these financial problems.

Subsequently, in November 1981, Credit Marketing's officials contacted CBI and asked to purchase services again from us. They indicated that they were engaged in a different type of marketing activity and that they could now keep their financial commitments. These officials said that Credit Market-

ing was offering a "One Step Protection" plan for protecting consumers' credit cards, for reporting lost or stolen cards, and for providing a \$500 line of credit for members of the plan for emergency cash when a member's credit cards were lost or stolen.

In response to Credit Marketing's request in 1981 to resume service, CBI personnel visited their offices. It appeared to be an active marketing operation with a considerable number of employees. Its officials further described their "One Step Protection" plan and gave us a promotional kit explaining their service. A copy of this kit is attached for your information. (See Appendix "B")

Since Credit Marketing was contemplating a direct and apparently legitimate business transaction with consumers, which included a line of credit as a part of its "One Step" service, we concluded that it was permissible under the FCRA to provide Credit Marketing with promotional lists and credit reports on respondents from the lists we provided. However, we insisted that they make advance payments to cover part of the cost of services we agreed to provide them. An account with Credit Marketing was opened on November 13, 1981 to do business as I have described.

CBI's marketing division completed three prescreening promotions for Credit Marketing between that time and October of 1982 when we terminated our services to this organization. In each case we worked from a purchased list of names selected by Credit Marketing and ran these names against its specified cri-

teria. The criteria were virtually identical in each of the three promotions. Qualified names were to have three accounts with balances greater than 0, with at least one bankcard having a "1" rating and no ratings of "4" or higher currently, and no prior ratings of "5," no bankruptcies and no accounts in collection. In addition, criteria were included to try to exclude people in each instance already likely to have been solicited, such as holders of certain bankcards. From what I have been able to determine in the short time since we have been contacted on this matter, the dates, areas and size of the three promotions (for convenience, designated as "CMI I," "CMI II," and "CMI III") were as follows:

CMI I was ordered December 3, 1981 and delivered December 17, 1981. We were asked to provide a maximum of 41,000 qualified names in Fairfax County, Virginia and Prince Georges County, Maryland.

CMI II was ordered January 13, 1982 and delivered February 8, 1982. This promotion involved approximately 20 counties across Florida and did not specify a maximum number of qualified names. We delivered 108,971 names for this promotion.

CMI III was ordered on January 22, 1982 and delivered on February 19, 1982. This promotion involved selected counties in Alabama, California, Georgia, Maryland and the District of Columbia. We provided 72,972 qualified names.

Credit Marketing also wanted 74,000 names in five counties in the Bay Area of California. It requested these names

on February 18, 1982. We did not provide these names because Credit Marketing was again falling behind in their financial obligations to us.

We furnished a total of 222,943 names to Credit Marketing between December, 1981 and February, 1982 during the three promotions noted above. This service was provided out of our Atlanta office.

In addition, Credit Marketing was authorized to order "back-up" credit reports on individuals who had responded to the solicitation and desired to become clients of "One Step Protection" through our Sarasota Credit Bureau office. It is a normal industry practice to provide credit grantors with back-up reports in connection with promotions at reduced billing rates. Under our agreement with Credit Marketing, these reports were to be ordered only on persons who responded from the promotional lists provided through CBI. Our billing records show that the monthly billing of "back-up" reports was as follows: February 15, 1982, 676 reports; March 16, 1982, 1118 reports; April 15, 1982, 3817 reports; May 14, 1982, 4639 reports; June 15, 1982, 2452 reports; July 15, 1982, 2689 reports; August 13, 1982, 3303 reports; September 14, 1982, 6055 reports; October 13, 1982, 5146 reports; and November 11, 1982, 1392 reports. (These are billing dates for reports delivered during the prior month.) Thus, CBI provided Credit Marketing slightly over 31,000 reports during the approximately 11 month period that we did business under our promotional agreement for its "One Step Protection" program.

As a matter of possible interest, CBI had previously provided promotional services for "All For One," the credit card application solicitation business of Credit Marketing. At that time we declined to include back-up reports in our service since we were unable to establish a permissible purpose for Credit Marketing to purchase consumer reports in connection with that particular type of service which did not include a credit extension by Credit Marketing.

As I noted earlier, we closed this account in October, 1982. Let me now explain why we took this action. In late September, 1982 several things came to my attention that suggested that something irregular was occurring with the Credit Marketing account. I noted in reviewing the business records which come to me covering every office in Florida that Sarasota seemed to be processing a higher number of back-up reports than seemed reasonable in light of what I knew of the volume of promotions. After further checking, I found that Credit Marketing was ordering an increasing number of back-up credit reports at a time when we normally expect a decrease in report usage due to the time which had elapsed since we had delivered a promotional list to Credit Marketing. I also heard rumors in the financial community during mid-September that some banks were experiencing problems with Credit Marketing because some of their cardholders were disputing billing charges for Credit Marketing's services. Around September 30 we received a copy of a complaint letter about Credit Marketing

from a consumer as well as a Virginia newspaper article from one of our employees that raised concerns about Credit Marketing's business practices in dealing with consumers. (I will provide the Subcommittee copies of these documents if you so desire.)

In light of these developments, I did further checking internally and concluded that we should suspend service since I found that Credit Marketing was violating their agreement with CBI by ordering credit reports on persons not covered by the list we had processed. Although we had no proof to document the alleged improper charging practices of which we had heard, I also felt that if the allegations were true, Credit Marketing indeed could be obtaining credit card numbers from our reports. Accordingly, we made a business decision to terminate our services, and we advised Credit Marketing of this fact by telephone on Friday, October 22, 1982. Our local manager met with Credit Marketing officials on Monday morning, October 25 at their request to more fully explain why we had decided to stop providing services to their organization. We advised them that Credit Marketing had violated their agreement with us by ordering credit reports at the back-up price of \$0.85 which was a fraction of what they should have been paying for regular credit reports. We also indicated that we were concerned over consumer complaints, and showed them a copy of the letter we had recently received from a consumer. We further noted that we were concerned about allegations in the Virginia newspaper article which raised serious questions about their business practices.

Credit Marketing officials assured us that they were acting legally, and that they were certain to get some complaints, given the large number of solicitations they made to consumers. They also advised us that they were receiving account numbers from many different sources, including retail stores that provided them with copies of customer charge slips. Credit Marketing's officials also stated that they were about to contact us to request an additional promotion of approximately 500,000 qualified names. Mr. Albert Loring, Credit Marketing's president, immediately wrote CBI's local manager following up on the October 25 meeting. He sought to assure CBI that Credit Marketing was not engaging in improper practices and wanted to have their services reinstated. A copy of Mr. Loring's letter is attached. (See Appendix "C") Despite Credit Marketing's representations, we felt that our business decision not to provide further services to this organization was correct, and we refused to change our position.

Mr. Chairman, I hope this summary of our dealings with Credit Marketing has been helpful to you. We believe that our initial decision to provide services to Credit Marketing was reasonable and proper at that time. We also feel that we were correct in deciding to terminate our dealings with this organization when our procedures uncovered irregularities in their account activity.

CBI would be pleased to work with your Subcommittee as you consider legislative solutions to this growing problem of credit card fraud. Now, I would be happy to try to answer any questions you wish to raise.

Appendix A



Invitations from many reputable businesses in your community are enclosed to give you the instant purchasing power to make settling in your new home pleasurable and convenient.

As credit customers of these fine companies you will enjoy the convenience of shopping without carrying cash and having ready identification for check cashing.

Be the first to know of special sales or just order by phone or mail.

Since there is no obligation or charge for this service, why not apply today and have the convenience of "Purchase Power" when a new homeowner needs it most!

CMi COMMUNITY MARKETING INSTITUTE
1520 Ringling Blvd.
Sarasota, Florida 33577

VISA AND MASTER CHARGE...

Visa and Master Charge give you an instant charge account at more than 2,000,000 places of business across Florida, the United States and around the world and with Southeast Visa and Master Charge, you'll be able to take advantage of all the exciting special offers, coupons and discounts Southeast will be sending you monthly.

GAYFER'S...

one of the South's finest fashion department stores located in Clearwater, Tallahassee, Pensacola, Panama City and Fort Walton Beach, Florida.

IVEY'S...

for a bright new world of fashion and shopping pleasure located in Clearwater, Daytona Beach, Jacksonville, Merritt Island, Orange Park, Orlando and Winter Park, Florida.

BELK LINDSEY...

erving Florida for over 40 years with 27 convenient store locations throughout the state.

JORDAN MARSH... (a unit of Allied Stores) designer and famous name fashions for you and your home. Make shopping from Central to Southern Florida the most exciting under the sun.

**MONTGOMERY WARD/
JEFFERSON STORES...**

credit cards honored at over 2500 sales outlets throughout the U.S.A.

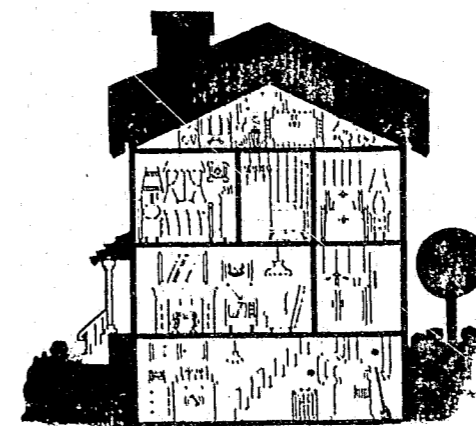
ROBINSON'S...

everything from home furnishings to women's fashions, with six stores in the Orlando, St. Petersburg and Tampa Bay areas.

WOLF BROTHERS...

one of America's fine clothing stores with store locations in Tampa, St. Petersburg, Bradenton and Ft. Myers, Florida.

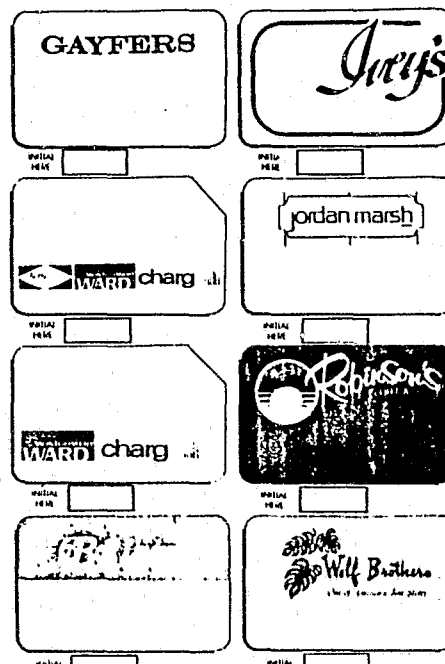
**PURCHASE
POWER**
FOR YOUR NEW HOME





INITIAL HERE INITIAL HERE

If you already have a VISA or Master Charge account from another bank, you are still eligible to apply for additional accounts with Southeast Bank to gain the conveniences of a Florida bank.



INITIAL HERE INITIAL HERE

Any or all of the above credit cards can be applied for by completing one convenient application, and only once. Just initial the boxes of the cards you want.

CREDIT CARD APPLICATION

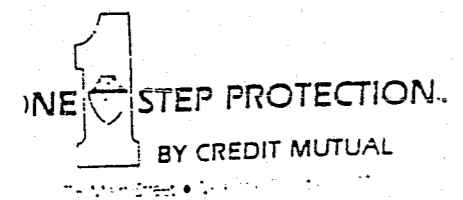
(Apply for one or all 10 with one application)

Complete and sign the application below and return it to us in the postage free envelope provided. The company or companies from whom you requested a card will contact you after processing your application - usually in less than thirty days.

DO NOT DETACH - HAVE YOU INITIALED THE BOXES OF THE CARDS YOU WANT?

OFFICE USE ONLY										322							
PLEASE PRINT ALL INFORMATION REQUESTED																	
NAME			FIRST		INITIAL		LAST		DATE OF BIRTH		SOCIAL SECURITY NUMBER						
HOME ADDRESS				APT NO		CITY		STATE		ZIP CODE		NO YRS		AREA CODE		HOME PHONE	
LANDLORD OR MORTGAGE HOLDER						ADDRESS				I OWN		I RENT FURN		MO PAYMENT			
										I RENT UNFURN		OTHER					
PREVIOUS ADDRESS				CITY		STATE		ZIP CODE		NO OF YRS		DEP CHILDREN					
EMPLOYER (IF SELF-EMPLOYED GIVE NAME AND NATURE OF BUSINESS)								POSITION/RANK		NO OF YRS		BUS PHONE					
NAME AND ADDRESS OF NEAREST RELATIVE NOT LIVING WITH YOU										RELATION		PHONE					
IF YOU ARE APPLYING FOR A JOINT ACCOUNT OR AN ACCOUNT THAT YOU AND ANOTHER PERSON WILL USE, COMPLETE THIS SECTION. RELATIONSHIP TO APPLICANT PLEASE SPECIFY																	
NAME			FIRST		INITIAL		LAST		DATE OF BIRTH		SOCIAL SECURITY NUMBER						
EMPLOYER				BUSINESS ADDRESS				POSITION/RANK		NO OF YRS		BUS PHONE					
NAME UNDER WHICH CREDIT IS LISTED				NAME		FIRST		INITIAL		LAST							
CREDIT REFERENCES (Banks, Stores, Credit Unions, Finance Co's) and Complete list of ALL Debts Now Owning. Attach Additional Sheet if Necessary																	
NAME		ADDRESS			CITY		STATE		(MO. OF PAY.)		ACCOUNT NUMBR						
CHECKING ACCT				SAVINGS ACCT													
BANK NAME				BANK NAME													
EXISTING OR PREVIOUS VISA OR MASTER CHARGE NUMBER						AUTOMOBILE FINANCED BY				MO. PAYMENT							
ALIMONY, CHILD SUPPORT OR MAINTENANCE INCOME NEED NOT BE REPORTED IF YOU CHOOSE NOT TO HAVE THAT INCOME CONSIDERED FOR THE PURPOSES OF THIS APPLICATION. IF YOU RECEIVE SUCH INCOME, AND WANT IT CONSIDERED, PLEASE LIST THE AMOUNT AND SOURCE.										APPLICANT'S MONTHLY SALARY							
THE UNDERSIGNED ARE JOINTLY AND SEVERALLY LIABLE FOR ALL CHARGES INCURRED ON ANY ACCOUNT PURSUANT TO THIS APPLICATION.										APPLICANT'S MONTHLY SALARY WITH ADDITIONAL INCOME							
SIGNATURE OF APPLICANT								DATE									
SIGNATURE OF CO APPLICANT IF CARD IS REQUESTED								DATE		TOTAL MONTHLY \$ SALARY							

Appendix B



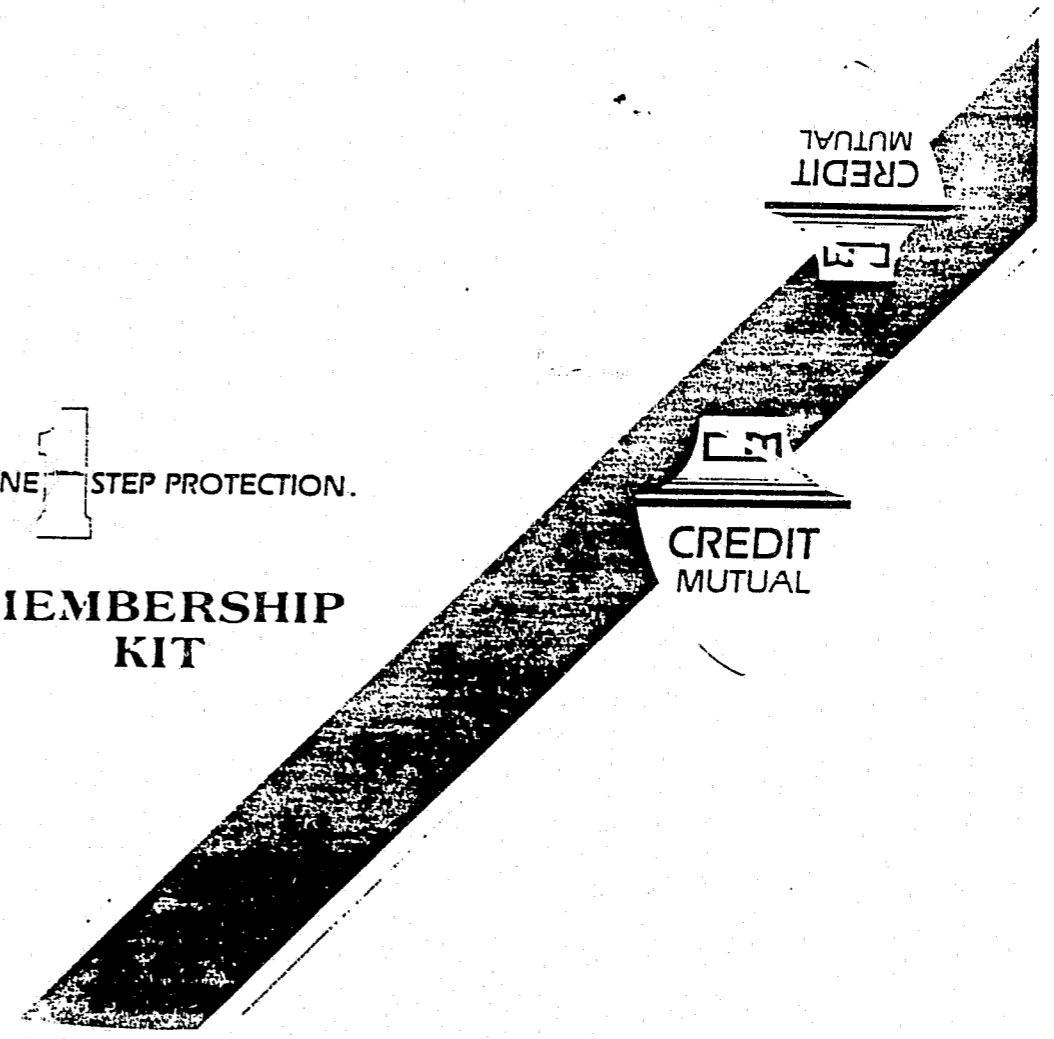
MEMBERSHIP KIT
ENCLOSED

1-800-237-9648 **1-800-282-2270**
(In Florida)

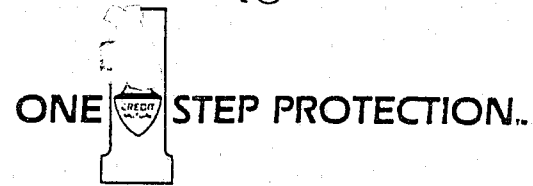
1712 West Street
Sarasota, Florida 34237
(813) 556-2000

ONE STEP PROTECTION.

ONE STEP PROTECTION.
**MEMBERSHIP
KIT**





Welcome
to



Congratulations! You are now a member of ONE STEP PROTECTION™ and are entitled to all the benefits, privileges and services listed in this kit.

IMPORTANT: To activate and validate your membership, please fill out the REGISTRATION FORM and mail it in to us today. There is a self-addressed envelope enclosed for your convenience.

"ALL MY CREDIT CARDS ARE MISSING!"
A 3-Act Play
featuring a cast of millions

**ACT ONE
PANIC & CONFUSION**

Can you remember EXACTLY how many credit cards and charge accounts you have? Other family members, too?
O.K. How about all the card NUMBERS? Are they recorded?
Did you know that under federal law, if your credit card companies comply with certain requirements, you could be liable for up to \$5000 in fraudulent charges on each credit card you possess?
Where do you send or call reports of the lost or stolen cards?
How would you notify each card issuer? Can you be satisfied through verification?

**ACT TWO
ONE STEP PROTECTION™**

ONE STEP™ Registration • for Security • for Confidentiality
ONE STEP™ Toll Free Call • for Instant Notification • for Written Confirmation • for Replacement • for Emergency Cash • for Change of Address

**ACT THREE
PEACE OF MIND**

Curtain falls as millions of people enjoy the happiness, security, confidence and peace of mind that ONE STEP PROTECTION™ brings into their lives.

In 1979, 80,000,000 people possessed nearly 600,000,000 credit cards. Almost 4 million of these cardholders lost 20 million credit cards and nearly 10% of those lost cards were used fraudulently. Since new credit restrictions will dramatically reduce the number of cards issued, each card you hold will become more subject to theft and fraudulent use than ever before.

ONE STEP PROTECTION™ Guarantees

The following benefits are guaranteed by Credit Mutual International, Inc. and protect all of your credit cards, and those of your immediate family, that are confidentially registered with ONE STEP PROTECTION™. All benefits are included in your single ONE STEP™ service charge...no matter how many times you or your family use the service.

- 1 UNLIMITED REGISTRATION OF CREDIT CARDS FOR THE ENTIRE IMMEDIATE FAMILY.** A registration form supplied with the membership material permits easy listing of credit cards and account numbers for the member and member's immediate family. There is no limit on the number of cards the member may register. Additions and deletions may be made anytime.
- 2 COMPLETE CONFIDENTIALITY AND SECURITY.** ONE STEP PROTECTION™ membership and information is confidential. Registration and service is available only to the member or the member's immediate family.
- 3 24 HOUR TOLL FREE NUMBER.** Credit Mutual phones are manned around the clock. One toll free call activates ONE STEP™ stop loss protection.
- 4 INSTANT NOTIFICATION OF LOSS AND WRITTEN CONFIRMATION.** Credit Mutual's staff will notify the credit card issuers of loss within hours after the member reports a loss, thereby terminating any liability...a Credit Mutual guarantee.
- 5 REPLACEMENT OF LOST OR STOLEN CARDS.** After advising the proper offices of the member's loss, Credit Mutual acts to speed replacement cards. There will be little inconvenience or interruption of the member's credit card use.
- 6 \$500.00 EMERGENCY CASH.** If the member's credit cards are lost or stolen while traveling, Credit Mutual will wire up to \$500.00 as a cash advance on the member's Visa or MasterCard account.
- 7 CHANGE OF ADDRESS.** Credit Mutual will advise each of the credit card issuers of the member's change of address, relieving the member of this worrisome detail.
- 8 MEMBERSHIP I.D. CARD AND FRAUD DETERRENT STICKERS.** Members receive an I.D. card and Fraud Deterrent Stickers to apply to their credit cards to deter theft and unauthorized use.

ONE TOLL FREE CALL GIVES YOU ALL THE CREDIT CARD PROTECTION YOU NEED

1-800-237-9648 **1-800-282-2270**

YOUR ONE STEP PROTECTION™ LABELS



1718 Main Street • Sarasota, Florida 33577 • 813/366-2000

CHANGE OF ADDRESS • ADDITIONAL CARDS • DELETED CARDS

CHANGE OF ADDRESS NOTICE

Mail to: **ONE STEP PROTECTION™**
1718 Main Street, Sarasota, FL 33577

Please Notify My Card Companies Of My New Address: My One Step Protection™ Membership No. _____

New Address Effective Date: _____ DAY OF BIRTH _____ MONTH OF BIRTH _____

NAME: _____ New Home Phone () _____

NEW ADDRESS: _____ Business Phone () _____

_____ Zip _____

OLD ADDRESS: _____ Old Home Phone () _____

_____ Zip _____

Signature _____ Today's Date: _____

----- Cut Here -----

ADDITIONAL CARDS NOTICE

Mail to: **ONE STEP PROTECTION™**
1718 Main Street, Sarasota, FL 33577

Please Add The Following Cards To My File: My One Step Protection™ Membership No. _____

NAME: _____

NAME OF CARD	CITY	STATE	CARDHOLDER (IF DIFFERENT FROM MEMBER) CARD NUMBER
			For Master Card enter first four digits appearing over your name.

DAY OF BIRTH _____ MONTH OF BIRTH _____

Signature _____ Today's Date: _____

----- Cut Here -----

DELETE CARD NOTICE

Mail to: **ONE STEP PROTECTION™**
1718 Main Street, Sarasota, FL 33577

Please Delete The Following Cards From My File: My One Step Protection™ Membership No. _____

NAME: _____

NAME OF CARD	CITY	STATE	CARDHOLDER (IF DIFFERENT FROM MEMBER) CARD NUMBER
			For Master Card enter first four digits appearing over your name.

DAY OF BIRTH _____ MONTH OF BIRTH _____

Signature _____ Today's Date: _____

Appendix C



October 25, 1982

Mr. Gene Hand
Credit Bureau Inc.
4400 Tamiami Trail South
Sarasota, Florida 33581

Dear Gene:

Confirming our meeting today in my office, let me outline CMI's current business practices in marketing our credit card registration service called One Step Protection.

CMI currently operates six telephone offices throughout the United States, with each office operating forty telephones. We contact and interview over 500,000 persons each month. Future offices in the Midwest and Northeast are scheduled to open early in 1983.

Obviously, these many phone calls will produce a certain number of complaints. Even one half of one percent will generate complaints from 2500 prospects per month.

Our customer service department personally responds to each and every inquiry, regardless of origin, and corresponds regularly with both Visa and Mastercard International to ensure that our company's practices are in compliance.

CMI does not wish to enroll anyone into OSP who does not want to enroll, nor who changes his/her mind after receiving the kit. To this end, CMI offers the respondent several ways to communicate his/her desires: 1) at the time of the verification call and 2) when the kit is received, they are told they will be billed on their next statement and to call an 800 # if they wish to cancel. (CMI waits twelve (12) days from the date the kit is mailed before submitting the sales draft to the merchant bank). CMI's policy on charge backs is to automatically refund to any person desiring to cancel.



Page Two

CMI obtains its prospect lists from numerous lists brokers that contract with mail order houses, TV ad response firms and other companies that generate lists of credit card buyers or users. In many cases, these lists contain credit card numbers which are retained in CMI's Sarasota computer and not given to the phone solicitor. Thus, the solicitor is never in a position of knowing the respondent's card number or issuing bank.

In addition, CMI also purchases bank cardmember prospects directly from various retailers who honor Visa and Mastercard and this information is also retained confidentially in our computer system.

I'm hopeful this information will clear up any misunderstanding that CBI has about our company and both John Guenther and myself would be happy to meet with any of your people here or in Atlanta at your option and convenience.

We're particularly anxious to act quickly because we'd like to order an extensive prescreen program from you before the end of this year.

I'll call you Friday to discuss further steps in this matter.

Cordially,

Al
Albert M. Loring
President

AML/bh

CREDIT MARKETING, INCORPORATED

Chairman ANNUNZIO. Mr. Beyer, would you explain to me what a backup report is? Did CMI ever tell you what its principal purpose was in requesting the backup reports?

Mr. BEYER. No, sir. It is part of the industry's normal procedure when they purchase a promotional prescreen program from the Credit Bureau. We have found that the credit grantor will obtain an estimated 10-percent backup reports.

Mr. Chairman, this is an internal decision, and why the credit grantor does this, some of the reasons are, when considering lines of credit, when considering a certain type of merchandise. But theirs is an internal decision, and we agree to do this for them.

Mr. PRINS. Just a clarification for the chairman here. Someone who purchases a prescreening list gets basically only the name, address, and maybe the phone number of an individual.

In order to get a backup report, that person just can't say, "I want a backup report on this number of people." Isn't it true that they have to have received a response from the person that you're ordering a backup report from?

Mr. BEYER. Yes, sir.

Mr. PRINS. The person has to say, "I want your product" before they can get a backup report?

Mr. BEYER. Yes, sir, Mr. Prins. And they had certified to us in writing that they will comply with the law. And every name that we furnished to their select criteria must be solicited for their product.

Mr. PRINS. They certified to you that the people had responded. But if, in fact, they had not responded, they would be violating the Fair Crediting Reporting Act; am I correct?

Mr. BEYER. Mr. Prins, their certification to us is that the name that was purchased from us under their criteria must be solicited for the service to be rendered.

That's the certification commitment by law.

Mr. PRINS. Right. But what I'm getting at, I'm not saying that you did anything wrong, but if they lied to you and if they didn't solicit these people, what they wanted was to get the backup report. And what did the backup report have that they didn't have at this time?

Mr. BEYER. The backup report would have the full contents of our credit history file and data.

Mr. PRINS. But it would also have the little sweetener that they wanted, and I think we both know what it was they were after. What did they have on there that they really were seeking?

Mr. BEYER. From the testimony I've heard today, one could possibly come to the conclusion that it was the bank card account number.

Mr. PRINS. I would say one could possibly come to that conclusion.

Mr. BEYER. Yes, sir.

Mr. PRINS. So once they got that information, if they had already talked to the customer, they would have that number; wouldn't we assume that?

Mr. BEYER. You could assume that, sir, yes, if they requested that from the prospective customer, yes.

Mr. PRINS. But if they hadn't talked to the customer, then they would be violating the Fair Credit Reporting Act?

Mr. BEYER. If they made no contact with any of the names they purchased from CBI, they would be in violation of their certification to us, yes.

Mr. MACK. If they made no contact? What you're saying is that all that was necessary was just a phone contact, not a request for the service that was discussed over the phone?

Mr. BEYER. They certified that they would make a contact with the names that they purchased from us. Now, this contact could be via telephone and/or in writing, I believe.

Mr. PRINS. But Mr. Mack, there would have to be a business relationship established. They couldn't just say, "We want to send you this service." The consumer would have to say, "Yes, I would like that service."

Mr. MACK. That's not what Mr. Beyer is saying, I don't think.

Mr. PRINS. I think maybe if he would reflect for a moment, that he would refresh his memory that there has to be a relationship between the customer and the company in order for them to pull a credit report.

Mr. BEYER. Mr. Mack, I am not able to quote the law verbatim, but I believe that when a credit grantor purchases prescreened promotional lists, names from a credit reporting entity, they are required by law to solicit the names they had purchased. We require that they certify that to us in compliance with the law.

Mr. MACK. Again, all that's required from the law from your point of view—

Mr. BEYER. That we obtain the certification.

Mr. MACK. And from the standpoint of the person making the contact was, in fact, all they did was make the contact; they don't have to certify to you that there was a request for the service?

Mr. BEYER. I believe that's correct, sir.

Mr. MACK. OK.

Chairman ANNUNZIO. Did you ever have any discussions with your corporate personnel in Atlanta prior to closing the CMI account?

Mr. BEYER. Yes.

Chairman ANNUNZIO. What did you discuss?

Mr. BEYER. I had brought to their attention some of the findings at my disposal. I had brought to their attention some of the rumors that had been flying around in the financial circles and made a recommendation that we consider closing the account.

Chairman ANNUNZIO. Based on your findings?

Mr. BEYER. On my findings, yes, sir.

Chairman ANNUNZIO. The findings are what we referred to here all morning.

How important to you is the fact that CMI was paying the backup report rate of 85 cents rather than the normal \$1.70 rate for reports?

Mr. BEYER. Mr. Chairman, it was extremely important, I believe, in two areas. One is they were getting a product that they were unauthorized to get according to our agreements. And the second reason was that they were paying an unusually low price for a

product that many other of our customers were paying much more for.

Chairman ANNUNZIO. They were getting like about 30,000 backup reports, right?

Mr. BEYER. That's correct, sir.

Chairman ANNUNZIO. And if they're buying 30,000 reports and the normal rate is \$1.70, we're talking something like a figure of \$50,000. By paying 70 cents, they were getting a half rate?

Mr. BEYER. Yes, sir.

Chairman ANNUNZIO. What is your reason for giving them the half rate? I don't quite understand it; was it the volume?

Mr. BEYER. No, sir. Since they had purchased an original program from us, this is also part of the service that we allow customers to take advantage of in a discount price situation because of the total cost of the program involved.

Mr. PRINS. But normally, the customers will come back and just ask for backup reports on a few, several, not too many people; is that correct?

Mr. BEYER. Historically, I believe the figure is an estimated 10-percent of the total names.

Mr. PRINS. Ten percent. And you gave them on the prescreening how many names then?

Mr. BEYER. I believe I have a figure of \$222,000.

Mr. PRINS. So 22,000 would be the maximum normal situation someone would come back and ask for?

Mr. BEYER. Historically, marketing people have advised me that the 10-percent figure would be the average, yes, sir.

Mr. PRINS. How soon after they pulled the prescreening did they come back and ask for the backup reports?

Mr. BEYER. Without referring to my records here or records that are available but not at my disposal, I believe they started the prescreening promotion either in February or March of 1982, and the first backup reports, I believe were ordered in March of 1982. Please refer to my prepared statement for the correct dates.

Mr. PRINS. Is that normal?

Mr. BEYER. Yes, sir.

Mr. PRINS. I mean to get that kind of a time sequence?

Mr. BEYER. Yes. I believe on solicitation programs, after you have a mail drop and/or a telephone program, your response returns usually come in about a week and a half after your initial contact, yes, sir.

Mr. PRINS. Is it normal for them to pull backup reports in August and September of that year?

Mr. BEYER. No, sir. That's one of the features that brought that to my attention.

Chairman ANNUNZIO. When did you discover, approximately, that CMI was ordering backup reports on people who were not on the prescreen lists? Approximately when did you discover that?

Mr. BEYER. This factually would be the early part of October. There was certain information I had to obtain before I could make a factual decision.

Chairman ANNUNZIO. October of 1982?

Mr. BEYER. 1982, yes, sir.

Chairman ANNUNZIO. Then the closing was in March?

Mr. BEYER. We closed with them October 22, 1982.

Mr. PRINS. The account with them was closed. Let me follow up on that, if I might. When they purchased reports not on the prescreening list, was that part of your contract with them to allow them to do that?

Mr. BEYER. This was not in our agreement. Our agreement was only to allow them to purchase backup reports on names they had purchased through their prescreening promotional programs.

Mr. PRINS. By getting those reports, which they were not authorized to receive, would that not be a violation of the Fair Credit Reporting Act?

Mr. BEYER. I do not know, Mr. Prins, personally if it is or not. But I know it was a direct violation of their agreement with us, and I felt this was strong enough for us to terminate service because of this.

Mr. PRINS. But you didn't terminate them right away, it went on for 3, 4 more weeks?

Mr. BEYER. Yes, sir, that's correct.

Mr. PRINS. The point I'm getting at is I think the Fair Credit Reporting Act is pretty clear. It says if you are not entitled to get a report, and you get that report, you've violated the law.

Now the agreement with your agency is fine for your relationship with CMI, but what we're concerned with is whether there was a violation of the Fair Credit Reporting Act. And you say they were not entitled to get those reports?

Mr. BEYER. That's correct.

Mr. PRINS. Did you notify anybody? Did you feel any responsibility to notify any legal authorities that you thought this company was obtaining reports that they weren't entitled to under the law?

Mr. BEYER. It was handled internally directly to individuals within my area's responsibility to our home office.

Mr. PRINS. Your answer is you did not notify any law enforcement officials?

Mr. BEYER. No.

Chairman ANNUNZIO. Mr. Baker, during what period of time did Beall's sell charge slips to CMI?

Mr. BAKER. The period of time would be October to December or January, October of 1982 to December or January of 1983.

Chairman ANNUNZIO. Who from CMI would approach Beall's about charge slips? Was there someone from CMI that would approach Beall's?

Mr. BAKER. Mr. Steven Cantor, I believe.

Chairman ANNUNZIO. He represented CMI and approached Beall's about the purchasing of these charge slips? And how much was your company paid for each charge slip?

Mr. BAKER. I believe it worked out to about 6 cents.

Chairman ANNUNZIO. Six cents?

Mr. PRINS. Was that the rate set by them, or was that what you asked for?

Mr. BAKER. I believe that was their offer the way they presented the plan.

Chairman ANNUNZIO. Did you sell charge slips to any other company besides CMI?

Mr. BAKER. Not to my knowledge, no, we haven't.

Chairman ANNUNZIO. Do you have any idea how many charge slips you sold at 6 cents?

Mr. BAKER. About 75,000.

Chairman ANNUNZIO. 75,000. When they came in and asked for this deal, did you investigate the company at all? Did you make any kind of investigation to find out what they were going to do with these charge slips? After all, you were selling slips and numbers that belonged to other people.

Mr. BAKER. It was our understanding that we were, in fact, selling the slips. We were selling names and slips for solicitation, and both a mailing list or telephone list would be made for the plan to provide credit card notification on stolen credit cards.

Chairman ANNUNZIO. Were any of the customers at the store aware of the fact that you were selling these slips with their names and account numbers to a third party?

I'm a customer; I come into your store, and you have my name and address.

Mr. BAKER. I would say the answer to that is no.

Chairman ANNUNZIO. I'm not aware of it?

Mr. BAKER. Other than the fact that I myself am a customer, notwithstanding the meaning of your question.

Chairman ANNUNZIO. You took the liberty of selling my name, address, and number to someone else without my permission?

Mr. BAKER. That's correct.

Mr. PRINS. Did you have any qualms about that?

Chairman ANNUNZIO. Did you ever feel you owed an apology to your customers?

Mr. BAKER. Not in the sense—I would owe an apology to my customers in the sense if they were mischarged. But in the sense that I sold a viable plan to a legitimate business, no.

Chairman ANNUNZIO. Did you ever get any complaints from your customers that CMI billed them for a service they never ordered?

Mr. BAKER. I never had a complaint.

Chairman ANNUNZIO. Out of 75,000 slips.

Mr. PRINS. Mr. Chairman, I think there's a very good reason.

Did your customers know—you've already said your customers didn't know you sold their slips. They billed the bank directly; they didn't bill the customer. So the customer has no idea. The slips were billed through Mr. Wenzloff's bank. They got the number through you.

They had no idea you were involved in this thing. That's why no customers ever complained to you.

Mr. BAKER. I would think that's a correct statement.

Mr. MACK. Was part of the agreement with CMI that in addition to supplying the name and address—well, the account number obviously, I guess, ended up with the sales slips?

Mr. BAKER. It was there, I knew it was there, but that was not the stated agreement.

Chairman ANNUNZIO. What do you think now?

Mr. PRINS. This is important: Did they give you a contract in writing?

Mr. BAKER. I thought they did at the time. But I do not have it available to me.

Mr. PRINS. The reason I interrupted you, and I apologize, Mr. Chairman, is we have seen the contract that they used to purchase credit card numbers and credit card slips. And every one of those contracts specifically says that in order for them to pay you, it must have the name, address, and account number, and if possible, telephone number. And I don't think they would have purchased those slips if they didn't have the account number.

Mr. BAKER. They obviously had the account number.

Mr. PRINS. How did you expect to get paid if you didn't have a written contract?

Mr. BAKER. To the best of my knowledge, we did have a written contract.

Mr. PRINS. Did you get paid?

Mr. BAKER. Yes, we did, approximately \$4,500.

Chairman ANNUNZIO. That's right, that's \$4,500 at 6 cents each. Do you believe that merchants should be permitted to sell the charge slips to third parties?

Mr. BAKER. For legitimate purposes, yes. But I do believe—

Chairman ANNUNZIO. What is a legitimate purpose, to you, for selling a charge slip? I'd like to know.

Mr. BAKER. I would say the purpose as was stated, if it was a legitimate operation, as it apparently was for some years.

Chairman ANNUNZIO. I'm a customer. In the legislation that we have, we're going to outlaw you selling these charge slips. Are you in favor of our legislation?

Mr. BAKER. I favor your legislation.

Chairman ANNUNZIO. Even though you think they can be sold for legitimate purposes, you still favor our legislation?

You know damn well as a businessman that anyone that comes in at 6 cents a name is coming in for a purpose.

It's like if I'm running for office in a particular district and I come into your company looking for a mailing list. I want to get an easy mailing list concentrated in the particular economic bracket of the people that shop in your store. I would spend \$4,500 to get your mailing list, you see.

Mr. BAKER. And I would say to you that I would expect that to continue. I may want to buy a mailing list to mail a piece of advertising for any kind of legitimate business, and I find no fault with that, nor do I find a fault with you having that mailing list to solicit votes.

Mr. MACK. Let me follow up. Are you trying to point out the distinction that the name and address is one thing; but what we're talking about here is the account number.

Chairman ANNUNZIO. The account numbers on credit cards?

Mr. BAKER. Absolutely.

Mr. MACK. What you're saying is you favor the legislation in the sense that it would keep you in the future from providing information as far as account numbers are concerned, but would not keep you from providing information as far as names and addresses are concerned?

Mr. BAKER. That's right.

Chairman ANNUNZIO. Mr. Baker, did you ever hear of counterfeiting credit cards?

Mr. BAKER. Yes, sir.

Chairman ANNUNZIO. Do you know how they counterfeit credit cards?

Mr. BAKER. I've heard many ways. Some are from tissue copies.

Chairman ANNUNZIO. They get a number. It's that simple. Have you got any credit cards in your pocket?

Mr. BAKER. Yes, sir, quite a few.

Chairman ANNUNZIO. If that counterfeiter has your number, while you're carrying them in your pocket, somebody is in New York going around on Fifth Avenue, spending and buying about \$10,000 a day in merchandise on your number. And you don't know anything about it. But 30 days later, you're going to get a bill of some kind.

Mr. BAKER. As I mentioned, sir, that is a specific example.

Chairman ANNUNZIO. It's all right to sell a name and address; it's all right to sell a mailing list. People do that all the time.

I don't think it's right to sell a credit card number. Hopefully, that's what this legislation will prevent.

We want to prevent the counterfeiting of cards. We want to prevent the various situations that CMI was engaged in. And the only way to do that is to stop people from selling credit card numbers.

Mr. BAKER. I agree with that, sir. As I said in my opening statement, we support that.

Mr. PRINS. What do you do with your slips now?

Mr. BAKER. Just keep them for a length of time until we no longer have to research any chargebacks.

Chairman ANNUNZIO. I think you should start burning them if they have credit card numbers on them. You can sell your mailing lists with names and address, but don't sell a credit card number.

Mr. MACK. Let me just follow up on the backup credit report. In your mind, why was CMI coming to you for that backup credit report? There was going to be a purchase of \$49 to \$99 to the credit card holder. Isn't there an assumption there that the purchase was probably going to be done on that credit card?

Mr. BEYER. Well, Mr. Mack, the offer of the line of credit of \$500 on an emergency basis if a card was lost or stolen was the permissible area.

Mr. MACK. I see, but it never came to your attention that the \$500 they supposedly were granting was really the \$500 from a credit card the individual already held?

Mr. BEYER. You are correct, sir.

Mr. MACK. Did that ever come to your attention?

Mr. BEYER. It has in this testimony today, yes, sir.

Mr. MACK. I mean before that?

Mr. BEYER. No, sir.

Chairman ANNUNZIO. Mr. Wenzloff, how many Southeast cardholders were billed by CMI; do you have any idea on that?

Mr. WENZLOFF. No, unfortunately, Mr. Chairman all we know about is the complaints we received on the chargebacks. We don't know how many total were billed.

Chairman ANNUNZIO. Chargebacks and complaints, but you don't have a total number?

Mr. WENZLOFF. Actually billed by CMI, no; we do not.

Chairman ANNUNZIO. When this was called to your attention, did you become suspicious?

Mr. WENZLOFF. Yes, sir.

Chairman ANNUNZIO. What did you do about it?

Mr. WENZLOFF. We responded by crediting the chargeholder's account and charging the item back to their account. We also responded by eventually—

Chairman ANNUNZIO. You kept the good will of the customers?

Mr. WENZLOFF. We sure tried to, yes, sir.

Mr. PRINS. But you're \$200,000 in the hole right now on that particular account?

Mr. WENZLOFF. No, sir. The \$200,000 we credited to the cardholder was charged back to banks in Sarasota, Grand Prairie, et cetera. Maybe I should explain to the committee that these were really three-party transactions, the customer, the credit-issuing bank, and the card-issuing bank. There are privileges within the system to remedy complaints like this.

So, when a cardholder would complain to us, we would create a chargeback, that's a credit to the cardholder's account of \$49, and charge back through the interchange system to the bank wherever the item came from. And the item was appropriately identified to the source and to the cardholder's periodic statement.

That's where the item went back to, the \$49.

Mr. PRINS. Has your bank lost any money in this?

Mr. WENZLOFF. We have lost the \$79,000 that I referenced in our testimony. We have not, as of this date, actually lost any other money because all of our chargebacks have been accepted by the merchant banks. So it was not lost. Neither have the cardholders lost any money.

Mr. PRINS. But the merchant banks have lost?

Mr. WENZLOFF. That's an assumption, Mr. Prins. If they had a deposit—

Mr. PRINS. It's more than an assumption. We got a call on Friday from a bank in Fort Worth, Tex., that was \$150,000 short in the reserve account with CMI where the chargebacks had exceeded the amount of money CMI had deposited, and I believe there are a number of other banks around the country.

I think the fortunate part for your bank was that you could pass the chargeback to the second step down the ladder. But the merchant banks had nowhere to go.

Mr. WENZLOFF. I think that our fortunate part was that our bank had the opportunity to do business with CMI as a merchant bank. We chose not to.

Mr. MACK. Why did you choose not to?

Mr. WENZLOFF. We had had a previous relationship with CMI with not very satisfactory results, so we chose not to do business with them. It was similar to when George terminated his relationship. We terminated a relationship many years before. We chose not to do business. And I have the feeling it was a very bright decision.

Mr. PRINS. Let me ask you a question. You and I discussed this before. Maybe you've had a chance to think about it.

CMI wrote possibly as many as a half a million credit card protection plans, of which x number of people said they wanted the plan and who, in fact, hold the plan today. The company is gone.

The toll-free number is not in operation. So if someone loses their card, they call the toll-free number, the number is disconnected. You call the toll-free operator for Sarasota and ask for the number. There's no number for One-Step Protection. Now, I've been told they're trying to sell the thing.

What I'm getting at is when the publicity gets around the country that One-Step Protection, the company, may technically be alive, but there's no way to notify the company that your cards have been stolen. And people say, "Well, I have this plan but nobody to protect me. I paid the money."

Now, they're going to start complaining to the banks around the country, "Look, I was charged \$49. I was charged \$99. I want my money back."

What do you think the responsibility of the bank is in that case where the account may be as much as a year old?

Mr. WENZLOFF. Well, I'll speak on behalf of Southeast Bank. It's very difficult to speak on behalf of the other 14,000, 15,000 member banks of Visa and Mastercard.

I suspect what we're going to do is give them a credit for \$49 and go on about the business of writing off the loss.

Chairman ANNUNZIO. Is that what you've been doing?

Mr. WENZLOFF. We haven't been writing off the loss, Mr. Annunzio, because we've been charging the cost back. So I suspect in the future that's what we'll do.

It is customary practice to try to give the cardholder the intentions of the Fair Credit Billing Act, and we basically follow that intention.

Mr. PRINS. We're talking millions of dollars of loss to the banking industry, \$15 million potentially.

Mr. WENZLOFF. Potentially, I guess you're right, Mr. Prins, I suspect the financial institutions can handle the losses.

Mr. PRINS. I'm sure they can handle it. But they probably never should have been put in the position to have to make that decision.

Chairman ANNUNZIO. Mr. Wenzloff, only last week I was reading a Chicago paper; I have the paper delivered to me in Washington, and I was reading the financial page of the Chicago Tribune.

And I don't remember, maybe you can refresh my memory, I think it was Mastercard, wasn't it Mastercard, on counterfeiting, it's reached astronomical proportions of \$50 million. And they're beginning to redesign their cards. They're beginning to get some material so that these counterfeiters won't be able to counterfeit the cards.

They're tightening up their belts, these companies like Visa and Mastercard are really working toward the end to try to stop this thing.

I don't know what the category is. As I said earlier, do you call this a scam? What do we call it, what CMI was promoting? And you know, you can put it in the category—I don't know if the word "racket" is good or not. I really don't know.

But I do know this: From November of 1982 to March of 1983, that 5-month period, things happened fast, and they're out of business.

Mr. WENZLOFF. Yes, sir.

Chairman ANNUNZIO. It was not a legitimate operation, and the people finally caught up to them, the consumers.

Now, this seems to be a problem that all of us must share in.

I commend those companies who are trying to do something about the problem, who recognize that we do have a problem.

I mean, this thing cannot continue the way it's going. We're in the electronic age, in the cashless society age.

I have conducted hearings around the country on electronic transfers, debit cards, you know. I remember going to the University of Ohio, and they had a teller machine, you know, a bank teller machine. And I just decided out of curiosity to watch these kids at Ohio State, you know, going up to the machine.

And I stood there for about half an hour. And I want to tell you something: 95 percent, and I'm not exaggerating one bit, went up to that machine, put in a card and got money out, 95 percent.

There was nobody putting any money in. The money was coming from the parents back home. What they were doing was sending it.

And that's where the trouble was. The banks got into trouble with the machines because the money was going out. As you know, you've got to have money coming in so the banks can operate and meet their expenses and their obligations.

What do you think of the legislation?

Mr. WENZLOFF. As I mentioned I think in my closing statement, Mr. Chairman, as I view the legislation, it seems like there is an attempt on your part to define what is known as a legitimate transaction with account data.

And I suspect that as we sit here and as the years go by from now, we'll never be able to identify all the legitimate transactions and legislate them. I think it would be somewhat easier to identify the illegitimate transactions.

Chairman ANNUNZIO. After this experience with this company, I wish that all of the witnesses today would sit down and write a letter to their Congressmen and let them know if there's going to be legislation in the Florida House, that their legislation should be supported. That's a job you can do sometime next week. And Mr. Baker and Mr. Beyer, look over the legislation.

Mr. MACK. Could I follow up?

Chairman ANNUNZIO. Sure.

Mr. MACK. In your statement you did make reference to some protection procedures you have taken the initiative on. Are you trying to relate that to maybe some things this legislation ought to reflect? Do you want to expound on that?

Mr. WENZLOFF. I guess what I'm trying to say is that the industry is well aware of the problems of counterfeiting and the problems of fraud or lost and stolen cards or CMI types of activities. And the industry is responding, as I mentioned in my testimony, responding in an innovative way.

We at Southeast Bank, as I mentioned, provide CBI and provide TRW with truncated account numbers.

If you look at the account number in your bureau reports, you can't put it back together. But we can, but neither can George Beyer.

And I think those types of responses need to be combined with the legislative responses, and together I think we end up protecting

the legitimate industry, and telemarketing industry, and at the same time write legislation that will help us move against the illegitimate industry.

That's all I'm asking, I guess, or that's all we're asking. And I think that is the intent of this legislation. And it's a very vexing problem, and I support you, and we'll do everything we can to help.

Chairman ANNUNZIO. As I close these hearings, I want to express the deep appreciation of the subcommittee to all of the witnesses that appeared today. But I especially want to commend the press for the manner in which they have called this problem to the attention of the readers in Sarasota. And the media that was here today. We had a nice television interview. And I'm sure some of the stories coming out of the Sarasota newspapers have already reached other papers throughout the country so that the public is made aware.

But I especially want to congratulate my colleague from the Congress who was good enough to sit here all morning and part of the afternoon with me at these hearings. And I appreciate the cooperation.

The meeting is adjourned.

[Whereupon, at 1:40 pm., the subcommittee adjourned.]

THE CREDIT CARD PROTECTION ACT

WEDNESDAY, JULY 27, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:30 a.m., in room 2128, Rayburn House Office Building, Hon. Frank Annunzio (chairman of the subcommittee) presiding.

Present: Representatives Annunzio, Vento, Lowry, Paul, and Ridge.

Chairman ANNUNZIO. The meeting of the subcommittee will come to order.

As some of you know, Congress remained in session until about 2:30 a.m. this morning in order to complete work on the defense bill. We have been working on the defense bill since May of this year, and I am delighted that it is completed and passed. Because of the long session, however, I really don't expect some of the members to be here this morning. I am only here because I happen to be the chairman of the subcommittee. Otherwise, I probably wouldn't be present.

Nevertheless, I wanted the witnesses to know what situation we are faced with. There is no way of knowing when a situation like this will happen in the Congress. We were working on the International Monetary Fund bill. The Banking Committee rose at 6 o'clock without completing action on that bill. And at 6 o'clock the Defense Department bill went on again after several months.

This time the chairman of the committee was determined to finish the bill; and we did, in the early hours of the morning.

This morning the subcommittee begins the final day of hearings on the Credit Card Protection Act. This bill significantly strengthens Federal law concerning credit card fraud, and the abuse of consumers' account numbers by outright criminals and businesses with questionable marketing practices.

In May we heard testimony from a professional credit card criminal. That witness, who testified at grave risk to his personal safety, told us how simple it is to commit credit card fraud. He told how he could take a stolen credit card and run up \$5,000 to \$10,000 a day in fraudulent charges on the card. Now, he is only one man. But there are gangs of 40 or 50 working at a time.

We heard how gangs of credit card criminals make their daily rounds, systematically going from store to store buying goods, getting cash advances, and even splitting the gains with dishonest merchants. As the witness said, credit card fraud enabled him to go

from "hot dogs" to caviar. And if he got caught, the penalty was only a slap on the hand.

Earlier this month we heard testimony on the operations of Credit Marketing, Inc.—CMI—and how the ready availability of credit card account numbers made it possible for that firm to bill tens of thousands of consumers for a credit card protection service that they did not want. In about a year's time, that company billed approximately a quarter of a million consumers an average of \$50 each for that service. When the company closed its doors in March, it left behind 20,000 consumer requests for refunds worth an average of \$50 each. Unknown thousands of other consumers were never able to get through jammed phone lines to demand refunds.

Credit Marketing, Inc. was able to operate on such a large scale because it was incredibly easy for it to obtain consumers' credit card account numbers. Department stores across America sold CMI copies of their customers' MasterCard and VISA charge slips. A representative of one department store testified that his company sold 75,000 charge slips to CMI for 6 cents each. You know, at that hearing when he testified to having sold 75,000 charge slips, I was just aghast that this merchant just openly, readily, like he had accomplished a great task for his company, made about \$4,500 at 6 cents each selling these credit card numbers, those 6-cent investments were turned into \$49, and even \$99, charges to the consumers' accounts.

The subcommittee heard how CMI obtained approximately 65,000 credit reports containing consumers' account numbers from various credit bureaus. Like the numbers from the charge slips, these account numbers were used to bill consumers for a credit card protection service that they did not order or did not want.

The Credit Card Protection Act is aimed squarely at the criminal activities described by the credit card criminal witness and at the widespread and unauthorized dissemination of account numbers. The act strengthens the prohibitions on the fraudulent use of credit cards in three ways. These changes strengthen the law to better combat the alarming growth in organized and sophisticated assaults upon the credit card and banking systems.

First, Federal law is expanded so that not only the fraudulent use of credit cards themselves but also the use of account numbers, or any other device which permits fraudulent charges, is prohibited. This expressly overrules the *Callahan* case, which held last year that the use of credit card numbers alone is not a violation of Federal law.

Second, the possession of 10 or more illegally obtained cards or account numbers with unlawful or fraudulent intent is prohibited. This provision is directed toward making possible Federal prosecution of organized rings that systematically obtain and use credit cards and account numbers.

Third, loopholes that permit criminals to avoid Federal prosecution by not running up more than \$1,000 in fraudulent charges on a single credit card are eliminated. Under the amendment, once a criminal steals more than \$1,000 through the use of any number of credit cards or account numbers, the criminal violates Federal law.

The widespread dissemination of account numbers is also dealt with in the Credit Card Protection Act. The act generally prohibits

the disclosure of credit card numbers. Just as a consumer does not expect the key to his house to be widely copied and disseminated by someone he shares it with, neither does a consumer expect his account number, the key to his account, to be widely disseminated.

The bill would prohibit the sale of account numbers, a practice that permitted CMI to operate. It will not interfere with the legitimate dissemination of account numbers in processing and collecting charges or in the normal operations of businesses, creditors, merchants, or credit bureaus.

I have worked hard to strike a balance between the consumer's need for secure protection of account numbers and business' legitimate need to disclose such numbers. The Credit Card Protection Act does that, and I think that the balance is reflected in the fact that the legislation is cosponsored by every member of this subcommittee. We have legislation that goes far toward protecting the integrity of the payment system, and I hope that following these hearings, we will be able to move quickly to enact this legislation.

Chairman ANNUNZIO. Now I want to call on the ranking minority member, Congressman Paul of Texas. I appreciate you getting here, like myself. I know it wasn't an easy job.

Mr. Paul?

Mr. PAUL. Good morning. Thank you, Mr. Chairman.

About 30 years ago the retail credit card was introduced into wide use in the United States. It has now become a major part of the payments system of the United States, if not the entire world. As recently as 10 years ago the major form of crime or fraudulent use of credit cards involved lost or stolen cards, the abuse of the plastic cards themselves. Today, the more serious abuse of this modern payment method involves not so much the lost or stolen cards as the forged credit card; obtaining the account number of a cardholder, which any thief can use to obtain products; or misuse of the credit card to impersonate an innocent victim.

The Federal Truth in Lending Act prohibits illegal use of the cards, but there are gaps. Criminals have found loopholes that we must close.

The bill before us today represents the careful work of the Subcommittee on Consumer Affairs to modernize the statute. It enjoys the cosponsorship of every Republican member of the subcommittee because it is a needed and overdue measure. We are looking forward today to testimony from witnesses from the credit industry and the government who may have suggestions for further improvement in this bill.

We are open to your suggestions for improving this legislation. We believe working together with credit grantors and credit reporting agencies is the only way to find a solution to this problem of credit card fraud.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. I thank my distinguished colleague from Texas.

This morning I welcome before the subcommittee, and I think I would be correct in saying, an old friend. She has appeared before the subcommittee many times. We have agreed. We have disagreed. But we have accomplished a great deal together on behalf of the consumers.

She has a very, very important meeting at 10 o'clock, so I am going to ask that her entire statement be made part of the record without objection.

I welcome you before the subcommittee, and you can proceed in your own manner.

STATEMENT OF HON. NANCY H. TEETERS, MEMBER, BOARD OF GOVERNORS, FEDERAL RESERVE SYSTEM

Ms. TEETERS. Thank you, Mr. Chairman.

I appreciate the opportunity to express the views of the Federal Reserve Board on the efforts to deal more effectively with credit card fraud through enactment of H.R. 3622, the Credit Card Protection Act. Credit card fraud losses have grown at a disturbing rate in the last several years. For example, total fraud losses for Visa and MasterCard have doubled in only 3 years—from around \$57 million in 1979 to close to \$115 million in 1982—with attendant costs to banks and other financial institutions, retail businesses, and, to the extent these costs are passed on indirectly, to consumers. These hearings, therefore, are important and timely.

I should note at the outset, however, that although the Board shares the general concern about this increase in fraud, we do not have any special expertise in the area of credit card fraud legislation. Although both the Truth in Lending Act and the Electronic Fund Transfer Act contain criminal penalties for credit and debit card fraud, the Board does not issue implementing regulations for those provisions, nor does it have a role in enforcing them. The Board is, nonetheless, glad to assist the subcommittee in any way we can, but my testimony will be brief.

The increase in credit and debit card fraud imposes considerable costs on banks and other card issuing financial institutions. Moreover, although account holders are to some degree protected by the Truth in Lending and Electronic Fund Transfer Acts from liability for unauthorized account access, they may bear some direct liability, and indirectly they may ultimately bear the costs through higher prices or reduced services. According to some industry figures, the cost of fraud per transaction has increased from less than 1 cent per transaction in 1973 to around 8 cents today.

We are particularly concerned about this type of fraud because of its potential effect on the payments system. The trend in recent years toward use of electronic fund transfers and credit cards in place of checks and cash has presented the possibility of significantly reducing costs and increasing efficiency. However, if financial institutions are forced to increase prices in order to cover fraud losses, consumers and businesses may have less incentive to use these more efficient means. In addition, continued widespread acceptance of these methods must depend in part on the public's confidence in their security and reliability. To the extent this confidence may be impaired by the increasing threat of fraud, this may diminish our ability to improve the payments mechanism. Thus, the Board believes that credit and debit card fraud has implications beyond the losses to individual businesses and consumers.

Because of the dramatic growth of fraud losses, and because there may be gaps in the coverage of the existing prohibitions on

card fraud, the Board generally supports legislation designed to strengthen the prohibitions and close loopholes. H.R. 3622 appears to be designed to accomplish a good deal in that direction.

One technical point we suggest the subcommittee consider is the proper placement of any new legislation in the structure of existing law. H.R. 3622 would amend the credit card provisions of the Truth in Lending Act. Since some portions of the bill are intended to affect debit cards, ATM cards, or other means of access to deposit or asset accounts, it may be appropriate to consider incorporating parallel provisions in the Electronic Fund Transfer Act. The EFT Act already contains provisions on fraudulent access to deposit accounts, and placing any new prohibitions in the same location would reduce possible confusion and duplication.

The Board would be pleased to draft statutory language or offer technical assistance to implement this suggestion. Another possible approach would be to consolidate and enact new prohibitions on credit and debit card fraud as part of the U.S. Criminal Code.

The Board appreciates this opportunity to present its views. I would be happy to answer any questions that you may have.

Chairman ANNUNZIO. Thank you, Governor Teeters, for a fine statement, and I pray that at the meeting today we get the good news that the Board is going to reduce interest rates. It better, if it wants an IMF bill, do something.

[Ms. Teeters' prepared statement, on behalf of the Federal Reserve Board, follows:]

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The Board appreciates this opportunity to present its views. I would be happy to answer any questions that you may have.

Chairman ANNUNZIO. This morning, because of your busy schedule, I am going to ask Mr. Paul if he has any burning questions to ask.

Mr. PAUL. I do not.

Chairman ANNUNZIO. Mr. Paul has no questions.

Mr. Vento is another devoted, conscientious Member of this Congress and this subcommittee. He got up this morning, and he is here.

Mr. VENTO. I was here at 8 o'clock, Mr. Chairman.

Chairman ANNUNZIO. Good.

Mr. VENTO. Mr. Chairman, I have no questions for the witness.

Chairman ANNUNZIO. Governor, again your statement was excellent. We appreciate that the Board has practically endorsed our legislation. I noted your suggestions, incorporate with the electronic fund transfer system. Staff is aware of that. I am aware of it. And we will do the best we can to get a piece of legislation this time where we are going to have the minimum amount of criticism. So thank you very, very much.

Ms. TEETERS. Fine. Thank you very, very much.

Chairman ANNUNZIO. On our second panel we have—will you take your places—Mr. John Keeney, Deputy Assistant Attorney General of the Criminal Division, Department of Justice, and Mr. Bernard L. Siegel, Deputy District Attorney, District Attorney's Office, Philadelphia, Pa.

Our distinguished colleague, Mr. Ridge, has joined us. He will make an introduction on behalf of the subcommittee this morning.

Mr. RIDGE. First of all, Mr. Chairman, I would like unanimous consent to have my opening statement submitted and included as part of the record.

Chairman ANNUNZIO. Without objection so ordered.

[The opening statement of Mr. Ridge follows:]

OPENING STATEMENT OF HON. THOMAS J. RIDGE

I want to thank you Mr. Chairman for bringing the issue of fraudulent credit card use to the attention of the Subcommittee and for working with all the members of the Subcommittee in a truly bipartisan manner.

This Subcommittee has heard testimony that leaves no doubt about the seriousness of the problem and the necessity to act expeditiously to protect both the cardholder and the credit card industry. The magnitude of the problem is demonstrated by the fact that so many segments of the credit industry have worked together with the Subcommittee on this issue which lead to the introduction of H.R. 3622, the "Credit Card Protection Act".

In the previous hearings on credit card fraud and abuse, we have learned of two problem areas. The first is the theft of or counterfeiting of credit cards. This is primarily a problem in the major cities of our country and is being done by organized crime. One of the previous witnesses testified that he could easily charge \$20,000 to \$30,000 on a stolen credit card and get away with little or no punishment. This situation simply must be stopped and H.R. 3622 provides one way to do just that. It is vital that we curb credit card fraud as the cost of it, estimated to be about \$50 million in 1982, is ultimately paid by the consumer through higher credit costs and increased prices for merchandise.

The second problem that is evident from previous testimony, is the misuse of credit card numbers by some members of the credit industry. There have been instances where companies have billed services to cardholders without their consent. Section Two of H.R. 3622 restricts the ways in which these numbers can be disclosed by the industry and to whom they can be disclosed. This action, combined with actions the industry is taking, will greatly reduce the possibility of situations where a cardholder will be billed for services he did not specifically order.

The Credit Card Protection Act is clearly a bill that will close many of the loopholes in federal law that permit fraud and abuse in the credit card area and provide ways to prosecute violators of the law who have been getting off without punishment in the past. It also protects the interest of the consumer by stopping this type of crime and holding down the cost of credit in the future.

Today we are privileged to have a number of distinguished witnesses representing the credit card industry and law enforcement officials in addition to the Federal Reserve Board. I look forward to their insights on the problems of credit card abuse and the comments they will have on the legislation introduced by you Mr. Chairman and cosponsored by our entire Subcommittee.

Mr. RIDGE. Second, I would ask the chairman if possible—Mr. Siegel was in my office and he will be over here in about a minute and a half. I would like to reserve my comments until Mr. Siegel arrives if at all possible.

Chairman ANNUNZIO. I am sorry, I thought he was here. We will proceed with Mr. Keeney.

I appreciate your attendance this morning.

STATEMENT OF JOHN C. KEENEY, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE, ACCOMPANIED BY E. DONALD FOSTER, DEPUTY CHIEF, FRAUD SECTION

Mr. KEENEY. Thank you. Good morning, Mr. Chairman.

Chairman ANNUNZIO. If you have a prepared statement, it will be made a part of the record.

Mr. KEENEY. Thank you, Mr. Chairman. I have with me Mr. E. Donald Foster, Deputy Chief of the Fraud Section of the Criminal Division.

Mr. Chairman, I appreciate the opportunity to be here today to present the views of the Department of Justice. My remarks key to H.R. 2885 but I am actually commenting on H.R. 3622 because we didn't know the number at the time we prepared the comments.

The bill would amend the Truth in Lending Act to protect consumers by giving them the right to recover civil damages from persons who make unauthorized disclosures of their credit card numbers. Such persons would also be guilty of a misdemeanor. The bill also seeks to clarify the provisions of and close certain loopholes that have developed in 15 U.S.C. 1644, the part of the Truth in Lending Act that sets out criminal penalties for the fraudulent use of and other offenses involving credit cards.

Mr. Chairman, we are aware of the dramatic increase in the counterfeiting and the fraudulent use of credit cards. We are also familiar with the major increase in Electronic Fund Transfer [EFT] activity through a preliminary study done by the Department's Bureau of Justice Statistics in June 1982, and our conversations with industry representatives. This increase creates the distinct possibility of a sharp upswing in crimes involving EFT systems and their accompanying debit cards.

Our concern in this area, however, is not with the high volume, low dollar losses of present or future credit or debit card transactions. The average credit or debit card fraud loss is so small that the crime can generally be prosecuted on a local level where personnel resources are much greater than those available to the Federal Government.

What does concern the Department of Justice in this area is the problem of counterfeiting and altering credit and debit cards. A number of investigations, Federal and local, have shown that there exists a substantial problem with organized criminal activity in this area. I am not referring to traditional organized crime so much, although there is a problem, as to the working together of a ring of persons to commit a variety of crimes. The easy availability of false identification and the sophisticated techniques used in counterfeiting and altering cards make it very easy for such groups to commit frauds on a continuing basis. Thus, we could support in concept one of the provisions of section 3 of H.R. 2885 which would proscribe the possession with unlawful or fraudulent intent of 10 or more counterfeit, fictitious, altered, forged, or lost credit cards. As a matter of fact, Mr. Chairman, we would suggest a reduction in the number to the area of five.

We also agree that there is a need to address the problem with which section 2 of H.R. 2885 is concerned, and which is also one of the issues dealt with in section 3, namely the unauthorized disclosure of credit card numbers which facilitates the use of the number in a fraud scheme. We will, however, suggest a simpler and more direct approach than that taken by section 3 of the bill.

In this connection, I might point out our approach is substantially similar to the comments made by the representative of the Federal Reserve Board. We agree on the need to criminalize fraudulent use of account numbers and information alone in addition to the actual use of the plastic card. We believe the language we have prepared is a more direct and simple way of criminalizing the fraudulent use of a credit card number than is the approach in section 3 of the present proposal. It also avoids the necessity of introducing the confusing new term "payment device" into the law.

Our language would also address the so-called accumulation issue covered in section 3 of the proposed bill. Under section 1644 as presently written a person can unlawfully use one card, accumulate just under \$1,000 worth of purchases, discard it and use another card to do the same thing without violating the statute. Subsection 2 would add a new section 137 to create a new crime prescribing unauthorized disclosure of a credit card number. It is a misdemeanor carrying up to 1 year's imprisonment and \$5,000 fine.

While willful and knowing disclosure should be criminalized, the subcommittee may wish to consider adding a felony provision for situations in which the disclosure is in return for a monetary benefit as where a dishonest bank or bank card company employee sells cards or shares in the proceeds of the goods unlawfully obtained.

Mr. Chairman, that concludes my comments on the bill. I think I would be derelict if I didn't say something with respect to several other defects and loopholes in the banking area. One of them is with respect to the Financial Privacy Act of 1976. That statute actually impedes Federal enforcement. It creates a situation where the bank which is a victim of a crime has to play a game of 20 questions with the FBI before they can disclose the full information with respect to a crime in which the bank has been a victim. We would just urge that the committee take that into consideration at some point.

A second point, again not directly related to this legislation but in the bank and credit card area, is a provision in the President's Comprehensive Crime Control Act which would create a bank fraud statute. It would cover the loopholes that presently exist with respect to the unavailability of 18 U.S.C. 1014 in the normal check kite scheme and would make it easier to prosecute these crimes against banks by creating a jurisdiction based on the Federal charter or the insured—insurance situation, Federal insurance situation.

Mr. Chairman, that completes my remarks and I would be happy to try to answer any questions.

[Mr. Keeney's prepared statement, on behalf of the Department of Justice, follows:]

STATEMENT OF JOHN C. KEENEY, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to present the views of the Department of Justice on H.R. 2885, the proposed Credit Card Protection Act. The bill would amend the Truth in Lending Act to protect consumers by giving them the right to recover civil damages from persons who make unauthorized disclosures of their credit card numbers. Such persons would also be guilty of a misdemeanor. The bill also seeks to clarify the provisions of and close certain loopholes that have developed in 15 U.S.C. 1644, the part of the Truth in Lending Act that sets out criminal penalties for the fraudulent use of and other offenses involving credit cards.

The Department of Justice appreciates very much the Subcommittee's concern with these issues. New legislation is needed to aid in the battle against the criminal misuse of credit and debit cards and H.R. 2885 is an important step in that direction. We look forward to working with the Subcommittee in this area.

Before discussing H.R. 2885, I think it would be useful to describe for the subcommittee some related issues in the area of credit card and debit card fraud. For the past twelve months, officials of the Criminal Division and of the Federal Bureau of Investigation have been meeting with bank and bank card industry representatives concerning the need to amend the criminal fraud provisions in 15 U.S.C. 1644, and the similar criminal fraud provisions of the Electronic Funds Transfer Act, 15 U.S.C. 1693n. Thus, we are aware of the dramatic increase in the counterfeiting and the fraudulent use of credit cards. We are also familiar with the major increase in Electronic Fund Transfer (EFT)

activity through a preliminary study done by the Department's Bureau of Justice Statistics in June of 1982, and our conversations with industry representatives. This increase creates the distinct possibility of a sharp upswing in crimes involving EFT systems and their accompanying debit cards.

Our concern in this area, however, is not with the high volume, low dollar losses of present or future credit or debit card transactions. The average credit or debit card fraud loss is so small that the crime can generally be prosecuted on a local level where personnel resources are much greater than those available to the federal government.^{1/}

What does concern the Department of Justice in this area is the problem of counterfeiting and altering credit and debit cards. A number of investigations, federal and local, have shown that there exists a substantial problem with organized criminal activity in this area. I am not referring to traditional organized crime so much as to the working together of a ring of persons to commit a variety of crimes. The easy availability of false identification and the sophisticated techniques used in

^{1/} To do our part in ensuring that these matters are, in fact, handled by state or local prosecutors, officials in the Department of Justice have worked closely with the state Attorneys General and local District Attorneys through our Executive Working Group of Federal, State and Local Prosecutors on a national level, and the Law Enforcement Coordinating Committees on a state and local level. Our contact with our state and local counterparts has convinced us that while some improvements in existing federal laws are needed, there is no need for the massive federal involvement in areas of traditional local concern such as minor fraud cases, that would result if virtually every credit card crime were made a federal offense, the approach of some bills prepared by the banking and credit card industry.

counterfeiting and altering cards make it very easy for such groups to commit frauds on a continuing basis. Thus, we could support in concept one of the provisions of section three of H.R. 2885 which would proscribe the possession with unlawful or fraudulent intent of ten or more counterfeit, fictitious, altered, forged, or lost credit cards.^{2/}

Moreover, we also agree that there is a need to address the problem with which section two of H.R. 2885 is concerned, and which is also one of the issues dealt with in section three, namely the unauthorized disclosure of credit card numbers which facilitates the use of the number in a fraud scheme. We will, however, suggest a simpler and more direct approach than that taken by section three of the bill. In recent years we have discovered that criminals have begun to make use of credit card numbers obtained without the consent or knowledge of the card holders. The card number itself, apart from the actual card, is often used in a criminal fraud scheme but the use of just the number may not be covered by existing statutes. For example, in United States v. Callihan, 666 F. 2d 422 (9th Cir. 1982) the court held that the communication by telephone between Spokane, Washington, and Reno, Nevada, of fraudulently obtained credit card numbers was not covered by 15 U.S.C. 1644. Fortunately in

^{2/} While we support the concept of adding a new subsection (g) to section 1644 to cover possession with unlawful intent of false or stolen cards, we think that requiring possession of ten or more such cards is likely to allow too many criminals to escape prosecution and conviction. We would suggest that the possession of five or more such cards with the requisite intent be criminalized. Compare the new section 1028(a)(3) of title 18, part of the False Identification Crime Control Act of 1982, which proscribes the knowing possession with intent to use unlawfully five or more false identification documents.

this case, the court upheld the defendant's conviction under the wire fraud statute, 18 U.S.C. 1343, for the act of transmitting the account number on the interstate telephone call. However, if the call had not crossed a state line, the wire fraud statute would have been inapplicable.

This suggests the need to criminalize the fraudulent use of account numbers and information alone, rather than the use of the actual plastic card. However, we do not support the language of section three of H.R. 2885 that attempts to do this. Rather, we think this can best be accomplished by redrafting the various subsections of 15 U.S.C. 1644 so that they all refer to credit card numbers as well as the cards themselves. For example, we would suggest that section 1644(a) be amended to read as follows:

"(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use [or assists the use] of one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently transferred or obtained credit cards or credit card numbers to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating \$1,000 or more in any one or more transactions; or"

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We have prepared similar specific language for amending the other subsections of section 1644.^{3/} We believe that the language we have prepared is a more direct and simple way of criminalizing the fraudulent use of a credit card number than is the approach in section three of H.R. 2885. It also avoids the necessity of introducing the confusing new term "payment device" into the law. While the phrase may be a term of art in the credit card industry, such a novel phrase may unnecessarily complicate criminal prosecution.

You will note that our language would also address the so-called "accumulation issue" which is also covered in section three of H.R. 2885. Under section 1644 as presently written, a

^{3/} We have also prepared legislation making similar amendments in the parallel criminal provisions of the Electronic Funds Transfer Act, 15 U.S.C. 1693n(b). We believe that amendment of the criminal provisions of both the EFT Act and the Truth in Lending Act should, logically, be considered together. We note that the definition of the key term "payment device" in section three of the bill as "any card ... account number ... or other means of account access that can be used ... to obtain money, goods, services, or any other thing of value, or for the purpose of initiating a transfer of funds ..." would also appear to include debit cards. While we agree that the criminal provisions concerning EFT fraud ought to be strengthened to cover the fraudulent use of the number and the accumulation issue (discussed below), we believe that this can better be accomplished by amending the EFT Act directly.

person can unlawfully use one card, accumulate just under \$1,000 worth of purchases, discard it, and use another card to do the same thing without violating the statute.

Subsection two of the bill would add a new section 137 to the Consumer Credit Protection Act to create a new crime proscribing the unauthorized disclosure of a credit card number. By virtue of 15 U.S.C. 1611 which provides that any person who willfully and knowingly fails to comply with any requirement of subchapter I of the Consumer Credit Protection Act, of which the new section 137 would be a part, is guilty of a misdemeanor carrying up to one year's imprisonment and a \$5,000 fine, an individual such as a bank employee who gave out a credit card number without authority would be subject to criminal prosecution. While the willful and knowing disclosure of such a number should be criminalized, the Subcommittee may wish to consider adding a felony provision for situations in which the disclosure is in return for a monetary benefit, as where a dishonest bank or bank card company employee sells card numbers or shares in the proceeds of the goods unlawfully obtained. The Department would be pleased to work with the Subcommittee in drafting such a provision. However, the Department would defer to others on the provision in section two of the bill whereby a person who makes an improper disclosure of a card number becomes a creditor for purposes of section 130 of the Act and hence liable for civil damages.

To the extent that the Subcommittee is generally reviewing federal statutes that affect the ability of the federal government to investigate and prosecute fraud against financial

institutions and other credit card issuers, there are two other areas that I would like to call to your attention. The first is the Right to Financial Privacy Act of 1978, 12, U.S.C. §3401, et seq. That statute impedes federal law enforcement efforts directed at crimes against financial institutions (which term embraces credit and debit card issuers, 12 U.S.C. §3401(1)) by prohibiting such institutions from disclosing financial records providing evidence of a fraud scheme except pursuant to legal process. Thus, a financial institution that has been defrauded cannot report the offense to federal law enforcement officials complete with copies of financial records evidencing the crime. Rather, they must engage in a game of "Twenty Questions" with the Federal Bureau of Investigation in an effort to provide sufficient information to enable federal officials to establish the basis for issuance of a grand jury subpoena or other form of legal process necessary to secure access to the records that evidence the crime. The Financial Privacy Act also restricts the ability of federal bank supervisory agencies to transfer information relating to criminal activity to the Department.

In short, financial institutions are severely restricted by the Financial Privacy Act in their ability to report crimes, even when the financial institutions are themselves the victims. Also, any mistake by a financial institution in reporting a crime to federal authorities exposes the institution to potential civil liability under 12 U.S.C. §3417. Moreover, any technical defect in a disclosure of records by a victimized financial institution entitles the fraud perpetrator to liquidated damages against the institution without regard to whether he was guilty of defrauding

the bank. From a law enforcement perspective, it seems incredible that a financial institution could be punished civilly for reporting a crime against itself, yet this is the law today in the United States.

A second piece of legislation that would enable the federal government to prosecute crimes against banks and the credit card industry more effectively is contained in the President's Comprehensive Crime Control Act of 1983, H.R. 2151 Title XV, Part H. Present laws designed to protect banks cover the offenses of embezzlement, robbery, larceny, burglary, and false statements. The proposed statute is designed to fill the gaps in the present law regarding defrauding banks. It is modeled on the present mail and wire fraud statutes and proscribes a scheme or artifice to defraud a federally chartered or insured financial institution or to obtain property owned or under the custody or control of such an institution by means of false or fraudulent pretenses, representations, or promises.

In sum, there are several areas in which legislation is needed to better protect the banking and credit card business. We support the concept of that portion of section three of H.R. 2885 which would proscribe the possession of a certain number of counterfeit, lost, or stolen credit cards with criminal intent. We think that the fraudulent use or transfer of a credit card account number should be explicitly criminalized but believe that the Department's language to accomplish this is preferable to the approach of section three of the bill. Moreover, we believe that

it would be logical to deal with the related problem of fraudulent use of a debit card along with any credit card legislation, and that a minor change in the Right to Financial Privacy Act and a specific bank fraud statute are also needed. As I have indicated, we would be pleased to work with the Subcommittee on any of these issues.

Mr. Chairman, that concludes my prepared statement and I would be happy to answer any questions at this time.

Chairman ANNUNZIO. Mr. Keeney, we will not be asking questions at this time. We are going to hear our next witness. But I do have two comments. One, the electronic fund transfer system. When this committee considered that legislation we had hearings throughout the country. We were criticized in some quarters. But by passing this legislation we have provided certain guidelines. And that is the reason, and now between the institutions and the consumer in following these guidelines, there has not been as much fraud. We have protected the consumers of America with that act. And we really, really appreciate the cooperation we have been getting from everyone that is involved, and we are proud of that record.

In order to bring you up to date on the privacy section that you mentioned, I just want for the record and to let you know that as chairman of this subcommittee I strongly opposed the privacy section as it was written at that time. But your Department had talked to two of the Congressmen on this subcommittee, both lawyers—and I am not a lawyer—and when the two lawyers got together, you see, I just threw up my hands and I gave the Justice Department what they wanted. And now I am happy today that you are coming back here and telling me about this financial privacy, because you see, again, we got involved in this particular fight, which you can appreciate—in a philosophical fight.

Mr. KEENEY. If we are responsible for this monstrosity of legislation, Mr. Chairman, we would have to concede where we made a mistake.

Chairman ANNUNZIO. I wanted to give you a little history. I got involved in a philosophical fight to the right and left over this thing about human rights. I tell you it almost became an international incident. And being a compromiser and politician, not a philosophical creature, I did the best I could to get the legislation out making my two colleagues and Justice Department happy.

But now that I know the Justice Department is unhappy with it, I appreciate your coming forward. We are going to see what we can do to remedy the situation. I am really grateful for the information.

Mr. KEENEY. Thank you, Mr. Chairman. We think it is a ridiculous situation when the victim of a crime has to be careful what disclosures he makes in what quantity to the FBI or else run the

risk of having a civil suit being brought by the person who victimized the bank. I appreciate very much your comments, Mr. Chairman.

Chairman ANNUNZIO. Thank you.

Now, my distinguished colleague from Pennsylvania, Congressman Tom Ridge, will introduce an old friend, the next witness.

Mr. RIDGE. Thank you, Mr. Chairman. At the outset, I want to thank you for the many courtesies that you and your staff have extended to me with regard to not only the testimony of Attorney Siegel but also our involvement in the process of putting this bill together.

I am very pleased to introduce to you and other members of the subcommittee Attorney Bernie L. Siegel. He is the Deputy District Attorney for Investigations in the Philadelphia District Attorney's Office. I would say, coincidentally, that is on the other side of the State from my congressional district, but I knew Attorney Siegel as a prosecutor in Erie County which is part of my district. He is executive director of the Economic Crime Project of the National District Attorneys Association. He is a scholar. He is a legislative draftsman. He is a lecturer.

I would tell you, and I am being very objective because when I was a defense attorney he beat me around the ears a couple times, he is one of the finest prosecutors not only in the State of Pennsylvania but also, in my mind, in the country.

When I initially talked to him about testifying before the committee, he said it is a Federal issue, Tom. How can I enlighten you? What can I contribute? And I said, well, from my experience as a prosecutor I know that some of these cases do not end up in the Federal court system. They end up in the local court system.

With that unique perspective and given his experience and background, I am very pleased that you extended the courtesy and have asked me to ask Mr. Siegel to participate in our hearing.

Chairman ANNUNZIO. Thank you very much, Mr. Ridge.

Mr. Siegel, with that sendoff I want you to know that this subcommittee is pleased to have you with us this morning. We can use all the help we can get. If you have a statement, without objection your entire statement will be made part of the record and you can summarize and proceed in your own manner.

STATEMENT OF BERNARD L. SIEGEL, DEPUTY DISTRICT ATTORNEY, DISTRICT ATTORNEY'S OFFICE, PHILADELPHIA, PA.

Mr. SIEGEL. Thank you very much, Mr. Chairman.

When I was asked to come before you, I did, in fact, suggest to Congressman Ridge precisely what he has just stated, namely that I wondered what perspectives could really be given to a piece of what I consider significant Federal legislation by someone who has spent his entire career working at the local level. Given that, I recognized that the constituency I represent in a somewhat unpaid but nonetheless significant way, and that is the economic crime project of the National District Attorneys Association, is representative of the majority of the metropolitan local prosecutors' offices in this country with a constituency among themselves of probably better than half of the population of the country.

It is upon the local prosecutor that a great deal of the problems involved in combating credit card abuse heretofore has fallen. Recently we conducted in Philadelphia a national economic crime project conference at which a substantial number of the member bodies were present, and we discussed this particular problem in anticipation of my appearing here. We came to certain, not conclusions, but some thoughts that we wanted to share with you. My thoughts are really not directed at the specifics of the legislation, because as has been indicated, the specifics of the legislation, being directed more towards the U.S. Department of Justice, are not of immediate concern to us. However, the concept is.

The involvement of the Federal Government in a more substantial way in combating credit card abuse and the counterfeiting problem and interstate aspects of credit card abuse is of immense significance to our member agencies for the simple reason that handling these particular kinds of matters has become a virtual impossibility for most of the major metropolitan local prosecutors' offices that have to try to deal with the matter.

Funding, staffing, the ability to get witnesses, the ability to track down sophisticated rings and complex criminal activities that cross State boundaries has become far too great for even the most sophisticated of our major offices. And so in a general way we would say that we are very much in favor of seeing a heightened involvement by the Federal Government in the field. But to say that does not mean that we do not have certain reservations, not so much related to the legislation, but to some of the concerns that we have noted in the past with regard to the manner in which the Department of Justice and in particular U.S. attorneys offices throughout the country tend to conduct themselves when dealing with legislation of this type.

I am not saying this to be critical but simply to point out things that happen once legislation does get passed and once jurisdiction has been placed into U.S. attorneys offices in the various districts, and I believe there are 92 districts throughout the country. The U.S. attorneys offices generally will prepare and have made available, in some instances publicly, what are known as declination policies. These are policies by which they pick and choose, literally, which crimes and under what circumstances they will prosecute matters brought to their attention by the Federal investigating agencies that fall either within their jurisdiction or that work closely with them.

The most obvious agency with which they work closely is the Federal Bureau of Investigation. When they make these declination policies they are making a judgment as to the significance of a crime or the meritoriousness of the crime, or perhaps the newsworthiness of the crime. I do not know and I do not judge. But I do know that there are detailed declination policies, a declination policy being a policy that states that under a certain set of circumstances, even if there may be a meritorious criminal involvement in a matter that could be litigated, they decline for a variety of reasons to prosecute the matter.

The question is what happens when a U.S. attorneys office chooses to decline a matter, which may have some significance, for reasons in which local prosecutors, obviously have no input? If you

have a local prosecutor who, as for example we have in Philadelphia, believes that we should not have cracks through which persons who commit what might be viewed as substantial crimes may fall, people who may steal upwards of \$5,000 and \$10,000, might fall free, then you put a burden upon the local prosecutor's office to pick up those matters which have been declined by the U.S. attorneys offices.

When you do that, you not only intensify the problems that the local prosecutor faces in dealing with what should be Federal legislative problems, you make things worse. The reason you make them worse is because the matters that have been undertaken have been investigated to a point by an agency over which they have had no control, and are then put into their laps with no further assistance from that agency to either guide, direct or in any way assist them.

Therefore, in addition to the thousands of cases that the metropolitan prosecutors' offices will have assembled on their own, dealing with State violations, including significant credit card violations, they may, in fact, find themselves being the recipients of an additional hundreds, if not thousands, of cases coming from the more active prosecutors' offices in the U.S. attorney system who have, because of their various declinations policies, chosen to not proceed in a matter in which they might otherwise have involvement.

The local prosecutor then must find a local statute within which to fit the particular investigation and start from scratch. In some instances, support is received from the Federal investigative agency that was involved. However, when we deal with the Federal Bureau of Investigation we deal with a completely different matter altogether, and they are the key investigative agency. It is my understanding, and I assume I can be corrected on this, but it is my understanding that the only way in which the Federal Bureau of Investigation will assist in an investigation is if they can be guaranteed, and this is as I understand it a matter of policy that comes directly from the Director, if they can be guaranteed that the jurisdiction will be Federal in the matter which they are investigating, and that once it is determined that it will not be Federal, they will not take any further role.

Thus, the ability to have their expertise provided to the local prosecutor in a matter in which the U.S. attorney's office may decline prosecution is lost to the local prosecutor completely. I understand the manpower needs in the U.S. Department of Justice. I understand the budgetary problems at the Federal level as well as at the State and, believe me, at the local level. It is simply a problem that I wish to bring to your attention that may not even be addressable by Congress. But it is something that ought to be considered by Congress when passing legislation that is going to have a significant impact on the criminal law because it will also have a significant impact on local prosecutors to the extent to which the U.S. attorney's offices, Department of Justice, and the Federal investigating agencies choose to not prosecute when you have stated to them that you want the matter handled.

What I am suggesting is that with all of this type of legislation there really must be a commitment on the part of the executive

branch through the Department of Justice to work more closely with local prosecutors in dealing with problems which we find of significance, as I indicate in my written remarks, or some way to assist local prosecutors in picking up the pieces that fall down to them when the Department of Justice chooses not to proceed. It is really to that particular area that I was most concerned.

There was one other area that I wished to touch on, and I touched on it briefly in my written remarks. That is the concepts that are used in defining the devices with which these crimes can be committed. I make a note in my remarks that I believe we should be looking at broader terminology when defining statutory language that deals with crimes taking place in an era of explosive growth of high technology.

In Pennsylvania, we are attempting to draft certain statutes now that deal also with the use of payment cards, computer fraud, et cetera. My office has taken the lead in doing the drafting primarily for the State District Attorneys Association. One of the points we are trying to make amongst ourselves is that we are trying to restrict the kind of language we use so that we are not responding to a particular problem or namely a credit card problem, a payment access number problem, but rather to a category of problem. That category is a particular kind of fraud which is caused by being able to access various types of accounts, various types of sales transactions, et cetera.

We choose to use words like, and I suggest here though I do not use it as a term of art, the word "key," a key being any form of accessing device, not just a card, not just a number, not just a video tape or audio tape or voice print or fingerprint but any information that might arise that would provide an accessing device to get into the area of fraudulent financial transactions. Thus, as the high technology criminal chooses to ply his or her means, the white collar prosecutor will be in a position not to wait for legislation to catch up with the act but will be there ahead of time and capable of dealing with the problem.

With that, Mr. Chairman, those brief remarks, I thank you again for having me here. If there are questions, I would be happy to answer as well.

Chairman ANNUNZIO. Thank you, Mr. Siegel, for a very cogent, practical statement. It is going to be much help to the subcommittee as we proceed with the markup of the legislation.

Mr. Vento is recognized for five minutes.

Mr. VENTO. Thank you, Mr. Chairman. Mr. Keeney, credit card industry spokesmen have claimed that the U.S. attorneys do not prosecute credit card fraud. In fact, Mr. Siegel, I believe, was alluding to that because the criminal provisions are in title XV rather than XVIII. Would you care to comment on that particular insight?

Mr. KEENEY. It doesn't seem to me that that is a valid basis for not prosecuting. My understanding of nonprosecution in this area is because, as Mr. Siegel has indicated, the declination policy, which usually state that low amounts, and the average figure I have seen on credit card fraud is about \$267, so it is a monetary figure rather than its place within the Federal code.

It could be in title XVIII. It could be in title XV. It depends on the provision of the particular statute whether it can be effectively utilized, Mr. Vento. I don't think that is a valid reason.

Mr. VENTO. Mr. Siegel, one of the points that you talk about in your statement, your prepared testimony, is a sort of clearinghouse arrangement. I don't know if I understand exactly what you are referring to with regards to that. Are you talking about greater information availability? Exactly what are you referring to with that?

Mr. SIEGEL. One of the problems that we have in the credit card fraud investigation or prosecution field is the fact that many schemes do cross State lines. In addition to having Federal jurisdictional impact, there is local jurisdictional impact as well, and it would be of great assistance to local prosecutors to have some central place where they can go or which can provide to them information about the existence of rings which are being uncovered, which are in the process of being uncovered or being investigated, perhaps at different levels in the Federal Government, or even amongst ourselves.

That is what we hope that our economic crime project will provide to our members, some way of being made aware on an almost daily or weekly basis of the latest wrinkles and techniques being used, the latest schemes coming out, the directions in which they may be spreading, the locales in which they seem to be generating the greatest impact, so that the prosecutors in those particular jurisdictions can be there, in a sense anticipating and ready and perhaps able to take a more proactive approach to preventing that type of criminality in their jurisdiction.

It is hard to say with great precision how it would work, but certainly a clearinghouse to help us know what is coming down the line would enable us to be able to react much more quickly when these matters arise so that the losses would be cut.

Mr. VENTO. Mr. Keeney, you have heard that answer. Have you identified an increasing number of rings with regard to credit cards? What is the Department doing about it? Do you foresee a role of the Department in terms of a clearinghouse? Those three brief comments, please.

Mr. KEENEY. Taking the first, we do see a role in connection with particularly interstate rings, and in situations where either the rings are traditional organized crime or nontraditional organized crime, but they are banding together and on a continuing basis engaging in this type of credit card fraud. Yes, there is definitely a role.

With respect to the clearinghouse, the Attorney General has mandated that each of the U.S. attorneys in each of the 94 districts set up within his district what is called a Law Enforcement Coordinating Committee. The Law Enforcement Coordinating Committees are mandated to set up a system within their district whereby they meet on a regular basis with their counterparts, investigative and prosecutive, on the local and State level.

And the purpose of these LEC, or Law Enforcement Committees, is to make available a vehicle for the exchange of information. If these things are working effectively and the Department is continually monitoring them to try to increase their effectiveness, if they

are working effectively they should achieve a large measure of what Mr. Siegel suggests.

I am afraid I missed the third question, Mr. Vento.

Mr. VENTO. I think that you answered it. I guess the thing is, is there an increasing number of these credit card rings?

Mr. KEENEY. Yes, we have, sir.

Mr. VENTO. Thank you, Mr. Chairman. We recognize that as a Federal responsibility to take an active role where we are dealing with credit card rings.

Chairman ANNUNZIO. Mr. Paul is recognized for 5 minutes.

Mr. PAUL. Thank you, Mr. Chairman.

I have one brief question for Mr. Keeney. To what extent are prosecutions occurring under the Consumer Credit Protection Act? You have made a number of suggestions to the subcommittee. We are having a markup immediately afterwards. I was just wondering whether you had any suggestions or enough time to analyze this. What would the impact be of this bill on your operations.

Mr. KEENEY. It would help. It would make some of the prosecutions easier. Whether it would have a dramatic impact I am inclined to say no, Mr. Paul. But it would have a salutary impact and would probably result in us being able to prosecute some cases that we can't prosecute now. As the chairman pointed out, it would overrule in effect a recent decision in the ninth circuit with respect to the use of numbers.

Mr. PAUL. Have you had enough time to really go over the bill and study the impact of this bill on your operations?

Mr. KEENEY. We have had the bill and its' predecessor for about 10 days. We have looked at it, I think, pretty carefully, Mr. Paul. All I can say with respect to it is, it would be helpful. We would strongly recommend that it be enacted.

Mr. PAUL. Thank you.

Chairman ANNUNZIO. Thank you, Mr. Paul. I would like to ask the cooperation of the members. I know how busy they are. We have one more panel. Then we are going to proceed to markup. We need a quorum to markup. We have five members here. We need one more for markup. So if it is at all possible, if you can stay, the staff is working on getting another member to the subcommittee. Mr. Lowry, you are recognized.

Mr. LOWRY. Thank you, Mr. Chairman.

Mr. Keeney, I wasn't here in 1976 when the Financial Privacy Act was passed, so I am not really aware as I should be of all the ramifications of that act. Obviously there was probably some purposes for it as far as protecting privacy. Can you give an example of crimes that you are aware of that were not prosecuted because of the existence of the act?

Mr. KEENEY. Well, I am not saying we are not prosecuting, Mr. Lowry. What I am saying is that the procedures are so cumbersome that a bank has to notice the FBI that they have an indication of a crime in which the bank was the victim, embezzlement, whatever the crime might be.

Then they have to go through and gradually feed out to the FBI the details of that violation. The statute is structured in such a fashion so that if in doing so the bank oversteps the bounds of the statute, they may be subject to a civil suit by someone who has ac-

tually victimized the bank because they haven't adhered rigorously to the cumbersome procedures of the particular statute.

I am not saying we haven't prosecuted any cases; I am just saying that life would be a lot simpler for the banking institutions and for the FBI if there were some changes made in this legislation so that the bank could call up and say, "We have been the victim of a crime. These are the facts. These are the details. These are our books. These are the people who have information with respect to it. And you, FBI, take over." It would save a lot of time, Mr. Lowry.

Mr. LOWRY. Is there a problem of the banks—

Mr. KEENEY. Even the bank regulatory agencies have a problem. They feel they are inhibited in what they can disclose to us, at least in the early stages of the dialog that commences as a result of the statute.

Mr. LOWRY. Well, Mr. Chairman, I assume we will be wanting to look at that. Thank you very much.

Chairman ANNUNZIO. Thank you, Mr. Lowry. And I want to again inform the members that if we don't get this bill marked up today, we will try tomorrow. But I think if we all remain here we can finish the job today. Mr. Ridge is now recognized for 5 minutes.

Mr. RIDGE. Thank you, Mr. Chairman.

Mr. Keeney, do you have available statistics that would reflect for the years 1981 and 1982, the number of arrests and convictions through the Department of Justice with regard to existing legislation in this area, to give us an idea of the number of people that may be falling through the cracks and ending up as a responsibility of the local prosecutorial office?

Mr. KEENEY. I can't give you that, Mr. Ridge. What I can give you is the latest figure, I think, for the Postal Inspection Service, the principal investigative agency in the area. I think for the year 1982 they had something like 80 investigations. How many of those resulted in prosecution, I don't know. But if you wish, I can get the figure for you.

Mr. RIDGE. It certainly would not be No. 1 on your priority list, but I would personally like to see it at your convenience.

Mr. KEENEY. What I am suggesting is that the number of investigations in the area, Federal area, is not extremely high.

Mr. RIDGE. I guess that leads into the second point that I have. On those rare occasions when you do conduct the investigation, the U.S. attorney's office still has the option to exercise, to decline to prosecute. As I understood from Attorney Siegel's testimony, that declination policy may vary from district to district?

Mr. KEENEY. Yes, sir.

Mr. RIDGE. We can promulgate all the national legislation we want, but if there are going to be unilateral decisions made in different areas and in different offices throughout the country as to which ones they are going to prosecute and which ones they are not, it would probably be helpful for the local prosecutor if we really think it is a serious problem and want them to help us out, to have a standard declination policy across the country. Is that altruistic? Is that something we are going to see?

Mr. KEENEY. Mr. Ridge, I don't think a standard declination policy—you are talking about a monetary figure, I think, now—

throughout the country would be a good idea, because the needs and resources are different in the various parts of the country.

Now let me make several points with respect to this. We try to address that problem. It is a problem. Mr. Siegel is right, there is a problem under our federal system where there is dual jurisdiction; there is the potential for cases falling through the cracks. We have tried to address that problem through these law enforcement coordinating committees and we have tried to address it by providing a follow-through system, which is not fully implemented but is in the course of implementation, by which the U.S. attorneys, when they decline a case, a case that, where all the requirements of the statute are met. It could be prosecuted.

When they decline it on the basis of an exercise of their prosecutorial discretion, they will follow through and determine what happened to that case in the local jurisdiction. If it was declined there, they would reconsider it. As I say, we are in the process on this. It is not fully implemented.

Another point I would like to make with respect to the credit card violations. The credit card violations are for the most part investigated by the Postal Inspection Service. I think that if you talk to any law enforcement people on the local level—maybe we could address it to Mr. Siegel—the Postal Inspection Service is the, probably the investigative agency in the U.S. Government that works best with local prosecutors.

They do go, and my understanding is that they are very cooperative. When they bring a case to a local prosecutor such as Mr. Siegel, they bring it and they cooperate fully with respect to trying to have it prosecuted.

Mr. RIDGE. I would like to ask Mr. Siegel, then, to comment on his experience with these law enforcement coordinating committees and possibly also respond to Mr. Keeney's remarks concerning the cooperation between the Federal agencies, particularly the post office and your office, or other offices that you are aware of.

Mr. SIEGEL. With regard to Mr. Keeney's comments regarding the postal inspectors, I absolutely agree with him. I believe all of the prosecutors' offices with which I deal, all of the 80 various offices, will agree that the most cooperation which we receive on a local level from a Federal investigating agency, if we had to pick one, would be the postal inspectors.

They will bring the cases to us and they in fact will do further investigation on our behalf if we ask them to. There are some other Federal agencies that are clearly not quite as cooperative.

With regard to the coordinating councils that were referred to, my view of it, from what I have observed in my jurisdiction and in speaking with district attorneys around the country, is that these are good ideas. They are the kinds of ideas that sound on paper and sound in front of committees as if they are in fact the way to go. But in actual working out, we are not finding very many meetings and we are not finding very many meaningful exchanges.

There are numerous committees to which U.S. attorneys offices and constituent agencies that would be part of these coordinating councils and local prosecutors' offices are called every day. Unless there is some visible sign that the work that will go on in these committees will in fact be substantive, will in fact include the kind

of information that doesn't just flow one way, saying, Here is what is going on; take it or leave it, but in fact will involve an exchange and an assistance capacity back and forth, because local prosecutors can also help Federal prosecutors, unless we know that there is some substance to it, then it really is an exercise in futility.

I am not saying we shouldn't have that as a concept, but if we are going to have these kinds of councils as a concept they ought to be the kinds of things that are followed through on and that the Department of Justice in Washington makes certain that the U.S. attorneys out in the 94 districts follow through on and that in fact they be made to work, because otherwise they are, frankly and to be somewhat harsh but I think quite candid, they are window dressing.

Mr. RIDGE. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Ridge.

I will now allow myself 5 minutes.

Mr. Siegel, do you believe that the Justice Department gives enough emphasis to investigating and prosecuting white collar crime such as credit card counterfeiting?

Mr. SIEGEL. I believe, Mr. Chairman, that more emphasis could be given. Now, whether you ask—you ask do they give enough? They give some. I know that in the past several years the strategy, for whatever reason, at the Federal level has been to place more of the burden of prosecuting that type of crime on the local prosecutor.

It is not a judgment which I believe I am competent to comment on, nor do I feel my comments would be particularly pertinent. But I do have an observation to make, that that is in fact what has happened, and that the resources that have been available to us, on the other hand, to combat the type of crime have been reduced at the same time that the burden upon us has increased, which is one of the comments that I make in my written remarks.

I think the position taken at the Federal level toward dealing with white collar crime should be enhanced and could be greater than it is right now.

Chairman ANNUNZIO. Then in your opinion again, do you feel that there is enough coordination on the part of the Federal Government with local prosecutors on credit card fraud?

Mr. SIEGEL. With credit card fraud per se, I think there is a reasonable amount of cooperation, yes. As I have already indicated, the investigative agency involved happens to be an agency that has, for whatever reason, chosen to be, or been directed to be, or just by the nature of the people within it, is very cooperative with local prosecutors. It makes it, therefore, much easier to coordinate investigative efforts with them when U.S. attorneys offices choose to simply decline to deal with the case.

Chairman ANNUNZIO. In your opinion, the State and local prosecutors have the resources to investigate sophisticated, organized rings of credit card criminals. You know we have heard some horror stories in this subcommittee about how organized these criminals are. In fact, there was a story told, they have a school, you see. These people attend this school where they are taught how to transfer these credit cards. I asked one of the witnesses if they had graduation time and diplomas, you know, and ceremonies.

And, you know, anything that is so well organized in order to make any kind of a dent, having been born and raised in a large city, I know it takes the efforts of local and Federal prosecutors coordinating. Do you think that State and local prosecutors do have the resources?

Mr. SIEGEL. I do not believe State and local prosecutors, Mr. Chairman, have the resources to deal adequately with sophisticated rings of credit card counterfeiters, in particular those that cross State lines.

I can perceive, however, of a way in which we can work in a coordinated way, with the Federal Government assuming the key role in prosecuting, through the use of their vastly increased resources, that type of criminality, and the local prosecutor then dealing with the kinds of frauds that occur at a local level, in particular among the merchant elements, who are a very significant part of credit card fraud, large numbers of merchants who are perfectly willing to take known stolen cards and run up huge bills on them. That we can work with.

If the Federal Government, through the Department of Justice, can work with dealing with the counterfeit rings, we can work very well at the local level in trying to prevent the distribution of those cards and use of those cards through sting and scam operations that we have run, and we have run in a number of cities including my own, very successfully.

Chairman ANNUNZIO. I have one more question for Mr. Keeney. The subcommittee is aware of at least two instances in which multiple gangland-style slayings have occurred as a result of involvement relating to credit card fraud. Is the Department of Justice aware of such instances? Has it been working with State and local investigators to solve these gangland murders?

Mr. KEENEY. Mr. Chairman, I am not aware of the particular incidents to which you are referring specifically. But we are emphasizing rings. We certainly are emphasizing rings when traditional organized crime is involved and when nontraditional organized crime is involved.

There have been some killings in connection with some of these operations. Whether they are directly related to the credit card aspect or not, I don't know, but I do want to emphasize that counterfeiting of credit cards is a priority of the Department of Justice.

Chairman ANNUNZIO. Well, I am happy to hear that it's a priority, and I am sure that when murders are involved, that the attention does go up.

Mr. KEENEY. Yes, sir, it does go up.

Chairman ANNUNZIO. I am sure of that. I just want to make it clear for the record. I have no further questions. I want to give our staff director, Mr. Prins, an opportunity.

Do you have a question?

Mr. PRINS. Just one question, Mr. Chairman.

Mr. Keeney, in the first part of your statement you recommended reducing the number of counterfeit cards from 10 to 5. What concerns me there is that when staff was working on the bill we were led to believe that the smaller number we had in there, the less likelihood that the Justice Department would look into, well, let's say a petty crime.

Mr. KEENEY. We have taken a position on that already, Mr. Prins, in connection with the false identification bill.

We think we ought to be consistent. We think the five figure is large enough to indicate someone is connected with a ring. I am not promising you we will necessarily prosecute federally everyone in possession of five, but it will make it a lot easier for us to prosecute people who are engaged in this type of activity on a regular basis, and we know it and we can only prove the possession of five in one particular situation.

Mr. PRINS. Would you prosecute more if we left the number at 10?

Mr. KEENEY. Well, obviously, but I don't know whether that is going to make any difference. If we can prove 10 and the statute requires 10, or the statute requires 5, I think we are more likely to prosecute on the 10 than we are the 5.

Mr. PRINS. Thank you.

Mr. KEENEY. What I am saying is that if it is five, it is easier for us to handle. We deal with proof, not with what we know or feel. We have got somebody who is a major operator in this field, and we find him in possession of five cards, and if the statute says five, we can prosecute it. If the statute says 10, we can't prosecute him under that particular provision, possession.

Mr. PRINS. I hate to prolong this, but I have to ask one more question to drop the other shoe. What about if we dropped it all the way down to the possession of a single card?

Mr. KEENEY. Obviously there would be very few prosecutions in the federal system for possession of a single card. But, again, it may be that you have somebody who deals heavily in this and we were just fortunate to get him with one. But you have to realize, Mr. Prins, you are going before a jury. When you go before a jury with the possession of one counterfeit card, your chances are substantially diminished insofar as getting a conviction is concerned.

The more you have the better. All we are suggesting is that five is a pretty good vehicle for us to go before a jury with. We are not promising you that we will prosecute federally every time we get someone in possession of five. But we are saying as a prosecutive vehicle it would be helpful.

Mr. PRINS. Thank you, Mr. Keeney. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Keeney and Mr. Siegel, for your excellent statements, your excellent testimony. I am sure it is going to go a long way in helping us in the final markup and shaping up the legislation, hopefully, that will put some kind of a dent into this multibillion-dollar racket that exists in the United States today. This racket is so vast and so expensive that it makes some of the rackets that people are involved in look small in comparison.

I know that before these hearings started I had no idea that we were going to hear witnesses testify that the loss in credit cards through counterfeiting and selling of credit card numbers would exceed the billions and billions of dollars. It is in my opinion, it's a sleeper racket in the United States, and it is about time we make people aware of it. It is a sleeper racket, and a tremendous racket. We want to thank you for your help and helping us.

Mr. SIEGEL. Thank you, Mr. Chairman.

Mr. KEENEY. Thank you, Mr. Chairman.

Chairman ANNUNZIO. The next panel, I would like Mr. William D. Neumann, vice president in charge of security, VISA International, San Mateo, California. Mr. Neumann, will you take your place at the table. Mr. Walter R. Kurth, president, Associated Credit Bureaus, Inc., Houston, Tex.; Mr. Tom Kelleher, vice president of Security, MasterCard Corp., of New York; Ms. Sandra J. McLaughlin, senior vice president of the Mellon Bank, Pittsburgh, representing the American Bankers Association.

Mr. KURTH. Thank you, Mr. Chairman.

Chairman ANNUNZIO. We have with us today a member of the Texas Legislature who is very knowledgeable on this subject, Representative Barry Connelly. Representative Connelly, would you like to come up and sit with Mr. Kurth here?

Mr. CONNELLY. Thank you, Mr. Chairman. Thank you for recognizing me.

Chairman ANNUNZIO. Thank you. And, you know, he's a Republican. [Laughter.]

Mr. Neumann, I know you have a prepared statement. Without objection, it will be made part of the record. You can summarize and proceed in your own manner.

STATEMENT OF WILLIAM D. NEUMANN, VICE PRESIDENT IN CHARGE OF SECURITY, VISA INTERNATIONAL, SAN MATEO, CALIF.

Mr. NEUMANN. Mr. Chairman and members of the subcommittee, I am William D. Neumann, vice president of VISA International in charge of security. I am appearing today on behalf of VISA U.S.A., Inc., a nonstock membership corporation, incorporated under the laws of the State of Delaware, which administers the VISA card and Travelers Cheque program throughout the United States. The membership of the corporation is comprised of approximately 13,000 commercial banks, savings banks, savings and loan associations, and credit unions that participate in the VISA program.

As of the end of 1982 the VISA "Blue, White and Gold" card was carried by approximately 66.8 million individuals and accepted at nearly 2 million merchant outlets and 52,000 member offices all over the country. For 1982, the total dollar volume of the VISA card system in the United States was approximately \$38.5 billion.

On behalf of the vast membership of VISA, I would like to thank you, Mr. Chairman, for convening these timely hearings to discuss the alarming problem of card fraud and to review both the current statutory provisions that provide criminal penalties and the proposed legislation, in the form of H.R. 3622, that would deal with many of our concerns.

In the judgment of the unified industry, the present magnitude of the problem and its potential for even more staggering losses warrant a congressional review of laws protecting the public from fraud in connection with credit and debit cards.

We would like to commend you, Mr. Chairman, for your recognition of the problem and your efforts in fashioning and introducing legislation which will address many of these concerns. Quite clearly, you and the other members of the subcommittee appreciate that

these pieces of plastic are tantamount to cash and their fraudulent use is directly analagous to the counterfeiting of U.S. currency. Moreover, Mr. Chairman, your extensive efforts demonstrate an awareness of the fundamental point that it is the consumer who is the real victim of these unlawful activities. It is intuitively clear that, ultimately, fraud losses are paid by the cardholders as components of the cost and credit of merchandise.

We are pleased by your recognition that the problem is simply so extensive and geographically pervasive that a Federal rather than state response is warranted in those criminal situations beyond the capabilities of State and local authorities. We would like to thank you for your initiative and leadership in introducing H.R. 2885 and were pleased to have the opportunity to work with the staff of the subcommittee in the refinement of that legislation which produced H.R. 3622. We believe this recently introduced legislation reflects giant strides toward devising a statutory framework with which to address credit and debit card fraud and prevent the inappropriate distribution of card account numbers.

H.R. 3622 consists of two major parts. The first would prohibit, except under specified circumstances, disclosure of credit and debit card numbers and other codes that could be used to obtain access to funds. While many of our members would prefer that restrictions on the dissemination of account numbers be implemented by prohibiting improper activities rather than through a blanket prohibition with exceptions, we greatly appreciate the extent to which you have accommodated the vast majority of our concerns respecting legitimate uses for account numbers. We believe that your new bill demonstrates a sincere interest in excluding from the bill's restriction all areas of legitimate business activities.

As we have discussed with the staff of this subcommittee, the account numbers that are the subject of this provision are vital to the orderly functioning of the national payment system. The importance of these account numbers to the system makes it critical that their legitimate use not be impaired while abuses are curbed. Because of that we are concerned that legislation in this area not be viewed as restricting legitimate operations of the credit card industry. We do not believe that H.R. 3622 would do this. In fact, it is our understanding that the members of this subcommittee and the staff share this view. However, certain areas of legitimate activity remain subject to interpretation. We would respectfully suggest that they be addressed in the legislation itself or in legislative history.

We address these specific concerns in our written statement. In these areas we believe that supplying specific guidance is exceedingly important and welcome the opportunity to work with the staff in addressing these matters.

The second major part of H.R. 3622 involves filling in a number of loopholes that currently exist in the statute regarding criminal activity. These provisions would amend section 134 of the Truth-in-Lending Act to close enforcement loopholes that may have developed.

For example, they would change the holding of one court that fraudulent use of an account number did not constitute misuse of a credit card. This and other changes in the criminal liability provi-

sion will do much to close existing loopholes, Mr. Chairman. We urge the subcommittee to move quickly to adopt legislation in this area, and look forward to continuing our efforts in working together to fashion a sound, effective bill.

In conclusion, the pervasive and growing use of plastic cards and related access mechanisms is ushering in a worldwide system of electronic funds exchange. These payment mechanisms hold the potential for allowing consumers to use their assets any way they see fit, instantly, anywhere in the world, and at any time of the day. They hold the key to expanding their freedom by expanding their financial flexibility.

If this new approach is to be implemented successfully, it must be able to develop free of the existing threat of widespread criminality not effectively addressed and thus not deterred by the Federal criminal justice system.

The industry respectfully urges Congress to give immediate consideration to the adoption of appropriate legislation in this area.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Neumann.

[Mr. Neumann's prepared statement, on behalf of VISA International, follows:]

TESTIMONY OF
VISA U.S.A. INC.
BEFORE THE
COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS
SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE
UNITED STATES HOUSE OF REPRESENTATIVES

HEARINGS ON H.R. 3622 AND
THE NATURE AND SCOPE OF
CREDIT AND DEBIT CARD FRAUD
AND RELATED ISSUES

Mr. Chairman and Members of the Subcommittee, I am William D. Neumann, Vice President of Visa International in charge of security. I am appearing today on behalf of VISA U.S.A. Inc., a non-stock membership corporation, incorporated under the laws of the State of Delaware, which administers the Visa Card and Travelers Cheque Program throughout the United States. The membership of the corporation is comprised of approximately 13,000 commercial banks, savings

banks, savings and loan associations, and credit unions that participate in the Visa program.

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On behalf of the vast membership of Visa, I would like to thank you, Mr. Chairman, for convening these timely hearings to discuss the alarming problem of card fraud and to review both the current statutory provisions that provide criminal penalties and the proposed legislation, in the form of H.R. 3622, that would deal with many of our concerns. Visa believes strongly that legislation is badly needed to stem the ever-increasing losses being suffered in this area. We would like to emphasize, Mr. Chairman, that these losses are not borne by Visa or others that perform an intermediary function but rather they are paid for by the consumers who actually use the system through increased prices for credit and the goods and services being purchased.

The Scope Of The Problem

Over the past few years, the fraudulent use of bank cards and travel and entertainment cards has spiraled to incredible heights, far out of proportion to the increase in the legitimate use of these cards. To illustrate the nature and scope of the problem, it is helpful to look at just one of its aspects, counterfeiting.

Worldwide card industry losses from counterfeiting alone were \$15 million in 1981. In 1982, these losses soared to over \$50 million, an increase of over 330 percent in one year alone. Of these worldwide losses, about 94 percent of those losses or approximately \$47 million were suffered in the United States.

For the Visa system, counterfeit losses climbed from about \$750,000 in 1981 to nearly \$11 million in 1982, an astounding increase of over 1,460 percent. Furthermore, despite stepped-up security operations, these losses are expected to at least double in 1983 to well in excess of \$20 million. Counterfeiting losses sustained by Visa members in 1982 were seven times greater than the total counterfeiting losses for the previous nine years. (See Appendix A.) A recent but limited survey by Visa indicates that counterfeit per se constitutes just over 11 percent of the total fraud losses and generates an average dollar loss per counterfeit

card of \$1,000. (See Appendix B.) MasterCard and American Express also have sustained significant losses in this area.

Losses from counterfeiting are only one facet of the problem. In addition, Visa suffered general fraud losses of \$69.3 million for 1982. Most fraud losses involve stolen cards (nearly 36 percent of the dollar losses with an average loss per card of \$650). Lost cards are next, accounting for 29 percent of the dollar losses and an average dollar loss of about \$1,000. Cards not received in the mail comprise the third largest category of loss. These are cards intercepted after they are mailed by Visa but before they are received by the actual accountholder. This problem causes about 18 percent of the dollar losses, with an average loss per card of almost \$2,000. (See Appendix B.)

It is important to emphasize that the cards involved in these three categories of fraud that give rise to the highest losses -- lost cards, stolen cards, and "card not received" -- are often used at first for large dollar purchases. Once the perpetrator has used the card for amounts that he assumes approach the card's credit limit, the cards are used for smaller transactions, which do not require direct authorization. This continues until the account is blocked by the issuer. Essentially, "blocking"

an account means that authorization and security mechanisms are set in place to prevent any further use of that account. It is at this point that the cards are recycled by the criminals, altered with new account numbers, and so move into the "counterfeit" category.

About two-thirds of fraud dollar losses occur from purchases made before the issuer has any reason to believe that the card is being used fraudulently and reports it to authorization centers and merchants. Generally, this process takes about a week, but can take much longer than that for overseas accounts.

Although more than half of the fraudulent transactions involve less than \$50, they account for only about 12 percent of total dollar losses. Transactions between \$500 and \$999, while comprising less than nine percent of transactions, actually account for more than a third of all dollar losses. Transactions of more than \$1,000 account for only 1.3 percent on a transaction basis, but more than 16 percent of dollar losses. (See Appendix C.)

More than 93 percent of the fraud losses in the U.S. occur in 12 states. (See Appendix D.) It is interesting to note that major areas of card fraud, according to our

preliminary review, appear to coincide with the locations of major, known organized crime families.

Almost 25 percent of all fraudulent transactions occur in department, variety and general merchandise stores, in transactions that involve an average amount of about \$100. One-fifth of the percentage of dollar losses results from cash advances, made by banks for an average amount of about \$600. (See Appendix E.)

Significantly, the average transaction amount of about \$55 before the account is blocked drops to about \$36 after the block date. This seems to suggest strongly that fraudulent users are aware of the card issuer "floor limits" and other authorization procedures that are used by the industry to police fraud.

How Fraud Is Perpetrated

The Achilles heel of the bank card is its embossed account number. Perpetrators obtain a "good" account number and emboss it on a counterfeit card, a plain piece of "white plastic," or reemboss it on a lost or stolen card.

This "new" card can then generate hundreds of dollars of purchases and cash advances before it is blocked by the issuer. We have seen actual cases in which an ambitious and

hard-working fraudulent user could use a single card to make \$10,000 in phony transactions. On the street these cards can be bought illicitly for about \$200.

Fundamental to many of these schemes is obtaining good account numbers. Criminals do this in many ways, among them:

- searching merchants' trash and recovering carbon sheets from card transactions. The account number, cardholder's name and expiration date are clearly legible;
- buying stolen cards, frequently from prostitutes. The going rate is said to be \$25 to \$50;
- getting short-term mail order or telephone order jobs;
- learning the access code to a computerized credit reporting agency, or finding a confederate on the inside;
- working for, or having a confederate who works for, a bank. A major fraud case in New York recently resulted in the arrest of four bank employees who were trafficking in account numbers from high-limit accounts; or
- posing as a card company representative or another legitimate businessman over the telephone and persuading cardholders to recite their account numbers.

Once the perpetrators have account information, they simply emboss it on a piece of plastic. These efforts have gone through several identifiable stages as criminals have gained knowledge about both the card system and the mechanics of producing cards. In this area, as in others, it is possible to trace an acceleration and increase in sophistication of criminal activity as these elements work to keep up with industry changes calculated to thwart fraud.

Early criminal efforts centered on lost and stolen cards. The cards were used only until the reporting and listing processes involving lost and stolen cards were assumed to have caught up with them. This period of exposure was reduced as the industry responded with improved reporting and authorization systems. Discovering the brief period during which these cards are useable, criminals soon changed their approach.

The first efforts at manually altering credit cards involved "shave and paste." The "shave and paste" scheme, as it became known in the credit card industry, involves the removal of accountholder information embossed on the face of lost or stolen cards using a razor knife. New numbers removed from other credit cards are then glued onto the appropriate places on cards using a fast-drying epoxy

cement. Initial attempts were addressed at changing the validation and expiration date lines, often using discarded, "expired" cards. In its final stage, the efforts moved to changes in the account number lines. While current methods of fraud make this early scheme appear crude by comparison, it is still being used today.

The next stage in the evolution of card fraud was the development of far more sophisticated schemes including those involving card counterfeiting and "white plastic." "White plastic" cards are plain plastic of the correct size to fit in the sales draft embossing equipment widely available in the marketplace. These blank cards are embossed with an account number, cardholder name and expiration date. This produces a plain white embossed card (white, because that happens to be the color in which the plastic used is produced) that does not have any issuer or card company logo. Clearly, these cards could not be used with legitimate businesses. They require the cooperation of an unscrupulous, collusive merchant. The merchant's role is to get a transaction authorization, and then submit a phony sales record to the bank. These schemes require a capital investment for, among other items, embossing machinery. Top-of-the-line embossing machines, many of which have correcting

keys allowing dis-embossing, sell for anywhere from \$2,500 to \$15,000 on the legitimate market, and three times as much in the counterfeit card market.

Some counterfeit or altered card use is the work of petty thieves working alone, but most counterfeiting and card alteration activities are the work of organized gangs. They operate with impunity across state lines, drain millions of dollars weekly from the above-board economy, apply proceeds from their card activities to other types of crimes -- notably drug and firearms dealings -- and cause deadly violence, doubtless sometimes involving innocent victims.

Card Fraud: A Case History

One of the largest multifaceted altered card/white plastic/counterfeit fraud operations perpetrated to date took place in the South Florida area. Losses in Dade County, Florida, exceeded \$10 million. The scheme utilized account information originating with issuing financial institutions based in Latin America, primarily Mexico, Venezuela, Columbia, and Argentina. Also involved were accounts issued to South American nationals but maintained in United States dollars. This modus operandi took advantage of a three-month delay before the true cardmember's

denial of the charges reached the issuer's domestic security departments for investigation.

Initially, the credit card industry applied a systems approach in authorizations in order to minimize fraud exposure, particularly in connection with Venezuelan accounts. The result demonstrated exactly how nimble these conspirators are, since, in response to this industry enforcement effort, they simply changed their focus to European cardmembers rather than those of Latin America. It was later determined that one source of cardmember information was a jewelry store in the Costa del Sol run by an organized crime capo from Sicily. As law enforcement and industry pressure grew, they again simply shifted their operations using United States cardmember information to commit card fraud on the French Riviera and in Italy, Argentina, Venezuela, and Columbia.

Valid cardmember information came from corrupt employees of hotels (guest registration cards in Miami contained notations of passport numbers and South American police identity card numbers), restaurants and rental car companies. In the rental car instance, one rental agency served as a billing location for the entire country. As a result, the fraud had an impact on citizens from all over

the United States and the United Kingdom who had never even visited the Miami area.

In 1982, other groups of organized criminals also were arrested in Southern Florida. Recently, 50 "collusive merchants" were identified and prosecuted in a joint effort by the credit card industry and local law enforcement authorities for their part in a continuing fraud scheme that was national in scope.

The arrests of members of very sophisticated groups of criminals have not stemmed the tide in counterfeit fraud losses to the industry. The cases reported to date represent only the "tip of the iceberg" and do not reflect a number of organizations continuing to operate and others as yet undetected.

In many instances, successful federal prosecutions in cases like the one described above simply cannot be undertaken due to lack of meaningful and comprehensive federal statutes in this area. For instance, some believe that there is doubt as to the coverage of such items as the fraudulent use of "white plastic" and the unlawful possession of cardmember information and carbon copies of charge slips.

Congress Is Correctly Moving In This Area

In the judgment of a unified credit card industry, the present magnitude of this problem and its potential for even more staggering increases warrant a Congressional review of laws protecting the public from fraud in connection with credit and debit cards. The problems are serious enough now to require special attention. The long-term potential for misuse of payment devices, given the current state of law, has far-reaching ramifications bearing on the integrity of the nation's payment system that increasingly involves credit and debit cards and related codes and numbers.

For these reasons, Mr. Chairman, we would like to commend you for your recognition of this problem and your effort in fashioning and introducing legislation that will address many of these concerns. Quite clearly, you and the other Members of this Subcommittee appreciate that these pieces of plastic are tantamount to cash and their fraudulent use is directly analogous to the counterfeiting of U.S. currency.

In addition, Mr. Chairman, your extensive efforts demonstrate an awareness of the fundamental point that it is the consumer who is the real victim of these unlawful activities. While those that issue the cards and those that accept them bear the immediate brunt of the losses, they are

not the only victims. It is intuitively clear that ultimately fraud losses are paid by cardholders, as components of the cost of credit and merchandise. Moreover, there is evidence that most card fraud schemes are well organized, operate across state lines, very likely finance other more sinister illegal activities, and result in violence.

We also are pleased by your recognition that the problem is simply so extensive and geographically pervasive that a federal rather than a state response is warranted. While many states have statutes that can be construed to cover the fraudulent activities involved here, we have not discovered any that deal directly and effectively with the issue. This situation is particularly troublesome in light of the fact that criminal statutes by law must be construed strictly, thus occasioning some concern when these general statutes are stretched to cover the specific criminality under discussion here.

In addition to the lack of adequate state law, there are numerous reasons that commend a federal response. First, and perhaps most important, the criminal behavior involved here places into jeopardy the entire national payments system. This system, which is in no way limited by state boundaries, has increasingly developed into one based in substantial part on the use of credit and debit cards and

related access mechanisms. The danger inherent in a lack of coverage at the federal level is that the system as a whole will be less secure and certain. Given the existence of a nationwide payment system, it is simply beyond the ability of any one or even several states to deal effectively with the problem.

Second, based on our experience with significant fraud cases, the activities generally are interstate in nature. With the high degree of organization of criminal efforts in this area, it is simply not possible to stop these efforts through state or local legislative action. Insofar as there are state statutes in existence, enforcement by states, cities or counties must stop at their jurisdictional limits while card fraud operations routinely operate across state and national boundaries. In addition, our experience has demonstrated conclusively that the problem tends to shift geographically based on the degree of industry and prosecutorial pressure exerted in major crime areas. Thus, for example, as enforcement efforts increase in New York and Miami, new outbreaks of crime are experienced in Phoenix and in other parts of the country that previously had not been major centers of crime of this type.

Third and finally, there has been a long-standing role of the federal government in connection with debit and

credit card activities. Comprehensive legislation adopted over a decade ago established federally-mandated rules on disclosure, billing error rights and substantive responsibilities. Almost five years ago Congress adopted comprehensive legislation to deal with electronic transfers. These statutes, implemented by extensive regulations adopted by the Federal Reserve Board, further demonstrate the significance historically given by Congress to the issues involved here.

In short, a timely and effective legislative response can be forthcoming only from Congress.

The Pending Legislation

We would like to thank you, Mr. Chairman, for your initiative and leadership in fashioning legislation to deal with this problem. We were encouraged by your introduction of H.R. 2885 and were pleased to have the opportunity to work with the staff of this Subcommittee in the further refinement of that legislation which produced H.R. 3622. We believe that this recently introduced legislation reflects giant strides toward devising a statutory framework with which to address credit and debit card fraud and to prevent the inappropriate distribution of card and account numbers.

The bill consists of two major parts. The first involves restrictions on the dissemination of payment device account numbers and the second amends the existing criminal provisions contained in Section 134 of the Truth in Lending Act to close several existing loopholes in that section.

Dissemination. Section 2 of H.R. 3622 would prohibit, except under specified circumstances, the disclosure of credit card numbers and other codes that could be used to obtain access to funds. While many of our members would prefer that restrictions on the dissemination of account numbers be implemented by prohibiting improper activities rather than through a blanket prohibition with exceptions, we greatly appreciate the extent to which you have accommodated the vast majority of our concerns respecting the legitimate uses for account numbers. We believe that your new bill demonstrates a sincere interest in excluding from the bill's restrictions all areas of legitimate business activities. As we have discussed with the staff of this Subcommittee, the numbers that are the subject of this provision are critically important to the orderly functioning of the national payment system. The importance of these numbers to the system makes it critical that their legitimate use not be impaired while actual and potential abuses are being curbed.

Because of that, we are concerned that legislation in this area not be viewed as restricting legitimate operations of the credit card industry. We do not believe that H.R. 3622 would do this. In fact, it is our understanding that the Members of this Subcommittee and the staff share this view and that the exceptions provided in H.R. 3622 are calculated to prohibit inappropriate activities while leaving all legitimate functions untouched. While this approach is certainly evident in the new bill, certain areas of legitimate activity remain subject to interpretation, and we would suggest that they be addressed either in the legislation itself or in the legislative history. These matters include the fact that the "accounts" referred to in the exclusion portion of the legislation should be interpreted to extend beyond just credit card accounts and include typical savings and checking accounts in which an access number or code plays some role. Another area of possible confusion involves the fact that many financial institutions contract out for certain mechanical functions because it is easier or less expensive than performing these activities themselves. For instance, due to limited in-house capability, they may contract with outside mailing services, customer service entities, or card preparation and issuing services that may properly be viewed as simply being

extensions of the institution itself. It is our understanding that it is your intention that these types of legitimate activities are to be excluded from the restrictions contained in the bill. In these and several other areas, we believe that supplying specific guidance is exceedingly important and welcome the opportunity to work with staff in addressing these matters.

Closing Criminal Loopholes. The second portion of H.R. 3622 involves filling in a number of loopholes that currently exist in the statute regarding criminal activity. These provisions would amend Section 134 of the Truth in Lending Act to close enforcement loopholes that may have developed since their enactment. For example, they would change the holding of one court that fraudulent misuse of an account number did not constitute the misuse of a "credit card." A new definition of "payment device" explicitly includes both actual and fictitious account numbers. Thus, the statute's prohibitions will cover both the misuse of actual account numbers and the creation of fictitious numbers.

Second, anyone who for improper reasons possesses payment devices that, among other things, are counterfeit, altered or fraudulently obtained is guilty of a criminal violation. In order to prevent overbreadth, H.R. 3622

limits this provision's coverage to one who has ten or more of these payment devices.

Third, some of the provisions in the criminal sections of this Act contain dollar amount minimums that must be met in order to trigger liability. The amendments would make clear that these dollar value tests are met by looking to one or more transactions using one or more credit cards. Therefore, a person would not escape liability, for example, by using ten different counterfeit cards to make fraudulent purchases of \$900 each.

We urge the Subcommittee to move quickly to adopt legislation in this area and look forward to continuing our efforts in working together to fashion a sound, effective bill.

We would also like to note legislation now pending in the House Judiciary Committee. That effort deals with counterfeiting and other types of intrinsically illegal activities. It takes an approach that is totally complementary to the one taken in H.R. 3622 and we are hopeful that the Members of the Subcommittee will support that effort.

What The Industry Is Doing

In seeking federal legislation, the credit card industry does not mean to suggest that it must lessen its vigilant

efforts to curb this problem. In fact, all the major card companies have -- and are rapidly expanding -- aggressive programs to fight card fraud, ranging from developing card designs that inhibit counterfeiting and alteration to electronic authorization systems at the point of transaction.

In addition to these preventative programs, the card companies participate actively in law enforcement investigations into card fraud cases. In fact, one Ft. Lauderdale, Florida, investigation, which resulted in the arrest of more than 30 unscrupulous merchants, began with information provided to Visa through the use of an informant. The informant, still working with law enforcement on other cases, was found in the course of the investigation of a big New York-area card fraud operation. Through the efforts of Visa, the informant was made available to the Florida authorities, and later to authorities in another part of the country to work on yet other investigations. Visa also initiated another investigation in the same area by presenting a case it had investigated to a joint law enforcement agency.

Visa has initiated the following programs to combat credit card fraud:

Enlarged Visa Security Staff. Visa has established a global integrated security group. Professional security

representatives are now headquartered around the world to assist Visa members in the areas of investigation and prosecutions. The staff consists principally of attorneys, including a former prosecutor, experienced law enforcement officials and bilingual representatives abroad.

Merchant Fraud. Since the Security Department has been expanded, reducing merchant fraud has been a primary focus. The staff has been working on: (1) developing a central data base to identify possible fraudulent merchants and patterns of fraudulent activity; and (2) requiring affiliates to control their merchants that are known to have been involved in fraudulent transactions. Three new automated programs to address fraud will become operational in 1983:

- ° Counterfeit Audit Program (CAP) - tracks all counterfeit paper submitted to Visa in member claims. Transactions are sorted by categories including counterfeit activity by geographical region, dollar amount, merchant, etc. This data is shared with our members and law enforcement in an effort to contain fraud.
- ° Fraud Detection Service (FDS) - identifies geographical and merchant locations where fraudulent transactions are generated by comparing the listed fraud accounts against daily settlements in the

Visa Interchange system. The findings are reported to member banks involved, which then investigate them and report back to Visa for appropriate action.

- ° Merchant Reference Service (MRS) - gathers from merchant affiliates identifying data on a merchant cancelled for cause. This data is then available to any affiliate considering signing a merchant. A pilot program is now underway in Florida, a high fraud area.

Security Advisors. Visa has organized a Security Advisory Committee to examine and critique our security efforts. Advisors are senior management personnel from member banks. Their second meeting is scheduled for mid-1983.

Card Secure Properties. Visa has initiated a comprehensive study to enhance the security of its cards. The best of several technologies will be incorporated into the Visa card.

This summer Visa will introduce the Electron Card. It will be a non-embossed card with three electronic reading technologies on its reverse side: the present Magnetic Stripe, Optical Character Recognition and Uniform Product Code. A personal identification number (PIN) will also be

incorporated with the use of this card at only automated teller machines initially and then later at the point of sale. Also, all transactions utilizing a Visa Electron Card will be 100% electronically authorized.

Point of sale terminals provide still another important opportunity for reducing fraud losses. Visa is convinced that the vehicle to bring fraud under control in the long run is an expanded electronic transaction authorization system. By 1985, Visa intends to authorize electronically 80% of all transactions in the United States at the point of sale utilizing its communications network. To encourage the use of electronic terminals, Visa has set new interchange fees for electronic transaction authorizations.

Card Fraud Prevention and Training. SRI International, formerly Stanford Research Institute, is developing a card fraud prevention, education and training program for Visa. About 75% of the project is now complete. Initial fraud prevention and training materials to assist law enforcement, prosecutors and judges will be available by year-end.

Law Enforcement Support and Assistance to Prosecuting Attorneys. Visa is currently funding or helping to fund a number of law enforcement investigations relating to credit card fraud. We have provided funding directly or through Members to several law enforcement agencies for investiga-

tions which show the best potential for prosecution. Of interest is Visa's expanded role in the funding of undercover operations including "sting" operations and recovery of over 300,000 counterfeit cards and use of informants. A number of these operations are ongoing and have already produced 150 arrests and prosecutions. Visa's security mission has also been expanded to provide special legal assistance to prosecuting attorneys unfamiliar with card fraud prosecutions.

We are also active participants on committees of the American Bankers Association and other trade associations that are providing merchants and card issuers seminars on how to fight fraud. Furthermore, Visa recently revised its operating regulations to put in place additional safeguards for protecting the cardholders' account numbers and to give our members specific guidelines as to their proper dissemination.

Conclusion

The pervasive and growing use of plastic cards and related access mechanisms is ushering in a worldwide system of electronic funds exchange. These payment mechanisms hold the potential for allowing consumers to use their assets any way they see fit, instantly, anywhere in the world and at

any time of day. They hold the key to expanding their freedom by expanding their financial flexibility.

This is not futurism. The technology is here now. Judging by their acceptance of automated teller machines, consumers are ready and eager to move into this new era. By 1986, as an example, Visa will have established a global network of at least 8,000 automated teller machines, giving cardholders immediate access to their financial accounts worldwide.

If this new approach to financial intermediation is to be implemented successfully, it must be able to develop free of the existing threat of wide-spread criminality not effectively addressed under -- and, thus, not deterred by -- the federal criminal justice system. It is to control this situation and to maintain security over the electronic funds transfer system and the entire national payments system that Visa and others in the card industry urge Congress to give immediate consideration to the adoption of appropriate legislation in this area.

We appreciate having had the opportunity to share our views with you. I would be happy to answer any questions that you may have.

APPENDIX A

GROWTH OF COUNTERFEITING
Visa International

1972 - 73. . . . .	.\$12,000
1973 - 74. . . . .	.\$4,6000
1974 - 75. . . . .	.\$10,800
1975 - 76. . . . .	.\$27,200
1976 - 77. . . . .	.\$26,700
1977 - 78. . . . .	.\$31,700
1978 - 79. . . . .	.\$78,700
1979 - 80. . . . .	.\$516,000
1980 - 81. . . . .	.\$740,000
1981 - 82. . . . .	.\$10,920,000
1982 - 83 (est). . . . .	.\$20,000,000

APPENDIX B

FRAUD BY TYPE
Visa International

Type	% of \$ Loss	Average Dollar Amount
Lost	29.2	\$1,047
Stolen	35.9	650
Card not received	18.7	1,919
Counterfeit	11.2	1,102
all other	5.0	- -

APPENDIX C

FRAUD TRANSACTIONS BY SEVERITY AND FREQUENCY

Transaction Amount	% of Transactions	% of Losses
Under \$50	58.1	12.1
\$50 to \$149	14.1	7.3
\$150 to \$249	6.7	7.5
\$250 to \$349	5.2	9.0
\$350 to \$499	5.9	14.5
\$500 to \$999	8.7	33.5
\$1,000 and over	1.3	16.1

APPENDIX D

COUNTERFEIT LOSSES BY LOCATION

Visa International

Location	% of Transactions	Dollar Value of Transactions
New York City	28.2	\$2,555,397
New York State	14.5	1,309,838
Florida	19.1	1,728,231
New Jersey	8.1	729,295
California	5.2	470,757
Massachusetts	4.0	360,335
Pennsylvania	3.2	293,730
Connecticut	2.5	229,613
Texas	1.6	144,645
Illinois	1.1	100,251
Michigan	1.0	89,673
Virginia	1.0	88,526
Nevada	0.9	85,722

APPENDIX E

COUNTERFEIT BY TYPE OF TRANSACTION

Visa International			
Transaction Type	% of Transaction	% of Losses	Average Amount
Cash advances	5.7	20.8	\$624
Department, variety & general stores	23.2	13.9	102
radio, stereo, TV	4.8	11.0	393
clothing	6.9	4.8	118
jewelry	1.2	4.5	611
restaurants	7.1	2.3	55
shoe stores	4.7	2.2	81
airlines	1.4	1.9	235
furniture	0.4	1.6	614
hotel/motel/resort	2.5	1.5	102
camera/photography	1.5	1.5	178
travel agencies	0.2	1.3	930
household appliances	0.5	1.3	407
auto parts	0.8	1.2	271
drug stores	3.8	1.1	50
wire transfer/ money orders	0.2	0.9	930
unkown (illegible drafts)	21.7	18.0	141
remainder	13.4	10.2	100

Chairman ANNUNZIO. I would like for the panel to know that until 1982 you were Assistant Director of the FBI Crime Laboratory and that you spent 21 years with the FBI in several other capacities, now as vice president in charge of security with VISA International. Your statement is the statement of an expert. I agree with many, many of the items that you have stated in your statement. It is a good statement.

Mr. Kurth is an old friend of the committee. He worked with me back in 1971, I believe.

It's good to see you again. I know of the tremendous contributions you have made in the Fair Credit Reporting Act. I have looked at your statement. Again, I want to tell you how much I appreciate all of the work and thought and ideas that have gone into the statement.

Mr. Kurth.

STATEMENT OF WALTER R. KURTH, PRESIDENT, ASSOCIATED CREDIT BUREAUS, INC., HOUSTON, TEX.

Mr. KURTH. Thank you.

Chairman ANNUNZIO. Without objection, your entire statement will be made a part of the record and you can proceed and summarize in your own manner.

Mr. KURTH. Thank you, Mr. Chairman. I will summarize my statement.

My name is Walter Kurth. I am president of Associated Credit Bureaus, Inc. [ACB]. ACB is an international trade association founded in 1906 to represent the consumer credit reporting industry.

By way of definition, a credit bureau is a clearinghouse of information identifying the paying habits of consumers. Credit reporting files include identifying information such as name, spouse's name, address and former address, employe and former employer, social security number and number of dependents. Much of this information is supplied by the consumer when applying for credit.

Each month local, regional and national credit grantor users send what is commonly called trade line information on their customers to the credit reporting companies. Trade line information shows how much is owed, whether the customer is current in his or her payments and how many times, if ever, the customer has been behind in his or her payments during the past 12 to 24 months. Most users are either retailers, banks, finance companies, mortgage lenders, oil companies or other credit card issuers.

Public record information on consumers is also filed.

All of the items I have mentioned come together to form a solid base of information in order that prudent credit-granting decisions may be made. The keystone to the system is the manner in which the information is matched with the proper record.

We estimate the credit reporting industry receives in excess of 550 million lines of trade per month. That kind of volume necessitates the use of positive identifiers to insure that information and consumers are properly matched.

The primary identifier to achieve a successful match is the consumer's account number. For this reason, it is essential that the ac-

count number is included when a credit grantor furnishes information, and we commend your recognition of this need by permitting, through this legislation, the disclosure of a payment device number to a consumer reporting agency. It is an essential ingredient which permits the consumer reporting agency to achieve its mandate of maximum possible accuracy.

With the advent of automation, for many years credit grantors have been asking consumers for account numbers of credit references. This assures the consumer that the credit bureau and/or the credit grantor will in fact be able to locate the account which the consumer has given as a valuable credit reference.

Account numbers also appear on the actual credit report. There are very good reasons for this. The number serves as an identifier linking the consumer and the account. This is true not only when the report is purchased by a credit grantor, and matched against the credit application, but also in a file disclosure situation where the consumer is made aware of the contents of his or her file. The presence of the account number is an assurance to the consumer that the payment history information is properly linked.

A credit grantor that desires more up-to-date information than that contained in the report may use the account number to check directly with the consumer's creditors before making a credit-granting decision. For example, the credit grantor may wish to call directly to elaborate on information. The account number facilitates this process. Without it, it might be necessary or easier to deny the application.

Credit grantors have also advised us that when an account has become delinquent and goes to their collection department, the account number serves as an important tool for skip tracing to locate missing debtors. Unfortunately, society will always have a few unscrupulous individuals who will attempt to use any system or procedure for their own dishonest gain.

For those who want to abuse the system, credit account numbers can be obtained from many sources and put to fraudulent uses. We recognize the possibility that account numbers may be criminally obtained from credit reports. While such instances have been extremely rare, our industry does not want to contribute to or be a party to making fraudulent credit card use easier for the criminal.

We are torn, of course, between the legitimate and worthwhile needs of credit grantors for quick access to the account numbers and our concern over the perpetration of fraud. We recommend, as you are already doing, that credit grantors who use credit reports and need access to account numbers be consulted and that they concur in the solution that is ultimately arrived at.

The mechanics of the solution offered in the bill may or may not be workable, but we do believe that working together with you and with our customers, a solution can be worked out in everyone's best interest.

We wish we had the perfect solution to offer this committee today, but in lieu of that we pledge to you that ACB will continue to work with you for a solution in the best interest of the public, our members and their customers.

Thank you for this opportunity to testify today on this important legislation.

Chairman ANNUNZIO. Thank you, Mr. Kurth.
[Mr. Kurth's prepared statement, on behalf of Associated Credit Bureaus, Inc., follows:]

STATEMENT OF WALTER R. KURTH, PRESIDENT OF ASSOCIATED CREDIT BUREAUS, INC.

Mister Chairman and Members of the Subcommittee on Consumer Affairs and Coinage of the House Committee on Banking, Finance and Urban Affairs, my name is Walter R. Kurth. I am president of Associated Credit Bureaus, Inc. (ACB). ACB is an international trade association founded in 1906 to represent the consumer credit reporting industry.

We appreciate the opportunity to appear before you to discuss the role of credit card account numbers in consumer credit reporting. You, Mr. Chairman, and other members of this subcommittee are no strangers to the important role credit bureaus play in our economy and ACB has enjoyed a long and productive relationship with you since the key role you and Mr. Wylie played in passage of the Fair Credit Reporting Act in 1971.

For the most part, credit bureaus or credit reporting agencies are sole proprietorships, partnerships or corporations. Approximately 420 members of our association operate from computer files while 1,250 are manual operations. The credit reporting industry produces an estimated 200 million credit reports annually.

By way of definition, a credit bureau is a clearinghouse of information identifying the paying habits of consumers. Credit reporting files include identifying information such as name, spouse's name, address and former address, employer and former employer, social security number and number of dependents. Much of this information is supplied by the consumer when applying for credit.

Each month local, regional and national credit grantor users send what is commonly called trade line information on their customers to the credit reporting companies. Trade line information shows how much is owed, whether the customer is current in his or her payments and how many times, if ever, the customer has been behind in his or her payments during the past 12 to 24 months. Most users are either retailers, banks, finance companies, mortgage lenders, oil companies or other credit card issuers.

Public record information on consumers is also filed.

All of the items I have mentioned come together to form a solid base of information in order that prudent credit-granting decisions may be made. The keystone to the system is the manner in which the information is matched with the proper record.

We estimate the credit reporting industry receives in excess of 550 million lines of trade per month. That kind of volume necessitates the use of positive identifiers to insure that information and consumers are properly matched.

The primary identifier to achieve a successful match is the consumer's account number. For this reason, it is essential that the account number is included when a credit grantor furnishes information, and we commend your recognition of this need by permitting, through this legislation, the disclosure of a payment device number to a consumer reporting agency. It is an essential ingredient which permits the consumer reporting agency to achieve its mandate of maximum possible accuracy.

With the advent of automation, for many years credit grantors have been asking consumers for account numbers of credit references. This assures the consumer that the credit bureau and/or the credit grantor will in fact be able to locate the account which the consumer has given as a valuable credit reference. Without the account number, consumer frustration can result when a credit grantor is unable to locate the reference account.

Account numbers also appear on the actual credit report. There are very good reasons for this. The number serves as an identifier linking the consumer and the account. This is true not only when the report is purchased by a credit grantor, and matched against the credit application, but also in a file disclosure situation where the consumer is made aware of the contents of his or her file. The presence of the account number is an assurance to the consumer that the payment history information is properly linked.

A credit grantor that desires more up-to-date information than that contained in the report may use the account number to check directly with the consumer's creditors before making a credit-granting decision. Also, credit grantors have advised us almost unanimously that when an account has become delinquent and goes to their collection department, the account number serves as an important tool for skip tracing to locate missing debtors. There are other legitimate reasons why the number is valuable to the credit grantor.

Credit card account numbering systems have greatly facilitated the exchange of commerce. Unfortunately, society will always have a few unscrupulous individuals who will attempt to use any system or procedure for their own dishonest gain.

While credit bureaus have strict safeguards to prevent misuse of credit card account numbers, there is no lack of ingenuity on the part of those who might attempt to circumvent those safeguards. It was in recognition of this fact that Congress included in the Fair Credit Reporting Act Section 619, providing for fine or imprisonment when credit bureau information is obtained under false pretenses.

There is good reason to believe that in the celebrated schemes which prompted this legislation, those involved should be prosecuted under provisions of the Fair Credit Reporting Act.

We applaud your efforts, Mr. Chairman, to get the Justice Department to initiate an investigation into possible violation of the FCRA in the Florida case.

For those who want to abuse the system, credit card account numbers can be easily obtained from many sources and put to fraudulent uses. The credit reporting industry recognizes the possibility that account numbers may be criminally obtained from credit reports. While such instances have been extremely rare, our industry does not want to contribute to or be a party to making fraudulent credit card use easier for the criminal. If in fact credit card account numbers or access device numbers are gleaned from credit reports, we want to be a part of the solution, not a part of the problem.

We are torn, of course, between the legitimate and worthwhile needs of credit grantors for quick access to the account numbers and our concern over the perpetration of fraud. We recommend, as you are already doing, that credit grantors who use credit reports and need access to account numbers be consulted and that they concur in the solution. The mechanics of the solution offered in the bill may or may not be workable, but we believe that working together with you and credit grantors, a solution can be worked out in everyone's best interest.

Mr. Chairman, since the early 1960s, ACB has brought the consumer credit industry together to find solutions for previously unforeseen problems. We accomplished this with you, Mr. Chairman, and other members of the Congress in the Fair Credit Reporting Act and Fair Debt Collection Practices Act. Fraud is another problem, another challenge and we're continuing to work with our members and their credit grantor customers. We have voiced concern in the past over computer system fraud and we support your efforts to increase penalties and enhance prosecution.

We wish we had the perfect solution to offer this committee today, but in lieu of that we pledge to you that ACB will continue to work with you for a solution in the best interest of the public, our members and their customers.

Thank you for this opportunity to testify today on this important legislation.

Chairman ANNUNZIO. Mr. Kelleher, it's the late hours that I have been keeping. I want to apologize to you. Actually, I had Mr. Kelleher confused with Mr. Kurth. Mr. Kelleher—I will correct the record—until 1982 was the Assistant Director of the FBI Crime Laboratory and spent 21 years of his life in the FBI, is now vice president of security for MasterCard. We are delighted to have you and Mr. Kurth—both experts—here to provide your testimony, your suggestions.

I know the help we have received from both of your companies has been tremendous in helping us shape up a piece of legislation where we believe we have every member of the subcommittee in agreement, because every member of the subcommittee has their name on the legislation as a cosponsor.

So I welcome you both before the subcommittee. I hope you accept my apology.

**STATEMENT OF THOMAS F. KELLEHER, VICE PRESIDENT,
SECURITY, MASTERCARD INTERNATIONAL INC., NEW YORK, N.Y.**

Mr. KELLEHER. Not at all, sir. Thank you so much for having us here. We are grateful to you, Mr. Chairman, to the subcommittee members and to the staff for the leadership that has been demonstrated in addressing the issue of credit card account number abuse.

We are very pleased to have the opportunity to come before the subcommittee today in order to comment on H.R. 3622 and to help focus attention on the very real and growing problem of card-relat-

ed fraud. Our full written statement has been submitted for the record.

I would like to make just a few comments, if I may, based on that record. The staggering increase in dollar losses experienced by the bank card industry and consumers alone are reason enough for concern. But of at least equal concern is the type of activity responsible for the increase in these figures. Our research indicates that a new type of fraud has been reflected in the industry's losses today: fraud utilizing not the card itself but the account number.

In previous testimony Mr. Siegel addressed very well the anti-fraud work being done in the Philadelphia region. In cooperation with the police investigating agencies, VISA, MasterCard, and American Express, all support many of these sting operations financially, to provide the money for the payments that have to be made to informants and other people so that these crimes are adequately investigated. The most insidious part of the fraud merchant activity that has been alluded to previously by Mr. Siegel is that the merchants involved in this type of crime are collusive with the thieves that are profiting from it, and they are supporting a great number of credit card thieves by giving them a place to use their cards. This type of sting activity and the work of Mr. Siegel in combating fraud has been of great comfort to us. From a State and local standpoint, we are delighted to be associated with the investigators and prosecutors in the Philadelphia area.

Valid account numbers are being misused in many ways and account numbers are illegally obtained, transcribed onto sales slips which are then sold to collusive merchants for deposit. These slips are entered into the system by the merchants and commingled with valid transaction accounts.

Account numbers may also be used to create counterfeit cards. MasterCard research indicates improper use of account numbers is to a great degree responsible for the unprecedented increase in card fraud activity. Most distressingly, organized crime figures prominently in the burgeoning card account abuses.

Thus the nature of card-related abuses has changed from a non-violent type of petty thievery involving isolated incidents of dishonesty, to a sophisticated, well-organized activity of far-reaching proportions that feeds into and supports the very worst elements of criminal society.

As a former Assistant Director of the FBI, I would not endorse seeking Federal legislation for individual credit card thefts, but the organized enterprises have become so sophisticated and mobile that they have progressed beyond the capabilities of local authorities to cope with this challenge. This brings the matter within the scope of Federal authorities.

MasterCard has taken strong steps on many levels to stem the tide of counterfeiting and to try to control fraud. We have redesigned the card and included three security features with it, including a unique hologram. We have added a procedure which prohibits a merchant from providing, selling, or exchanging account number information.

Other activities are presently in progress and we are improving within our own organization ways of detecting fraudulent mer-

chants to assist prosecutors, such as Mr. Siegel, in coping with these situations locally.

H.R. 3622 would amend the Truth in Lending Act to restrict the distribution of account numbers and make fraudulent use of account numbers a Federal crime. Account numbers have been the subject of abuse by unscrupulous people. However, account numbers are also essential to legitimate bank card operation.

H.R. 3622 prohibits disclosure of an account number unless the disclosure falls within one of the enumerated exceptions. Banks must, of course, be permitted to provide an account number to a card manufacturer or service organization so that a card can be produced and processed. Banks must also be permitted to operate in the multibank structure of the bank card program.

A bank may use a correspondent bank, for example, to support the cardholder's transaction. Our concern is that a court may not read the exceptions as broadly as we have been advised they are intended to be read. It is of paramount importance to us that the legitimate bank card uses of the account numbers be left intact. To remedy our concern, we ask additional guidance be given by the subcommittee to further clarification of the text of the bill or in the legislative report on the bill.

Again, we would like to thank the chairman of the subcommittee and staff for their cooperation in creating a list of instances in which account numbers may be legitimately disclosed. As other legitimate uses of the account numbers are discovered, we look forward to working with the subcommittee and staff to ensure that the legislation does not unnecessarily fetter the legitimate operations of the card programs. Section 3 of the bill would amend criminal provisions of the truth in lending law, and we wholeheartedly support these critical changes.

Other loopholes in the existing law make prosecution of card crimes difficult. For example, it is not a crime to counterfeit a card or even possess such a card, despite the fact cards provide the kind of exchange value offered by currency. The bill would make it a crime to possess 10 or more fraudulent or counterfeit cards. We heartily support this provision.

The bill also responds to the concerns raised by law enforcement officials that the minimum dollar amount triggering liability in the law may be technically interpreted as applying to each card used rather than to the person or persons participating in a conspiratorial ring. H.R. 3622 would properly clarify this point.

Lastly, H.R. 3622 would define the term payment device to include credit card, debit cards, account numbers, codes, or other means of account access. We wholeheartedly endorse this definition of payment device. Whenever there are deficiencies in criminal laws, technical barriers to prosecution are provided and criminals who might otherwise be convicted are released on technicalities. The public is then the loser. It is, therefore, important for the card crime laws to be drawn as broadly as constitutionally permissible in order to provide prosecutors with the necessary tools with which to prosecute offenders.

On behalf of MasterCard International, we thank you for this opportunity to express our views.

Chairman ANNUNZIO. Thank you, Mr. Kelleher, for your very, very excellent testimony.

[Mr. Kelleher's prepared statement, on behalf of MasterCard International, follows:]

STATEMENT
OF
THOMAS F. KELLEHER
ON BEHALF OF
MASTERCARD INTERNATIONAL INCORPORATED
BEFORE THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE
UNITED STATES HOUSE OF REPRESENTATIVES
ON H.R.3622
July 27, 1983

Good morning. My name is Thomas F. Kelleher. Until 1982, I was the Assistant Director of the FBI Crime Laboratory and I spent 21 years with the FBI in several other capacities. I am now Vice President, Security of MasterCard International Incorporated. MasterCard International is a membership corporation composed of the over 13,000 U.S. financial institutions which issue and honor the familiar MasterCard credit and debit cards. MasterCard is pleased to have the opportunity to come before this subcommittee today in order to comment on H.R.3622 and to help focus attention on the very real and growing problem of card-related fraud.

BACKGROUND

Historically, card-related fraud was a relatively contained activity, both in terms of the number of improper transactions and the dollar losses that resulted. Improper card use typically originated from a lost or stolen card which fell into the hands of an individual petty thief. In such a case, the cardholder would miss his card and would promptly notify the card issuer of the loss or theft of the card or of an unauthorized transaction appearing on his billing statement on which any unauthorized transaction has appeared. The issuer could promptly block the card account through the authorization system and publish the card account number in our warning bulletin as a restricted account which should not be honored further by banks or merchants. By publishing an account as "restricted," the issuer can provide an economic incentive to the merchant to not honor the account. The losses which resulted from these abuses typically occurred over a short time span and could be addressed quickly. Generally too, these practices were perpetrated by an individual for his own personal gain, utilizing an actual plastic card initially issued as a valid, authorized card. Thus, the exposure from these frauds was of a limited nature.

SCOPE OF PROBLEM

In 1973, total fraud losses for MasterCard members were \$2,780,000. Over the course of the decade, fraud losses grew unspectacularly, keeping pace with the growth of transaction volume. However, beginning in 1980, the bank card industry began to experience an overwhelming and unexpected rise in the number and amount of card-related fraud as well as a change in the nature of this fraudulent activity. For the record, we are submitting additional statistics and graphs evidencing the growth of this problem and indicating its likely upward trend. Particularly noteworthy is the picture of fraud percent change increase charted against transaction volume percent change increase displayed in Appendix A. While the MasterCard system has enjoyed a steady percent change increase in transaction volume, the percent change increase in fraud and counterfeit losses is dramatic and sudden. In 1981 our volume percent change growth increased 232% over the base volume of 1973 and volume growth increased 255% in 1982 over the 1973 base. Fraud loss percent change increases over 1973 base losses for those years grew 829% in 1981 and 1540% in 1982 respectively. Counterfeit loss percent change increases grew an astounding 10,652% in 1981 over 1973 counterfeit base losses and 76,763% in 1982 over 1973 figures. In 1979 total fraud losses for MasterCard members amounted to \$12,569,290. In 1980, MasterCard members reported \$19,041,897 in fraud losses. For 1981, the

figure was \$25,817,918. By 1982, dollar losses escalated to \$45,613,550, an increase over 1981 alone of 18.9 million!

Taken alone, the staggering increase in dollar losses is reason enough for concern. But, of at least equal concern is the type of activity responsible for the increase in these figures. Specifically, our research indicates that many of the card-related abuses which are reflected in the industry's losses today are of a type which were unimaginable when the existing card crime laws were enacted. Specifically, a new type of fraud has surfaced; fraud utilizing not the card itself but the account number.

NEW FRAUD

Offenders have devised several different ways to obtain valid account numbers without the cardholder knowing that the number will be used by another person. Account data can be extracted from carbon slips which were used in valid card transactions and discarded by the merchant or may be memorized by the perpetrator while someone is making a legitimate purchase. Account data can also be obtained from the cardholder directly, generally over the telephone by utilizing a variety of fraudulent techniques varying from purported surveying, to product offerings, to representations that the perpetrator is the bank confirming the account information.

Valid account numbers are being misused in many ways. A recent practice involves collusion by a merchant or a merchant clerk who obtains valid account numbers taken from authorized sales at the merchant's place of business. These account numbers are transcribed onto sales slips which are then "sold" to other colluding merchants for deposit with their respective banks for payment. Another practice involves placing valid account numbers on "white plastic" cards. The white plastic fraud cases involve cards that do not bear any design or service mark on them. The face of the card is embossed with a valid account number so that when presented to a dishonest merchant, the card can be imprinted on a sales slip and the slip can pass as resulting from a valid transaction. Whether the sales slip is made by hand or against a white plastic card, these "phony" sales slips are entered into the system by the merchants and commingled with valid slips.

Account numbers are also used by unauthorized persons to purchase goods from telephone/mail order houses. Goods are shipped to a temporary address given by the perpetrator of the fraud who then changes his or her address before the cardholder is able to report the unauthorized transaction.

Recent investigations have exposed one grandiose scheme by a purported credit card protection company which involved thousands of cardholders across the United States. Utilizing a hard line telephone spiel, this company pitched its card protection plan to countless cardholders. Despite the fact that in most cases the

cardholder was not interested in purchasing the protection service, this company went ahead and charged the service to the cardholder's account without first obtaining the cardholder's consent. The company was able to charge the cardholders' accounts because it had obtained their account numbers prior to making the telephone pitch. In many instances, this company did not even bother to contact the cardholder prior to billing him or her for the service since it already knew the account number. This particular company had obtained thousands of account numbers in a variety of ways, which as of today's date are still questionably legal although ethically repugnant.

More significantly, account numbers may also be used to create a counterfeit card. Card counterfeiting techniques have become distressingly popular among sophisticated criminals. One favorite method of counterfeiting employs a silk screening process (the same process used to print T-shirts). It is a common technique, inexpensive to use and has proven, unfortunately, to be an effective process. Briefly, a plastic card which can be obtained through many legitimate sources is silk screened with the registered design and service marks of a card organization. Then, a valid account number obtained in one of the ways I just described, is embossed onto the card. The resulting product is a card that looks and acts, for a given period, as an authorized card. Another card fabrication scam, not quite as sophisticated as card counterfeiting, utilizes a lost or stolen card. The

criminal irons out the original cardholder identifying information on the card and re-embosses over it with different, valid account data. One industry group has calculated that counterfeits comprise 14% of non-cardholder related fraud losses; account number alterations, 53%; white plastic, 22% and stolen blanks, 11%.

Based on our review of these fraudulent practices, MasterCard estimates that the improper use of account numbers, whether through card alteration, card counterfeiting or through collusive merchant activity, is to a great degree responsible for the unprecedented increase in card fraud activity.

Our research further indicates that the dramatic increase in account number abuse, is in large part the result of the participation and direction of sophisticated criminals, not the penny ante thief of earlier times. For example, a school specializing in card fraud was recently uncovered in New Jersey. Students actually paid to participate in classes on counterfeiting and theft-related fraud. Upon graduation the students were sold cards to use. The alumni program provided the new graduates with a place to sell stolen merchandise.

Most distressingly, organized crime figures prominently in the burgeoning card account abuses, as evidenced by recent arrests, investigations and law enforcement reports. And, as is typically the case with organized crime, violence, prostitution

and drug trafficking play a part of these activities. Postal inspectors have arrested a number of people within the past two years who were allegedly associated with organized crime. In one case two persons were arrested and charged with operating a counterfeit card ring. Shortly after their arrest, four men linked to the two arrested persons were found shot to death. The rumor on the street was that the dead men had "fingered" the two arrestees. In another case, a man and his wife were arrested along with six other co-conspirators and charged with fourteen counts of conspiracy to commit credit card fraud. The couple was convicted and sent to federal prison. The wife was later paroled to care for her child. Eleven months after her arrest, the wife, her son and her nephew were slain gangland style in their home, while her husband was in jail.

In New York City's Time Square area, a pool room served as a credit card supermarket. Card thieves, posing as prostitutes, would steal the cards from their clientele and then wholesale the stolen plastic at the pool room. Thus, the nature of card-related abuses has changed from a non-violent type of petty thievery involving isolated instances of dishonesty to a sophisticated, well organized activity of far reaching proportions that feeds into and supports the very worst elements of criminal society.

COST OF FRAUD

The high cost of this crime clearly translates into higher dollar losses for card issuing institutions. Presently, we estimate that fraud losses cost the MasterCard system approximately \$.08 per transaction, up from a cost of \$.008 per transaction based on 1973 figures. This represents an increase in the cost of MasterCard service of an overwhelming 900%, which cost is necessarily reflected in the price charged to consumers. Yet, it is not only the price of services that is impacted by this type of fraud. Consumers are also injured by the sheer annoyance of having to deal with improper charges on their account statements, of having to obtain a card replacement, of being conned over the phone and, generally, of being personally victimized by such abusive tactics. These latter injuries are hard to quantify, but easy to sympathize with.

MASTERCARD EFFORTS

Because we can not countenance the manipulation of the MasterCard service by others to harass consumers and because of the costs we are forced to bear and pass on, the industry has not sat idly by. We at MasterCard have taken strong steps at many levels to stem the tide and to control fraud, beginning with the

physical properties of the card itself. The MasterCard card has been redesigned to contain three anti-counterfeiting features: fine line printing, ultra-violet ink printing and a unique hologram covering part of the embossed account number. The hologram contains a laser produced three-dimensional image of the MasterCard logo. In addition to making the MasterCard card difficult and costly to reproduce, it will make alteration of the embossed account number digits covered by the hologram much more difficult and any such alteration will be easier to detect. In addition, we have reprogrammed our authorization system to enable our members to better identify cardholders at the point of sale. However, some time will be required until the system is fully implemented and more time will be needed to measure its impact on fraudulent card activity.

In our increasing awareness and concern over the rising tide of fraud, we have taken additional steps to control the abuse of account numbers by merchants. We have added a provision in the MasterCard Operating Rules which prohibits a merchant from providing, selling or exchanging account number information, in any medium, to any other party unless connected with the merchant's legitimate bank card business.

We are actively cooperating and supporting local and federal law enforcement officials in the investigation and prosecution of card-related crimes. Each of our principal members has one or more security representatives with whom we coordinate investiga-

tive activities and law enforcement assistance. These representatives create an important network of card security experts from whom local officials can obtain support and assistance in investigating and prosecuting crimes. In this regard, MasterCard communicates with these security representatives when MasterCard is alerted to possible criminal activities in a given area in an effort to contain the spread of any criminal ring. And, as the national organization, we operate a computerized fraud reporting system to which all member institutions input information on fraudulent or questionable activity. MasterCard utilizes this system to monitor developments which on a local level may not by themselves indicate any reason for concern but which, on a national level, create a pattern of activity worthy of additional scrutiny and assist in law enforcement efforts.

These actions exemplify the commitment of MasterCard to curtail these fraudulent practices. The whole of the bank card industry is also working hard toward this end. We will continue to channel our energies and resources in this area but these continuing efforts are not enough. In our work with law enforcement agencies it became apparent that Congressional intervention was necessary. It is for this reason especially that we welcome the introduction of H.R.3622 and its reflection of the seriousness with which this problem is finally being addressed. We particularly wish to thank Chairman Annunzio and the staff members

of the Subcommittee for their work in this area and for their willingness to address the legitimate needs of our membership.

H.R.3622

H.R.3622 would amend the Truth-In-Lending Act to restrict the distribution of account numbers and would make the fraudulent use of account numbers a federal crime.

Section 2 of the bill will add a new Section 137 to the Truth-In-Lending Act prohibiting disclosure of any "payment device" number unless one of several exceptions is satisfied.

As earlier noted, account numbers have been the subject of abuse by unscrupulous people. However, account numbers are also essential to legitimate bank card transactions and therefore are necessary to the continuation of legitimate bank card business by the merchants, banks, MasterCard and other legitimate organizations supporting the bank card process. As drafted, H.R.3622 prohibits the disclosure of an account number unless the disclosure falls within one of the enumerated exceptions. We would prefer that the bill list the instances of disclosure of account numbers that are prohibited rather than preclude disclosure generally and then list those instances of disclosure that are necessary for the operation of card programs or for other lawful purposes and therefore permitted. This would provide greater certainty as to what instances of disclosure are in fact

prohibited, would result in less inadvertant interference with the legitimate operation of credit card programs and would decrease the costs of compliance with the legislation.

An example of our concern in this regard involves the card issuance process. Although staff advises us that activities related to card issuance are intended to be excepted, we remain uneasy that those unfamiliar with such intent may question this result.

Banks must, of course, be permitted to provide an account number to a card manufacturer or service organization so that a card on which the account number is embossed can be produced and provided to the cardholder. We have been advised that Subsection (a)(3) is intended to permit this but we can foresee a court making an improper distinction that because a third party is involved, such activity is not "internal."

Another example in the card issuance area involves the multi-bank structure of the bank card program. Specifically, the bank may use a correspondent to support the cardholder's transactions. That is, one bank may receive the cardholder application and maintain the direct cardholder relationship while another bank arranges for the card issuance and then processes the transaction. Again, our concern is that a court may not read the exceptions as broadly as we have been advised they are intended to be read and it is of paramount importance to us that the legitimate bank card uses of account numbers be left intact. To remedy our concern, we

ask that further guidance be given by the Subcommittee in further clarification of the text of the bill or in the legislative report on the bill. Finally, we would like to thank the Chairman, Subcommittee and staff for their cooperation in creating a comprehensive list of the instances in which account numbers may be legitimately disclosed. We request that we continue to cooperate in modifying the legislation as other legitimate uses of account numbers are discovered so that the legislation does not unnecessarily fetter the legitimate operation of card programs.

Section 3 of the bill would amend the criminal provisions of the Truth-In-Lending law. Federal prosecution of card abuses has been seriously hampered by the inadequacy of existing federal laws. We believe that the criminal element in our society is well aware, and taking advantage, of the deficiencies in the law and the low priority accorded to prosecution of these cases. The Truth-In-Lending law does not specifically cover wrongful use of the account number without the card. Since criminal statutes are strictly construed, courts are hesitant to convict individuals where the language of the law can not specifically be applied to the individual's actions. Consider, in this regard, the action of a federal appeals court when presented with the question of whether misuse of account numbers was illegal under the Truth-In-Lending Act. The court held that the misuse of account numbers was not covered under the Truth-In-Lending Act since an actual

card was not physically presented by the perpetrator with the account number.¹ This is the type of decision that frustrates law enforcement officials and makes them hesitate to pursue account-related abuses. For this reason, we strongly support the intent of H.R.3622 to reverse the holding of this decision and to make abuse of account numbers a criminal act in the same way abuse of the card is today.

Several other loopholes in the existing law make prosecution of card crimes difficult. One such loophole is that it is not a crime to counterfeit a card or even to possess such a card despite the fact that cards provide the kind of exchange value offered by currency. Since the misuse of currency is a crime of the highest priority, we submit that misuse of cards and account numbers be labeled as such a crime and given such priority. H.R.3622 would make it a federal crime to possess, with fraudulent intent, ten or more counterfeit cards. We support this provision. We have been advised by various authorities that they were unable to prosecute persons possessing numerous counterfeit cards since the evidence was insufficient to charge the perpetrator with criminal conduct. In each instance, the circumstances indicated that these individuals were involved in unlawful card trafficking rings.

Individuals who unknowingly possess counterfeit cards are protected by H.R.3622, since the legislation requires that they

¹ United States v. Callihan, 666 F. 2d 422 (9th Cir. 1982)

possess ten or more such cards and that such possession be with fraudulent intent. Possession with unlawful intent is frequently used in connection with counterfeit currency or securities under Title 18 (See for example 18 U.S.C. 472, 480, 489 and 490,) and, we support the legislative effort to designate this type of card possession as a crime.

In fact, we suggest that a rebuttable presumption of fraudulent intent be established whenever a person possesses ten or more cards not issued in the name of the possessor or in the names of persons who authorized the possessor to possess the card. BLACK'S LAW DICTIONARY 1351 (4th rev ed. 1968) defines presumptive evidence as "...evidence drawn by human experience from the connection of cause and effect and observation of human conduct; the proof of facts from which, with more or less certainty, according to the experience of mankind of their more or less universal connection..." Surely, if a person is apprehended with ten or more cards not issued in his name or in the name of another person who has authorized such possession, it can be inferred that the person intends to use the cards for an unlawful purpose.

In the absence of such a presumption, prosecutors have advised us that it will continue to be extremely difficult to bring possession cases to trial. Thus, many criminals will take advantage of the fact that their criminal intent cannot be proven and will continue to traffic in counterfeit cards. The presumption merely requires the defendant to explain the circum-

stances behind his possession of ten or more cards issued in the names of others. One must balance the ease with which a legitimate cardholder can explain such possession against the formidable barriers which prosecutors have to overcome in proving a defendant's intent. For the foregoing reasons we find it compelling to adopt such a presumption.

There are several other deficiencies in the existing federal law which need to be corrected and which are addressed in H.R.3622. Specifically, H.R.3622 responds to the concerns raised by law enforcement officials that the minimum dollar amount which triggers liability in the law may be technically interpreted as applying to each card used, rather than to the person or persons participating in a conspiratorial ring. We support H.R.3622 because it would properly clarify that these dollar value tests can be met by looking to one or more persons using one or more cards in one or more transactions. As a result, a person could not escape conviction if, for example, he used 100 different counterfeit cards to make purchases of \$10,000, but purchased goods worth less than \$100 with each individual card.

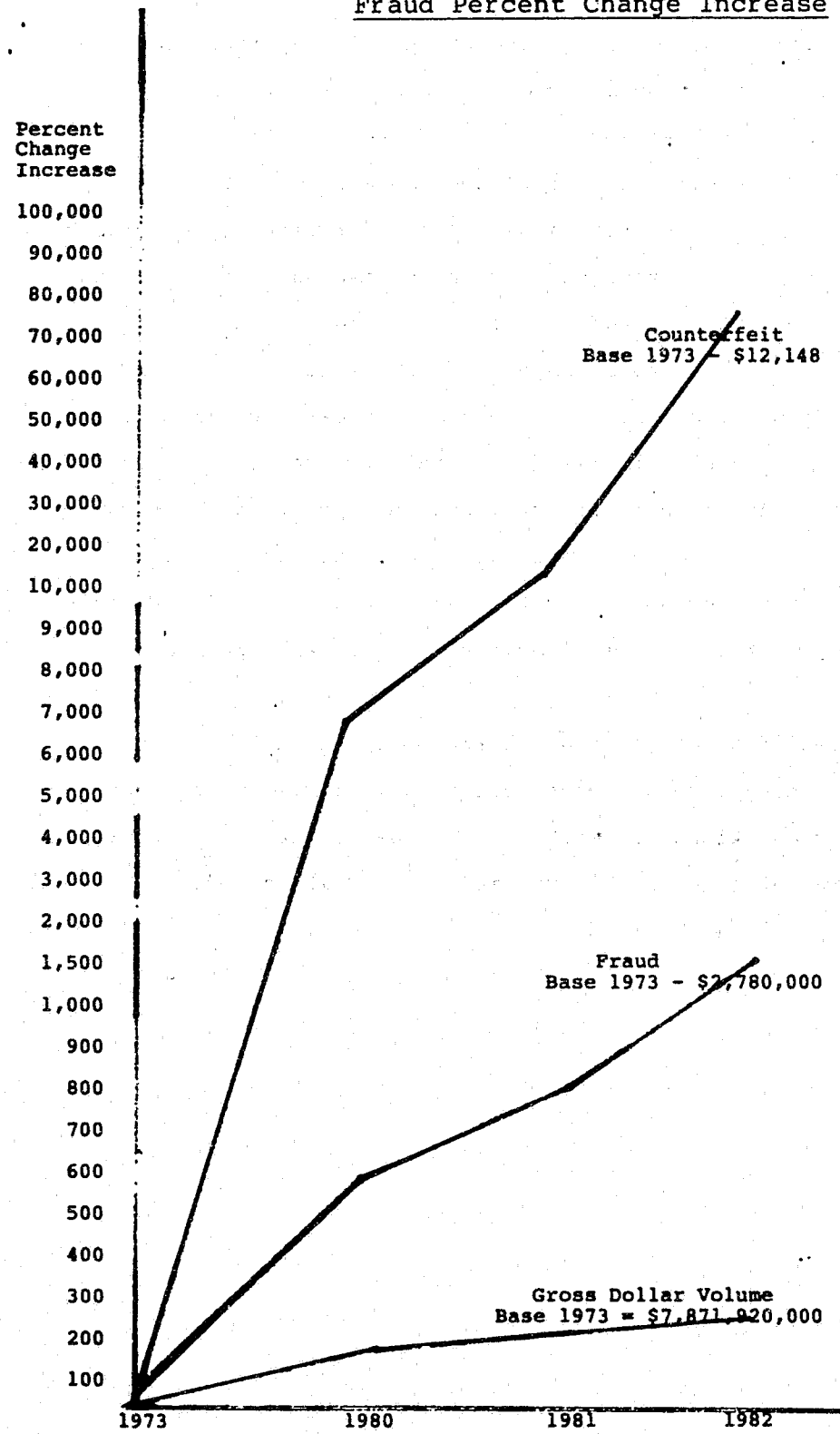
Under H.R.3622 Section 2(d)(1) of new Sections 137 and 134, as amended, would define the term "payment device" to include credit cards, debit cards, account numbers, codes or other means of account access. We approve of this definition of payment device since curtailing the misuse of debit cards and other means of access to accounts is vitally important to preserving the

integrity of our nation's payment system which increasingly involves the use of such devices.

Whenever there are deficiencies in criminal laws, technical barriers to prosecution are provided and criminals who might otherwise be convicted are released on "technicalities." The public is then the loser. It is therefore important for the card crime laws to be drawn as broadly as constitutionally permissible in order to provide prosecutors with the necessary tools with which to prosecute offenders. Without solid criminal statutes with which to prosecute offenders, it is apparent to us that industry efforts to control criminal fraud card activity will be undermined. Clearly, in the fight against such criminal activity, it is important for both industry and government law enforcement officials to be armed with a Congressional directive that fraudulent card account activities are a criminal affront against consumers, institutions and society at large and shall not be tolerated.

On behalf of MasterCard International, I want to thank you for the opportunity to express our views. I will be pleased to answer any questions you might have. Again, thank you for the cooperative efforts of the Subcommittee and its staff.

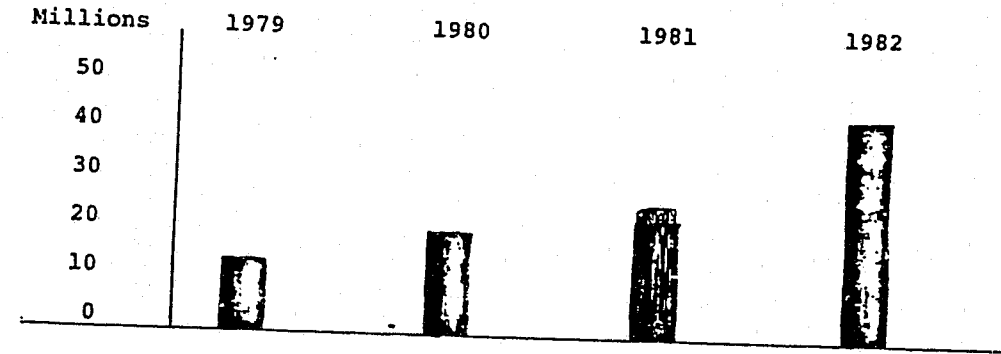
APPENDIX A
Fraud Percent Change Increase



Fraud Losses Reported

1979	\$ 12,569,290
1980	\$ 19,041,897
1981	\$ 25,817,918
1982	\$ 45,613,550

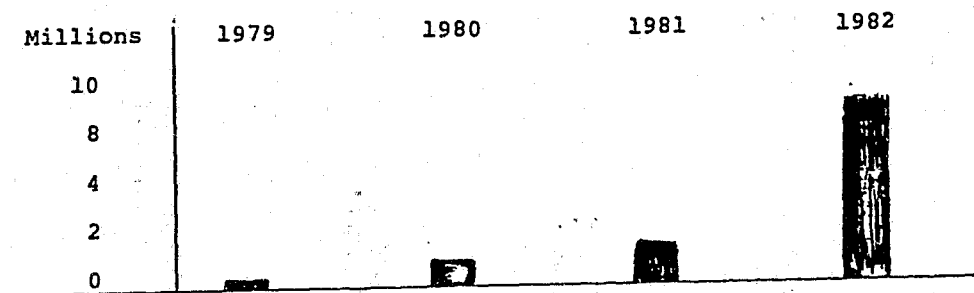
Illustration:



Counterfeit Losses Reported

1979	\$	172,143
1980	\$	839,379
1981	\$	1,306,148
1982	\$	9,337,354

Illustration:



Chairman ANNUNZIO. Our next witness represents the American Bankers Association. We have had many witnesses from the American Bankers Association before this committee but never one as charming as Ms. McLaughlin.

We appreciate your being here this morning. We don't want you to feel that your gender was last, you know, and the machos first, and all that kind of stuff, because I like saving the best for the last.

Your statement will be made, without objection, a part of the record, and you can proceed in your own manner to summarize.

STATEMENT OF SANDRA J. McLAUGHLIN, SENIOR VICE PRESIDENT, MELLON BANK, PITTSBURGH, PA., REPRESENTING THE AMERICAN BANKERS ASSOCIATION

Ms. McLAUGHLIN. I thank you very much.

Mr. Chairman and members of the subcommittee, my name is Sandra J. McLaughlin, senior vice president, Mellon Bank in Pittsburgh, Pa. I am here today representing the American Bankers Association in my capacity as vice chairman of the association's bank card division.

I am going to summarize the points in my written statement, but in deference to the demanding schedule of the chairman and members of the subcommittee today I will certainly attempt to be brief.

The association membership consists of over 90 percent of the approximately 14,500 full service banks in this country. The combined assets of our nearly 13,000 member banks represents approximately 95 percent of the industry total. Some 90 percent of our members can be described as community banks having assets of \$100 million or less.

Our association welcomes the opportunity to present our comments on the problems associated with card fraud and counterfeiting. We have become increasingly concerned with this issue. Ten years ago fraud losses in the bank card industry were not sufficient to cause great concern. However, in the last few years fraud losses have grown at a geometric rate. The combined losses of the VISA and MasterCard systems over the past 10 years have grown from a combined \$11.7 million in 1972 to \$125.8 million in 1982—over a 1,000-percent increase in just a decade.

We are particularly concerned about the counterfeit and altered card losses. For the MasterCard and VISA systems, these losses have increased from a relatively minor \$175,000 in 1978 to more than \$25 million in 1982.

We very much commend your efforts, Mr. Chairman, in introducing H.R. 2885 and more recently H.R. 3622, and in holding a series of hearings on this problem. We believe holding a series of hearings has helped to educate the public, industry, and law enforcement agencies on this growing problem. We have appreciated the opportunity of providing input to your subcommittee on H.R. 3622 and look forward to continuing that working relationship. Because earlier testimony has clearly demonstrated the need for such legislation I will not belabor that point. I will only support it by saying that in spite of the industry's best effort the criminal element will also seek to be just one step ahead of the industry's latest technology or security procedures or developments.

We are most pleased in that we believe the proposed legislation addresses these concerns in a highly satisfactory manner. The industry recognizes that more criminal legislation is not a complete answer to the current problems. In fact, it may be only a small part of the answer. We believe a large part of the responsibility for counterfeiting prevention falls on the industry.

Recognizing that fact, in February 1982, the association formed a task force on bank card fraud under the auspices of the bank card division, in an attempt to develop a comprehensive analysis of the growing counterfeit and alteration problems. The task force's efforts can be divided into four categories, and let me summarize those quickly.

First, the task force has recommended a number of changes in policies, procedures, and practices to the two major card associations—VISA and MasterCard. These changes have been implemented or are being implemented by the associations and the card issuing banks in a timely and thoughtful manner. These changes are listed in our written statement but they would include the following in enumeration fashion. Certainly the number and quality of security personnel at both of the associations has been notably increased and improved. I believe Messrs. Kelleher and Neumann are eloquent testimony to that fact.

Upgrading in terms of both quality and number of security personnel has been true in most major card issuing banks as well. New systems such as canceled or fraudulent merchant indices and counterfeit reporting systems are being implemented within the industry. New policies to safeguard numbers and materials during card manufacturing or card embossing, card transportation, within all of these services new policies safeguarding the protection of the account number have been or are being implemented.

Finally, rewards for the recovery of altered or counterfeit cards at point of sale have been implemented or increased. The second major category of activity from the task force lies in the area of education. The task force has developed a comprehensive card fraud manual, a copy of which has been provided to the subcommittee. This manual is designed for banks as a manager's guide for developing a comprehensive fraud prevention and control program. The manual provides guidelines for dealing with card manufacturers, guidelines for protecting account information, procedures and policies for staff training, procedures for merchant training, educational material for the consumer, and a great many other useful guidelines for comprehensive fraud prevention.

Third, on June 10, 1983, ABA sponsored a successful national card fraud management seminar. This seminar was teleconferenced live to sites in five cities: New York, Atlanta, Dallas, Chicago, and San Francisco. This program is now being made available on tape for State banking associations and other groups interested in sponsoring fraud seminars.

In addition, on June 10 we launched a nationwide public education campaign. I will provide the subcommittee with copies of recent newspaper clippings informing cardholders of ways to protect themselves, and a copy of sample communication material for the use of banks in educating their particular communities.

Finally, together with MasterCard and VISA, the ABA task force sponsored a major study of card-secure properties. Card-secure properties are the physical aspects of the card that make counterfeiting or alteration more difficult. This study, undertaken in the fall of 1982 by Battelle Laboratories of Columbus, researched other industries for applicable technology that could be utilized in the card industry. To date, over 100 technologies have been tested. Some technologies were recommended for immediate implementation. Other promising technologies have been singled out for further study. The ABA task force will be contacting, in the near future, the manufacturers of the card-secure properties for field testing of these newer technologies.

This effort has already resulted in many changes to be implemented by the VISA and MasterCard systems. MasterCard and VISA, for example, has announced plans to have all cards issued in that system including new policies.

The industry has always been aware of the need to safeguard account numbers and has developed a number of techniques over the years to do so. As fraud activity has increased, the industry has become increasingly aware of this responsibility. New and increased efforts to protect account information is also a major part of the efforts of the ABA task force. Our seminars and manual on fraud have, and continue to provide, banks with significant educational information on policies, procedures, and technologies that should help protect account information from falling into the hands of those who might use it illegally.

Our efforts will strive to educate banks, merchants, service agents, and customers on how to protect this information. Since card issuers are the primary victims of the fraud schemes, the efforts must begin with the card issuer. But all parties, including consumers, must assume their share of the responsibility.

Simple procedures now being suggested for all participants in the system will help to eliminate much of the problem. For example, banks and processors can restrict access to account information and, in in-house activities, use only that portion of an account number necessary to identify the account. Merchants can utilize perforated carbons, carbonless sales slips, and otherwise take precautions in disposing of carbons and duplicate sales slips. Credit bureaus or other service agencies can also use a portion of the account number where possible. Consumers can be educated to safeguard account numbers and sales receipts. Unless the information is safeguarded by each participant in the system, then the system remains vulnerable to penetration by the criminal element.

Section 2 of H.R. 2885 and H.R. 3622 would legislate restrictions on disclosure of account numbers. As you know, the banking industry was very concerned with the approach of H.R. 2885 in this section and, more specifically, with very restrictive exceptions to the general disclosure prohibition.

Our concern with the approach is that it is directed at financial institutions and others who are already working, and have been for some time, working to protect account information and who have a strong self-interest in protecting that information.

We were also very concerned with the restrictive exceptions to the general prohibition against account number disclosure. We

viewed those restrictions as prohibiting many disclosures that are necessary in the normal operations of card programs and other aspects of conducting business.

We sincerely appreciate your efforts and the efforts to the subcommittee staff to alleviate these concerns. The list of exceptions in H.R. 3622 addresses all major aspects of the card operations and business functions we have identified.

There are, however, a number of fairly minor technical matters that need clarification in the bill or in the committee report accompanying a bill reported by the full committee. These concerns, are set forth in appendix B to this testimony. We urge your consideration of these problems.

We are also hopeful that this subcommittee will use every opportunity to express an intention to allow continued account number disclosure in all aspects of the conduct of legitimate business activities. Such an expression, combined with the more complete list of exceptions contained in H.R. 3622, would help alleviate our concerns regarding compliance burdens associated with the overall approach of this portion of the bill.

In conclusion, Mr. Chairman, let me again thank you for your efforts to address these significant issues and for your willingness to be responsive to our concerns. We look forward to working with you and the subcommittee in securing passage of this important legislation.

[Ms. McLaughlin's prepared statement on behalf of the American Bankers Association, follows:]

STATEMENT OF THE
AMERICAN BANKERS ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE
HOUSE COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS
ON
CREDIT CARD FRAUD
JULY 27, 1983

Mr. Chairman and members of the Subcommittee, my name is Sandra J. McLaughlin, Senior Vice President, Mellon Bank in Pittsburgh, Pennsylvania. I am representing the American Bankers Association in my capacity as Vice Chairman of the Association's Bank Card Division.

The Association membership consists of over 90 percent of the approximately 14,500 full service banks in this country. The combined assets of our nearly 13,000 member banks represents approximately 95 percent of the industry total. Approximately 90 percent of our members can be described as community banks having assets of \$100 million or less.

Our Association welcomes the opportunity to present our comments on the problems associated with card fraud and counterfeiting. We have become increasingly concerned with this issue. Ten years ago fraud losses in the bank card industry were not sufficient to cause great concern. However, in the last few years fraud losses have grown at a geometric rate. Attached as Appendix A to this statement is a graph showing the combined losses of the VISA and MasterCard systems over the past ten years. The losses have grown from a combined \$11.7 million in 1972 to \$125.8 million in 1982 — over a 1,000 percent increase.

We are particularly concerned about the counterfeit and altered card losses. For the MasterCard and VISA systems, these losses have increased from a relatively minor \$175,000 in 1978 to more than \$25,000,000 in 1982. When these losses are aggregated with the losses involved in private label bank cards, retail cards, gasoline cards, and travel and entertainment cards, it is clear that the country is faced with major criminal activity that cannot be ignored.

We commend your efforts, Mr. Chairman, in introducing H.R.2885 and more recently, H.R.3622 and in holding hearings on this problem. Simply holding a series of hearings has helped to educate the public, industry and law enforcement agencies on this growing problem. We have appreciated the opportunity of providing input to your Subcommittee on H.R.3622 and look forward to continuing that working relationship.

Need for Legislation

We are hopeful that the efforts of the industry which are described below should help to substantially reduce the current fraud and counterfeiting activities. However, in spite of the industry's best effort, the criminal element will always seek to be just one step ahead of the industry's latest technology or security procedures. As our methods for detecting and eliminating fraud become more sophisticated, so do the criminal activities designed to beat the system. Effective law enforcement is the only way to ultimately deter criminal activity.

As a result, the industry has determined to pursue some revisions of the federal law in this area. In addition to the amendments, we are discussing today, we are hopeful of obtaining some additions to the Criminal Code (Title 18, U.S.C.). This effort to modernize the law and focus attention on this growing problem would provide investigators and

prosecutors with an additional statute aimed at card fraud. We view this revision as one part of the comprehensive law enforcement efforts which will be necessary to deal with this problem on a long term basis. We are and will be discussing these proposals with the Judiciary Committees in both the Senate and House.

At the same time, we feel that amendments to the Truth in Lending law and/or the Electronic Funds Transfer Act are vitally needed to fill some obvious and immediate gaps in the current federal legislation contained in Title 15.

In recent years the emphasis in criminal activity has shifted away from taking advantage of isolated lost and stolen cards to the more organized criminal activities involving alteration and counterfeiting of cards. Unlike fraud committed with the use of lost or stolen cards, the schemes involving counterfeit or altered cards rely heavily on the use of valid account numbers. As a result, the trafficking in account numbers has increased dramatically. For example, account numbers are used in collusive merchant's schemes where valid account numbers are embossed on white plastic and used to imprint sales slips.

In spite of this and other counterfeiting schemes using primarily account numbers and not cards themselves as the means for fraudulent activity, the Truth in Lending law is not clear that misuse of these account numbers constitutes credit card fraud. At least one court has held that fraudulent use of an account number did not constitute the illegal use of a "credit card".

An additional enforcement problem has been raised in connection with the \$1,000 limit contained in several of the subsections of Section 134 of the Truth in Lending law and Section 916 of the Electronic Funds Transfer

Act. Those subsections require that a minimum of \$1,000 in money, goods or services be obtained within a one year period to create a crime punishable under the federal law. Case law is not yet clear whether these subsections require that the prosecutor show only that \$1,000 in value has been obtained using card fraud or whether the prosecutor must show that \$1,000 was obtained with a particular counterfeit, lost, or stolen card.

Section 3 of H.R.2885 addresses these two concerns in a very satisfactory manner and, in addition, makes possession of counterfeit, lost, or stolen cards a federal crime where the requisite fraudulent intent is present and a nexus with interstate commerce exists. Consequently, we urge the Subcommittee to move forward with this legislation as quickly as possible.

Industry Efforts

The industry recognizes that more criminal legislation is not a complete answer to the current problems and the problems we will face in the future. Indeed, legislation may represent only a small part of the solution. A large part of the responsibility for counterfeiting prevention falls on the industry.

In February of 1982, the Association formed a Task Force on Bank Card Fraud under the auspices of the Bank Card Division, in an attempt to develop a comprehensive analysis of the growing counterfeit and alteration problems. Working closely with VISA and MasterCard, we have developed what we believe to be an effective industry program to focus on this problem and take necessary corrective measures within the industry. The Task Force's efforts can be divided into four categories.

First, the Task Force has recommended a number of changes in policies, procedures, and practices to the two major card association (VISA and MasterCard). These changes have been implemented or are being implemented by the associations and the card issuing banks in a timely and thoughtful manner. These changes include the following:

- o Senior management and governing boards of the associations have made major commitments to address the issue on a long term basis.
- o The number and quality of security personnel at both associations has been notably increased. The major card issuing banks have also made major increases in security personnel.
- o Both associations have committed to incorporate new card secure properties to deter counterfeiting.
- o New systems such as cancelled or fraudulent merchant indexes and counterfeit reporting systems are being implemented.
- o New policies to safeguard numbers and materials during card manufacturing, card embossing, and card transportation services have been or are being implemented.
- o Rewards for the recovery of altered or counterfeit cards at point of sale have been implemented or increased.
- o Portions of VISA's card recovery bulletin and MasterCard's restricted card list are being used to educate merchants on this problem.
- o Communication and education efforts have been initiated with banks, enforcement agencies, and merchants and between the two associations.

Second, the Task Force has developed a comprehensive Card Fraud Manual, a copy of which has been provided to the Subcommittee. This manual is designed for banks as a manager's guide for developing a comprehensive fraud prevention and control program. The manual provides guidelines for dealing with card manufacturers, guidelines for protecting account information, procedures and policies for staff training, procedures for merchant training, educational material for the consumer, and other useful guidelines for comprehensive fraud prevention.

Third, on June 10, 1983, ABA sponsored a successful national Card Fraud Management Seminar. This seminar was teleconferenced live to sites in five cities: New York, Atlanta, Dallas, Chicago, and San Francisco. This program is now being made available on tape for state banking associations and other groups interested in sponsoring fraud seminars.

Finally, together with MasterCard and VISA, the ABA Task Force sponsored a major study of card secure properties. Card secure properties are the physical aspects of the card that make counterfeiting or alteration more difficult. This study, undertaken in the fall of 1982 by Battelle Laboratories of Columbus, researched other industries for applicable technology that could be utilized in the card industry. To date, over 100 technologies have been tested. Some technologies were recommended for immediate implementation. Other promising technologies have been singled out for further study. The ABA Task Force will be contacting, in the near future, the manufacturers of the card secure properties for "field testing" of these additional technologies.

This effort has already resulted in many changes to be implemented by the VISA and MasterCard systems. MasterCard, for example, has announced plans to have all cards issued in that system include holograms, fine line printing and ultra violet inks. VISA is undertaking a comprehensive review of the technologies involved in the Battelle study with a commitment to incorporate the best in the new VISA card.

Safeguarding the Account Number

The industry has always been aware of the need to safeguard account numbers and has developed a number of techniques over the years to do so. As fraud activity has increased, the industry has become increasingly aware of this responsibility. New and increased efforts to protect account

information is also a major part of the efforts of the ADA Task Force. Our seminars and manual on fraud have and continue to provide banks with significant educational information on policies, procedures, and technologies that should help protect account information from falling into the hands of those who might use it illegally.

Our efforts will strive to educate banks, merchants, service agents, and customers on how to protect this information. Since card issuers are the primary victims of the fraud schemes, the efforts must begin with the card issuer. But all parties, including consumers, must assume their share of the responsibility.

Simple procedures now being suggested for all participants in the system will help to eliminate much of the problem. For example, banks and processors can restrict access to account information and, in in-house activities, use only that portion of an account number necessary to identify the account. Merchants can utilize perforated carbons, carbonless sales slips and otherwise take precautions in disposing of carbons and duplicate sales slips. Credit bureaus or other service agencies can use only a portion of the account number where possible. Consumers can be educated to safeguard account numbers and sales receipts. Unless the information is safeguarded by each participant, the system is vulnerable to penetration by the criminal element.

Section 2 of H.R.2885 and H.R.3622 would legislate restrictions on disclosure of account numbers. As you know, the banking industry was very concerned with the approach of H.R.2885 in this section and, more specifically with very restrictive exceptions to the general disclosure prohibition.

Our concern with the approach is that it is directed at financial institutions and others who are already working to protect account information and who have a strong self interest in protecting that information. As you know, the consumers liability for fraud loss under Truth in Lending is limited to \$50. The card issuing institution generally must bear any loss exceeding this amount and, indeed, generally bears the \$50 loss as well for purposes of maintaining customer confidence and goodwill.

We were also very concerned with the restrictive exceptions to the general prohibition against account number disclosure. We viewed those restrictions as prohibiting many disclosures that are necessary in the normal operations of card programs and other aspects of conducting business.

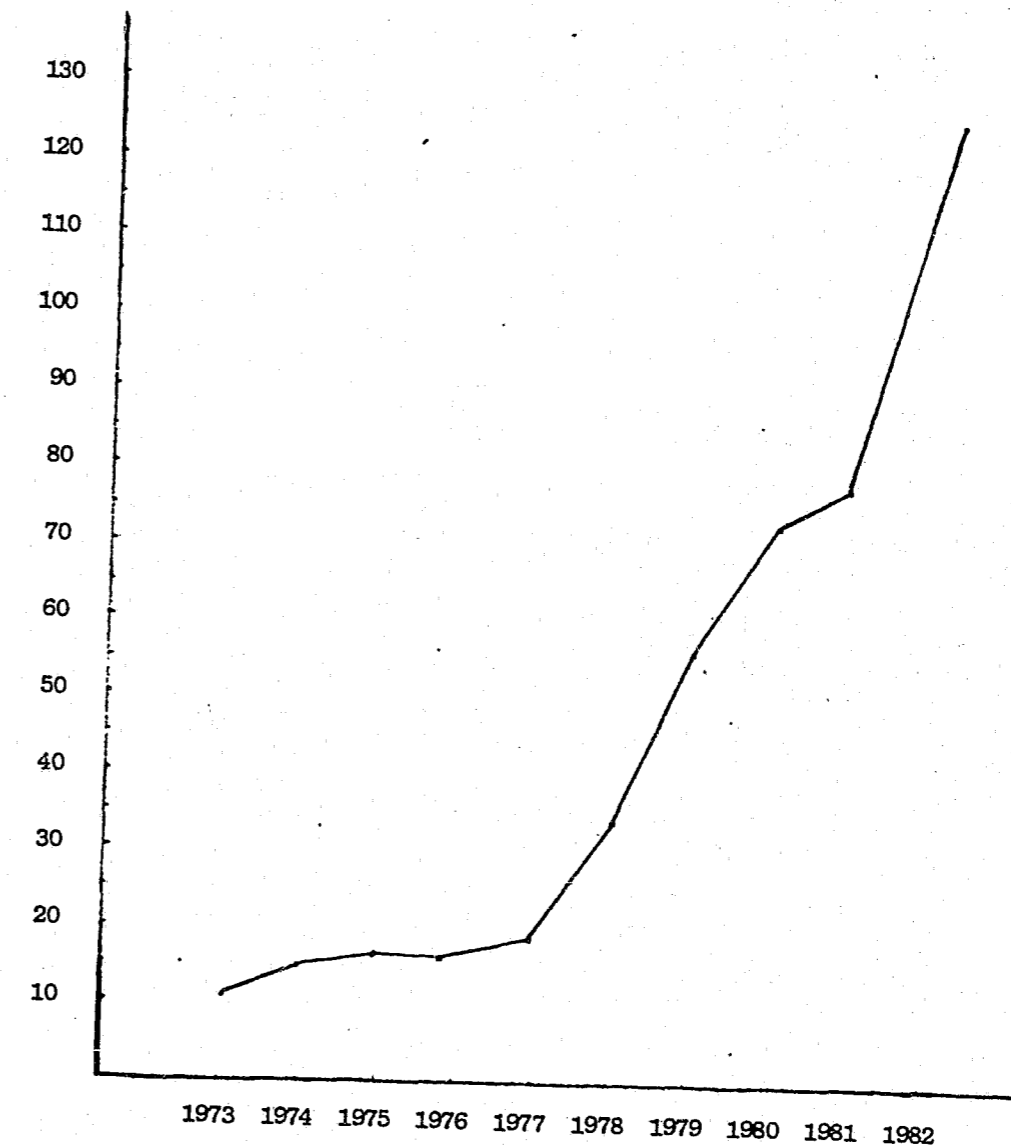
We sincerely appreciate your efforts and the efforts of the Subcommittee staff to alleviate this concern. The list of exceptions in H.R.3622 addresses all major aspects of the card operations and business functions we have identified.

There are, however, a number of minor technical matters that need clarification in the bill or in the Committee report accompanying a bill reported by the full Committee. These concerns, are set forth in Appendix B to this testimony. We urge your consideration of these problems. We may also bring additional concerns to your attention as they are raised in response to the new bill as it is reviewed by our members.

We are also hopeful that this Subcommittee will use every opportunity to express an intention to allow continued account number disclosure in all aspects of the conduct of legitimate business activities. Such an expression, combined with the more complete list of exceptions contained in H.R.3622, would help alleviate our concerns regarding compliance burdens associated with the overall approach of this portion of the bill.

In conclusion, Mr. Chairman, let me again thank you for your efforts to address these significant issues and for your willingness to be responsive to our concerns. We look forward to working with you and the Subcommittee in securing passage of this important legislation.

CREDIT CARD INDUSTRY
TOTAL FRAUD LOSSES
(\$ Million)



Source: VISA, U.S.A., Inc. and MasterCard International Incorporated

Appendix B

Following are suggested areas of needed or desirable clarifications concerning Section 2 of H.R. 3622.

(1) Card issuance. Subsection (a)(1) of new section 137 should cover disclosure of account numbers for purposes of issuing cards or other payment devices. Often major issuers subcontract with reliable third parties pursuant to security procedures required by the appropriate card association (MasterCard or VISA) for embossing, encoding and mailing services associated with card issuance. These services are similar to services listed in subsection (a)(1) and should be appropriately included.

(2) Check guarantee and check identification. Numbers that fit within the definition of payment device numbers are often used in connection with check guarantee programs or, by merchants and others in cashing and accepting checks. Payment device numbers, such as a credit card number, are then disclosed in connection with negotiation and collection of these checks. Subsection (a) would allow some disclosures in connection with these functions and should clearly cover all such disclosures.

(3) Customer service. Many major card issuers contract with third parties or affiliates to provide customer service. This service may include answering customer inquiries on such items as billing practices, account balances (or available credit), providing copies of charge slips, resolving billing errors, or receiving notification of lost or stolen cards. In providing these services, the customer service agent must have access to account information including account numbers.

Many of these services are connected with services that are listed in subsection (a)(1). Others may be covered by subsection (a)(3). However, since customer service is not specifically mentioned, its inclusion in the enumerated exceptions should be clarified.

(4) Internal functions. Subsection (a)(3) would allow disclosures in connection with the management, operation, or other activities directly related in the internal functioning of a business. We assume that this provision is intended to cover such operations as an internal or external audit of the company or the contracting of outside services such as the services of a mailing house. For example, while disclosure directly to parties engaged in the sale of services or products to cardholders would not be permitted, a card issuer should be able to receive materials from such parties and then contract with a mailing house to prepare a mailing that goes directly to consumers.

(5) Governmental entities. The term governmental entities in subsection (c) may need some clarification. This subsection should be clarified to cover all federal, state, local, and foreign governments; all judicial executive or legislative departments and quasi governmental agencies, such as government owned or operated corporations.

(6) Application to deposit accounts. The application of new section 137 to deposit accounts and the check collection system should be clarified. A checking account number may fit the definition of a "payment device number" depending on how it can be used.

(7) Encryptions. After the passage of this bill, credit reports will no longer be able to routinely include account numbers. However, in this situation and in many other situations, a person may desire to utilize a number that is a substitute for the number. This substitute number may be derived in a number of different ways. Some of the digits may be collapsed or eliminated. A formula may be applied to convert each digit to a different digit. Some or all of the digits may be converted to letters. These encrypted or coded numbers may not be generally used to obtain goods or services or to transfer or obtain money.

The definition of "payment device number" should be clarified to exclude these numbers.

(8) Apparent or implied authority. The definition of "holder" should be clarified to insure that authorization by a holder to use a payment device can be actual, apparent, or implied authority.

Chairman ANNUNZIO. Thank you very much for an excellent statement. This is one of the good days where the American Bankers Association and I are in full agreement.

Ms. McLAUGHLIN. It is a pleasure, Mr. Chairman.

Chairman ANNUNZIO. Thank you very much.

Mr. Kelleher, during the hearings on the operation of Credit Marketing, Inc., we heard testimony about how one department store in that community sold 75,000 credit card slips for 6 cents each to CMI which then used these numbers to bill consumers for either \$49 or \$99 for a credit card protection service.

Do you believe that the department store acted prudently in selling those slips?

Mr. KELLEHER. Certainly not, Mr. Chairman. I welcome the restrictions that will be placed by this law on such activity. In addition, I would like to make comment regarding Department of Justice's position this morning, the reduction of the requirement for the possession of credit cards from 10 to 5 fraudulent cards as being sufficient for prosecutive purposes.

Chairman ANNUNZIO. From ten to five.

Mr. KELLEHER. Ten to five is an excellent move because it does make it much less complicated for the Department of Justice in their actual productions of proof in these cases.

Chairman ANNUNZIO. We appreciate your suggestion and your support.

In your statement you referred to seven slayings, killings, that were connected with credit card fraud. Are you aware of other instances of credit card related violence, beatings?

Mr. KELLEHER. Not anything that I could take to court right now, Mr. Chairman. But in each area where we have seen a high degree of credit card fraud activity, mainly those in the Northeast area of the United States and in southeast Florida, the environment is accompanied by violence. There is so much profit in this industry, the criminal side of the industry, that they compete with each other to the point where they make it barely profitable for the legitimate side of the industry.

CONTINUED

3 OF 4

Chairman ANNUNZIO. I know that you agree with me that one of the reasons that the counterfeiting is flourishing is the fact that the public doesn't connect a credit card criminal with a violent crime.

Mr. KELLEHER. That is correct.

Chairman ANNUNZIO. In other words, they have this card, they go in, they make a purchase. They get out and the public says, well, they got away with something, you see.

Mr. KELLEHER. Yes.

Chairman ANNUNZIO. Like the criminal that appeared before this subcommittee, he says we are happy to do that. We get a slap on the wrist. We get a peaceful rest for 30 days on some occasion, but we don't serve any hard time, you see. What we have got to all do is try to make the public aware that we are dealing with a problem that creates beatings and creates crime, that they do have guns, you see. An individual that goes out, as you know, and holds up a bank, he has a shotgun or machinegun or something, you see. He gets away with, or if he gets caught, with \$15,000 to \$20,000. He is a bank robber, and he might get 5 to 10 years in jail. But there is a thief that is taking \$5,000 or \$10,000 per day. If he gets caught and he goes before a judge, he gets a slap on the wrist.

Mr. KELLEHER. In support of your position, Mr. Chairman, we find that the collusive merchant who represents a very, very small number of merchants in our total system actually supports the work of 150 to 200 card thieves that are going out doing just as you say, stealing and robbing these things from innocent citizens. It is much the same as the way a drug dealer supports the habit of a bunch of drug users. In this situation the collusive merchant who knows the system and knows how to defeat it supports the activity of these credit card thieves and those who would counterfeit numbers, and when it becomes that profitable a business for the thief, you know there is going to be a lot of competition.

Chairman ANNUNZIO. Thank you.

Mr. Paul is recognized for 5 minutes.

Mr. PAUL. Thank you, Mr. Chairman.

I would like to welcome the panel here this morning, particularly Mr. Kurth from Houston. It is nice to have you here. I would like to start first with a brief question to Mr. Kurth.

Could this bill pose any problems in complying with the Fair Credit Reporting Act that you know of?

Mr. KURTH. First of all, let me say that we support the objectives of the bill, but we do have a concern with section 137. Second, it would appear that under section 611 of the Fair Credit Reporting Act we might have difficulty reverifying the information unless that particular statement were amended to add after the word "holder" and between the word "of" that it would be permissible to expose the device—so they can disclose that account number to verify it.

There is one other aspect of the legislation that does not perhaps directly relate to the Fair Credit Reporting Act, but does concern us in that we think we need more information. Obviously the credit reporting industry is in the marketplace to bring the customer and credit grantor together. To the extent credit grantors presently use account numbers to clear direct—to call to get more cur-

rent information than what is contained in the credit report—perhaps the method for providing for individual certification may or may not work a hardship.

If it results in more consumers being turned down who otherwise would have qualified if the direct check had been made, then that really doesn't serve, I think, society to have an irate consumer upset because credit has not been granted. Those are things I think that as we work with the committee and the credit community to determine the extent this may or may not be a problem.

Mr. PAUL. Thank you very much.

Mr. Neumann, credit grantors direct check with VISA on a consumer's paying habits. Is the account number essential for issuing banks to identify the consumer who is being inquired about? Will this bill hinder this process?

Mr. NEUMANN. The system itself does not grant credit to a card holder. It is done by member banks directly. So the correspondence communication is between the credit agency and the bank, not the VISA system, so I am really not qualified to answer that question.

Mr. PAUL. Those are the only questions I have.

Chairman ANNUNZIO. Thank you, Mr. Paul.

Mr. Vento?

Mr. VENTO. Thank you, Mr. Chairman.

I was pleased to note in almost all of the testimony that there is obviously vital concern and aggressive programs to try to deal with this blossoming of credit card crime. Obviously I don't think we could begin to write laws that would in essence keep this business and keep this line of credit consumer credit available and totally eliminate credit card crime. So I want to enthusiastically encourage and applaud that because we have to have a balance.

If you find deficiencies in terms of the Federal or State statutes, I guess that you make those presentations in a different legislative area. But we want to do what we can to try and facilitate this, because we realize the great importance of it. You know, I was amazed that VISA has some 60 million cards issued. Most of them in this country where I note that 94 percent of the fraud and other types of crime occur.

VISA, at least, operates internationally although most of the credit obviously is extended here or at least is extended to American citizens when they are abroad. Do you have any special problems with regards to the international area, how these are dealt with?

I suppose credit cards just don't represent the volume of business abroad that they do here.

Mr. NEUMANN. On an international scope we have over 90 million card holders throughout the world. As far as the fraudulent transactions, about 96 percent of that takes place in the United States. However, many of the cards that are counterfeited, for instance, and used in the United States are copies of cards issued by foreign countries. For instance, in Venezuela, banks have lost a considerable amount of money through counterfeiting activities involving the use of cards in the United States.

Mr. VENTO. The point is that obviously you are also interfacing with your counterparts, these other nations, these other banks, trying to put a stop to that.

Mr. NEUMANN. That is correct.

Mr. VENTO. Mr. Kelleher, you referred to the fact that some merchants are actually in collusion with people that are using credit cards fraudulently. Can't the credit card company, whether it is MasterCard or VISA or anyone, just pull that particular credit, that particular service out of that merchant's hands? I mean it seems to me if that were occurring frequently that they could do that.

Mr. KELLEHER. Yes, Mr. Vento, through a fraud reporting system that we are operating at MasterCard, if there are sufficient transactions which are properly reported by our members, we can identify certain hot-spots where a great number of counterfeit transactions are taking place. Then through our own analysis of the member records, determine if in fact the merchant knew or should have known the transactions were fraud. We do this in Sting operations, also. When it looks like there is obvious criminal activity we will support the activities of prosecutors and investigators, such as Mr. Siegel that was here this morning, in their work against the merchants.

We can identify these merchants, and have recently changed our internal operating rules to allow us to conduct audits and to declare a merchant as being culpably involved in being excessive fraud, and to charge back activities against him. But the process now is such that we have to introduce within—internally as many safeguards as we can—that will enable us to identify these people clearly. And then support State and local prosecution or Federal prosecution if the bill passes as it is proposed. This bill will offer opportunities for offers of proof that will enable us to convict these people.

Mr. VENTO. Mr. Kurth, do you keep records also of the merchants that have a problem? In other words, if I have a Diner's franchise and I decide to put it into a restaurant or extend that to a certain merchant, could I find out that they had a problem, that that merchant had a record or history of problems with MasterCard or VISA through an agency such as yours?

Mr. KURTH. Certainly members of our association would want to work closely with the card issuer. In most cases the members of the credit bureau would be issuing their own credit cards or also, in addition, perhaps, accepting the travel and entertainment card. If there are known cases of something we suspected, certainly the bureau would want to work closely with its customer.

Mr. VENTO. That information is available, there is network and that obviously has to be improved as the volume and concern increases.

Thank you, Mr. Chairman. Thank you, gentlemen.

Chairman ANNUNZIO. Thank you, Mr. Vento.

Mr. Prins has one question.

Mr. PRINS. Thank you, Mr. Chairman.

I would like to explore one area. Perhaps the two panel members that would be most knowledgeable in this would be Mr. Kurth and Ms. McLaughlin. That has to do with the direct checking or the obtaining of a credit card number for a legitimate purpose.

Do you recall when the legislation was originally drafted, we didn't allow for any direct checking. In my experiences, in talking

to people across the country, and I am sure you find this true, Ms. McLaughlin, there used to be a time in this country where you wanted to know the credit history of someone, particularly in Western Pennsylvania.

You were a merchant, someone came in for credit. You said where do you do business. Well, I do business with such and such. You would pick up the phone and call such and such, and then they would say, yes, he is good, bad, or whatever.

We don't do that much anymore, do we?

Ms. McLAUGHLIN. No. Certainly the incidence of direct check has been reduced. It has been reduced by reason of the proliferation not just of credit bureaus but of automated credit bureaus that have the capability of handling large amounts of information from diverse endpoints or from diverse creditors so that the reason for direct checking, Mr. Prins, is not so frequent. But when it does occur, it is typically, as I believe was pointed out earlier, it is typically very important to the extension of the credit in that particular situation.

Mr. PRINS. Isn't it also true that we don't do a lot of direct checking because of privacy laws that have been discussed.

Ms. McLAUGHLIN. Certainly the privacy laws gave rise to the necessity or convenience, if you will, for purposes of the easier administration, to centralize the control of the information in reservoirs like credit bureaus. That is correct.

Mr. PRINS. If I had a small business and I had a customer that came into my bank and said, or my business, rather, and said that they had a VISA or MasterCard with your bank, and I called your bank and said, this is the Prins Small Business Co. and I want to give credit to this person.

Ms. McLAUGHLIN. Yes.

Mr. PRINS. They say they have a Master or VISA card with you, and I call your bank people, they aren't going to tell me much, are they, if anything?

Ms. McLAUGHLIN. No, we are probably not going to tell you much in that situation. We are, as are most major card issuers, members of the local credit bureau. One of the reasons we do that is to handle all such inquiries. And because we don't know the individual calling, we have no way of proving that it is Mr. Prins of the Prins Manufacturing Co. calling.

Mr. PRINS. Exactly. If it was even my account, you probably wouldn't talk to me, would you?

Ms. McLAUGHLIN. We would talk to you, but we would do so by asking you a piece of security information which only you could know.

Mr. PRINS. My dog's name.

Ms. McLAUGHLIN. One we use at the Mellon Bank is mother's maiden name. We try to pick up a piece of information that is unique to the card holder. It might be your dog's name, as a matter of fact.

Mr. PRINS. I am not trying to bait you on this thing, but I am trying to find out if we have corrected this problem. Now, I think we have established, and Mr. Kurth, I don't mean to avoid you, that we really don't do an awful lot of direct checking any more, do we?

Mr. KURTH. To the extent that it is being done, Mr. Prins, I can't attest at this point. I do know that in some parts of the country where credit grantors have asked that their account numbers be truncated, where the full account number wouldn't be displayed, that in some instances they have asked that the bureaus discontinue that practice because they are unable then to identify the account when they did get a direct inquiry.

We are in the process right now of communicating with all kinds of credit grantor customers to find out to what extent this is being done. Our concern is really for the consumer. Direct checking has no revenue, has no impact as far as the bureaus are concerned.

Mr. PRINS. Actually, it costs you business, doesn't it?

Mr. KURTH. It might but that is the way it is. If the consumer is turned down because of the credit reference and the credit grantor says, hey, I can't locate that account in the absence of the number, it is the consumer that is going to be hurt by that.

Mr. PRINS. That is why I am getting to the bottom line, and I apologize for weaving this thread. But the fact is that the legislation allows a number to be checked with written verification so that we have an audit trail and Mr. Kelleher and Mr. Neumann's collusive merchants aren't calling up to get these numbers. My question then, doesn't that kind of system where we provide for direct checking, but we require that there be verification, doesn't that give you the out for those small areas, small numbers where we do need direct checking?

Mr. KURTH. I think it does in many instances. Certainly in the case of a collection account, certainly in the case of suspected fraud. In those instances, a hard copy request is undoubtedly workable. The only concern we would have would be at the instance that an individual has applied for credit, whether a credit grantor who needs that account number to do that direct checking will actually go through the process of filling out a form and requesting an account number for an authorized purpose.

In the absence of doing that they can deny the account. Yet that individual may be very deserving of a credit card or loan.

Mr. PRINS. Thank you, Mr. Chairman.

Mr. ANNUNZIO. Thank you. I want to instruct the staff that the members have a number of questions they want to ask all of the witnesses. I want to instruct staff to assemble these questions and mail them to the witnesses today and that the record be kept open so the answers to these questions can be made part of the record.

I want to thank all of the panel members for being here this morning. Your testimony has been invaluable. The give and take session this morning between the panel and the congressional subcommittee is going to aid us considerably in getting out a good piece of legislation.

The legislation is now on the road to hopefully being adopted. This morning the subcommittee will probably pass out the legislation. It will be referred to the full committee. I see no problems in the full committee. Just as soon as we get approval from the full committee which will be some time after Labor Day when we come back, I will go to the floor of the House with the legislation. My batting record being what it is on most of the legislation which

comes out of my subcommittee, I really foresee no problems. But if I do run into any problems I am going to call on you for help.

Thank you very much for your expert testimony this morning, and your excellent cooperation. I am grateful.

[Whereupon, at 11:33 a.m., the subcommittee was adjourned, to reconvene subject to the call of the Chair.]

[The following statements were received by the subcommittee for inclusion in the record:]

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STATEMENT
OF
NATIONAL RETAIL MERCHANTS ASSOCIATION

BEFORE

THE

SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

ON

H.R. 2885
THE CREDIT CARD PROTECTION ACT

June 14, 1983

EXECUTIVE OFFICERS

Chairman of the Board
WILLIAM P. ARNOLD
Chairman and Chief Executive Officer
Associated Dry Goods Corporation
New York, New York

First Vice Chairman of the Board
SUMNER FELDBERG
Chairman of the Board
Zayne Corp.
Framingham, Massachusetts

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Chairman of the Board and President
Carson Pirie Scott & Co.
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The National Retail Merchants Association is pleased to have this opportunity to present its views on H.R. 2885, the Credit Card Protection Act, and to address the question of what legislative action should be taken in the area of credit card fraud.

The National Retail Merchants Association (NRMA) is a not-for-profit organization devoted to research and education in general merchandise retailing. NRMA represents approximately 45,000 stores in the United States, distributing about \$150 billion annually in goods and services to the American consumer. NRMA's members range from the largest chain and department stores and mass merchandisers to small specialty shops and independents. Virtually all of NRMA's members operate their own proprietary credit card systems and/or accept third party credit cards that are issued by financial institutions and companies that issue travel and entertainment cards. In view of the fact that over 50% of our members' sales are made by means of credit cards, we are vitally concerned ~~with the issue of credit card fraud and related practices~~ such as the use of account numbers to obtain goods and services without the customer's authorization.

Over a decade ago, Congress decided to allocate the risk of loss from fraudulent transactions by means of a

credit card to the credit card issuer. Thus, pursuant to section 133 of the Truth-in-Lending Act, as a general rule the cardholder has no liability for unauthorized use of a credit card or, under limited circumstances, the liability can amount to no more than \$50 per card. We do not advocate changing this allocation of risk because, on balance, we recognize that to do otherwise could subject consumers to potentially crippling financial losses. Even negligent consumers are protected from substantial economic loss, although all consumers ultimately pay for credit card fraud as a component of the cost of credit and the cost of goods and services. This system also makes practical sense because it carries a built-in incentive for credit card issuers to strive to reduce fraud losses. While that effort is being made on several fronts, the recent increases in the amount of credit-related fraud is alarming.

During the May 18, 1983 hearing on this issue before the Senate Subcommittee on Consumer Affairs of the Senate Banking Committee, it was well documented that beginning around 1980 the bank card industry began to ~~experience a tremendous increase in the incidence and~~ amount of credit-related fraud, as well as a significant shift in the nature of this fraudulent activity. Data was submitted by VISA U.S.A. Inc., MasterCard International Incorporated and the American Bankers Association documenting that in the bank credit card industry alone

losses due to fraudulent use of credit cards rose from approximately \$11 million in 1972 to over \$125 million in 1982 - over a 1,000% increase. While the limited data available to us indicates that the amount of credit card fraud involving retailers' proprietary systems is not substantial in relation to total credit sales (under one-tenth of one percent), retailers are concerned about the increase in bank credit card fraud. This is because while, as noted, some of the cost is ultimately passed on to the consumer, the merchant is subjected to an increase in costs initially by paying more in discount fees to issuers of third party cards. In addition, depending upon the contract between the merchant and the bank card issuer, the merchant does bear certain fraud losses directly. For example, merchants accepting mail orders charged to third party cards are often charged back for fraudulent orders. Thus, we heartily endorse this Subcommittee's efforts to find solutions to the mounting problem of credit-related fraud. For the reasons set forth below, however, we cannot support H.R. 2885 in its present form.

~~NRMA believes that a number of steps should be~~ taken to address the problem of credit-related fraud, some of which are being undertaken by the industry at the present time. For example, associations representing bank card issuers are taking steps to control fraud by changing the physical properties of the credit card itself. The

credit card is being redesigned to contain a number of anti-counterfeiting features such as fine line printing, ultraviolet ink printing, and a unique hologram covering part of the embossed account number. Among other things, these steps will make alteration of the embossed account number digits harder to accomplish and easier to detect. The bank card industry is working to reprogram authorization systems to enable those participating in the systems to better identify cardholders at the point of sale. Also, bank card issuers have added a provision to their operating rules which prohibit a merchant from providing, selling or exchanging account number information, in any medium, to any other party unless connected with the merchant's legitimate bank card business. These and other steps are being taken by the industry in an effort to reduce current credit card fraud activities.

NRMA's members are continuing their efforts to develop ways to improve their own point-of-sale authorization systems and the properties of the credit cards issued in their proprietary systems in an effort to combat credit card fraud. NRMA's members are aware of their responsibility to safeguard the account numbers of their customers and they currently take steps to restrict access to account information in a number of ways. Merchants are to a greater extent using sales slips which

do not involve the use of carbons and they are taking precautions in disposing of duplicate sales slips. It is essential, however, that merchants not be required to use any one particular method of effectuating sales because of the increased operating costs that would thereby be imposed. The difficulty of operating a small business profitably today is well-known and need not be documented here. NRMA is unalterably opposed to any legislation that would have the direct or indirect effect of standardizing the way in which credit is extended, or the way in which credit transactions are written at the point of sale, because of the additional costs that would thereby be imposed upon the merchant.

NRMA does support legislation which is aimed specifically at the criminal element that is responsible for perpetrating credit-related fraud. Specifically, NRMA endorses the proposal of the financial community, put forth during the May 18, 1983 Senate hearing, to amend the Truth-in-Lending Act and the Electronic Fund Transfer Act to fill certain gaps in that legislation. ~~The Truth-in-Lending Act is not clear on the question of whether misuse~~ of account numbers constitutes credit card fraud and at least one court has held that fraudulent use of an account number does not constitute the illegal use of a "credit

card".* This would be remedied by amending section 134 of the Truth-in-Lending Act and section 916(c) of the Electronic Fund Transfer Act to expand the definition of "credit card" and "debit instrument," respectively. It is not a crime to counterfeit a credit card or to possess such a card, even though counterfeit cards in the hands of a thief can be essentially equivalent to currency (the counterfeiting of which, of course, is illegal). Also, a question has been raised in connection with the \$1,000 limit that is contained in several of the subsections of section 134 of the Truth-in-Lending Act and in section 916 of the Electronic Fund Transfer Act. These provisions require that a minimum of \$1,000 in money, goods, or services be obtained within a one year period in order to constitute a crime that is punishable under the federal law. It is not clear whether these subsections require that the government establish only that \$1,000 in value has been obtained by credit card fraud or whether the government must show that \$1,000 was obtained with a particular counterfeit, lost or stolen card. Arguably a ~~person could use 20 different counterfeit cards to make~~ aggregate purchases of \$2,000 but escape liability because no more than \$100 was obtained by use of each card. Also, we support the addition of new provisions (section 129 in

* United States v. Callihan, 666 F.2d 422 (9th Cir. 1982).

the Truth-in-Lending Act and section 922 in the Electronic Fund Transfer Act) making it illegal to traffic in account numbers: "(a) with the intent to defraud any consumer or other person; or (b) for any purpose other than a legitimate business purpose involving the . . . account, the [cardholders] [account holders], or the operation of the . . . system."

The "legitimate business purpose" test has its genesis in the federal Fair Credit Reporting Act and, since 1970, has been successfully interpreted by administrative agencies and the courts. It would serve the same function here.

Therefore, NRMA supports the provisions recommended by the financial community that would address these problems (see attached Appendix B to the Statement of the American Bankers Association presented to the Subcommittee on Consumer Affairs, Committee on Banking, Housing and Urban Affairs on May 18, 1983).

Given the interstate nature of today's evolving nationwide payments system and the interstate nature of ~~significant fraud cases, we recognize that this situation~~ may warrant a federal response. This is reinforced by the fact that much of the recent increase in credit-related fraud can be attributed to organized crime or, at least, to a criminal element that is highly sophisticated. For these reasons, we believe that Title 18 of the Criminal Code

should be revised to include a comprehensive proscription of credit-related fraud. This will enable federal enforcement authorities to deal effectively with interstate credit-related fraud, including the manufacturing, counterfeiting or altering of credit cards and the fraudulent use of payment devices such as debit cards.

We therefore recommend that the Judiciary Committee of both the House and Senate enact a new chapter to the Criminal Code to address fraud in an area where sophisticated criminals have to date developed ways to circumvent the specific provisions of existing criminal laws.

NRMA believes that the current sensitivity to credit-related fraud on the part of industry and the technological steps that are being taken to curb these practices, coupled with the legislative actions described above, provide the best solutions to this problem. We do not believe that legislation which restricts the merchant's ability to disclose account numbers to third parties in business related activities is the way to combat credit-related crime. ~~For this reason, NRMA opposes H.R. 2885~~ because that bill would amend the Truth-in-Lending Act by adding a new section 137. This provision constitutes a broad prohibition against disclosure of account numbers, with limited specified exceptions.

NRMA believes that the primary effect of the proposed restrictions on the ability of a merchant or other credit card issuer to disclose account numbers to a third party would be to inhibit legitimate business activity. The industry already has a strong incentive to protect its customers' account numbers and, as noted, currently is working to improve its anti-fraud technology. In view of the fact that consumers have essentially no liability for fraud losses under the Truth-in-Lending Act, merchants and other credit card issuers understand that they must keep credit card account numbers as confidential as possible. The industry also has a self-interest in maintaining the confidentiality of this important proprietary information for competitive reasons. There are, however, a number of areas in which account information must be disclosed in connection with the legitimate business needs of the merchant. For example, account information and account numbers are disclosed to institutions acting as merchant banks for retailers, to independent authorization services and to members of the Visa and MasterCard system, to those involved in processing sales slips between banks and merchants, to attorneys and third party debt collectors in connection with the collection of delinquent accounts, to credit bureaus and to other creditors in connection with account verification, and in connection with the marketing efforts that are vitally important to merchants and other

credit card issuers. Merchants may also disclose account information to their licensees, to companies engaged in joint ventures with the merchant, and to related companies such as a subsidiary in order to provide the cardholder with an opportunity to purchase new products or services.

These examples give some indication of the complexity involved in specifying with completeness and accuracy all of the legitimate business reasons for the communication of account information. The importance of the merchant's ability to use and communicate account information for legitimate business purposes cannot be overemphasized. Any legislative effort to list the permissible uses of account information, and to bar all other uses, is fraught with problems and, we believe, is the wrong approach to fighting credit card fraud. Account numbers are used in so many facets of the merchant's legitimate business that such legislation would inevitably disrupt and unfairly restrict the merchant's operations. We are convinced that the better approach is to close loopholes in existing criminal statutes and, after careful study by the Judiciary Committees of the House and Senate, possibly enact new provisions to the Criminal Code to combat the recent upsurge in credit-related fraud.

In closing, it is essential that there be a clear demarcation between legislation designed to restrict criminal fraud activities and efforts to restrict account

information by legitimate businesses. Any possible problems in the latter area, such as the allegedly excessive solicitations for a credit card registration service that was experienced in Florida recently, can and should be addressed by working within the context of existing laws. Such activities are reprehensible, but they should not be the basis for imposing sweeping industry-wide restrictions on the dissemination of account information by credit card issuers. Legislation should be directed at those who transfer the information with intent to defraud or for purposes other than legitimate business purposes. While we support that kind of legislation, we are strongly opposed to any legislation which would limit the communication of account information for legitimate business purposes.

NRMA commends the Subcommittee for its concern with the serious problem of credit card fraud and appreciates the opportunity to express its views on this subject.

STATEMENT
OF
NATIONAL RETAIL MERCHANTS ASSOCIATION
AND
AMERICAN RETAIL FEDERATION

BEFORE

THE

SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

ON

H.R. 3622
THE CREDIT CARD PROTECTION ACT

July 26, 1983

The National Retail Merchants Association (NRMA) and the American Retail Federation (ARF) are pleased to have this opportunity to present their views on H.R. 3622, The Credit Card Protection Act, and to address the question of what legislative action should be taken in the area of credit card fraud.

NRMA is a not-for-profit organization devoted to research and education in general merchandise retailing. NRMA represents approximately 45,000 stores in the United States, distributing about \$150 billion annually in goods and services to the American consumer. NRMA's members range from the largest chain and department stores and mass merchandisers to small specialty shops and independents.

Membership in ARF is composed primarily of state and national retail trade associations which, through their members, represent more than one million retail establishments.

In view of the fact that over 50% of retailers' sales are made by means of credit cards, we are vitally concerned with the issue of credit card fraud and related practices such as the use of account numbers to obtain goods and services without the customer's authorization.

On May 18, 1983, ARF testified at hearings on credit card fraud before the Subcommittee on Consumer Affairs, Senate Banking Committee. On June 14, 1983, NRMA submitted its statement for the record on H.R. 2885, the predecessor

to H.R. 3622. Both NRMA and ARF continue to believe that the best approach is to limit any legislation to the correction of possible deficiencies in criminal provisions of federal law in the area of credit-related fraud. We support such legislative action, coupled with the steps being taken by the credit card industry to improve the security of account numbers and to change the physical properties of credit cards, some of which were described in NRMA's June 14 statement. We appreciate the concern of the Subcommittee about the possible misuse of account numbers. We cannot, however, support H.R. 3622 in its present version.

Retailers are aware of their responsibility to safeguard the account numbers of their customers and they currently take steps to restrict access to account information in a number of ways. Merchants are to a greater extent using sales slips which do not involve the use of carbons and they are taking precautions in disposing of duplicate sales slips. It is essential, however, that merchants not be prevented from giving account numbers to third parties under circumstances where necessary in connection with the legitimate business transactions of the merchant. As NRMA pointed out in its earlier statement, the "legitimate business purpose" test has its genesis in the federal Fair Credit Reporting Act and, since 1970, has been successfully interpreted by administrative agencies and the courts. It would serve the same function in delineating the purpose for which account

numbers could be furnished to third persons.

NRMA and ARF believe that the primary effect of the proposed restrictions on the ability of a merchant or other credit card issuer to disclose account numbers to a third party would be to inhibit legitimate business activity. The industry already has a strong incentive to protect its customers' account numbers and, as noted, currently is working to improve its anti-fraud technology. In view of the fact that consumers have essentially no liability for fraud losses under the Truth-in-Lending Act, merchants and other credit card issuers understand that they must keep credit card account numbers as confidential as possible. The industry also has a self-interest in maintaining the confidentiality of this important proprietary information for competitive reasons. There are, however, a number of areas in which account information must be disclosed in connection with the legitimate business needs of the merchant, some of which would be expressly authorized by H.R. 3622 and some of which would not be permitted, such as when account numbers are furnished to third persons in connection with the marketing efforts that are vitally important to merchants and other credit card issuers. It is also not clear under the terms of H.R. 3622 that merchants would be permitted to disclose account information to their licensees, to companies engaged in joint ventures with the merchant, and to related companies such as a subsidiary in order to provide the cardholder with

an opportunity to purchase new products or services.

These examples give some indication of the complexity involved in specifying with completeness and accuracy all of the legitimate business reasons for the communication of account information. The importance of the merchant's ability to use and communicate account information for legitimate business purposes cannot be over-emphasized. Any legislative effort to list the permissible uses of account information, and to bar all other uses, is fraught with problems. Account numbers are used in so many facets of the merchant's legitimate business that such legislation would inevitably disrupt and unfairly restrict the merchant's operations. We are convinced that the better approach, illustrated by S. 1555, is to combat the recent upsurge in credit-related fraud by closing loopholes in existing criminal statutes.

We recognize that H.R. 3622 has been redrafted in an effort to accommodate a number of legitimate business uses of account numbers. This represents a considerable improvement over the more restrictive language found in H.R. 2885. Unfortunately, the current version retains provisions which, we believe, unnecessarily restrict the flow of information between related organizations or to third persons for legitimate business purposes. If the intent of the legislation is to prevent the transfer of account numbers to third parties

for purposes other than the legitimate business needs of the transferor, such as the sale of bank card account numbers to a third party, we would not object to language which is limited to prohibiting such a practice.

Also, we recommend that any legislation amending the Truth-in-Lending Act retain, to the extent feasible, the Act's current terminology. Retailers are concerned about blurring the distinction between credit card account numbers and other types of account numbers which access, for example, the consumer's asset account. Retailers maintain that they should have the freedom to accept credit cards and, if they choose, decline to accept debit cards. Because the latter are offered by consumers as a substitute for currency or for checks, retailers object to the pricing system imposed by banks upon debit cards (i.e., a percentage of the transaction amount rather than a flat fee per transaction). Without expanding upon this issue here, we note that we are extremely concerned about the introduction of a new term, "payment device number", into the Truth-in-Lending Act to describe an identifier used with a credit card, which is a purchase device.

For the reasons explained above, NRMA and ARF recommend that any federal legislation be limited to closing loopholes in criminal provisions such as those embodied in S. 1555. If, however, the Subcommittee decides that the

public interest requires restrictions upon the dissemination of account numbers, we urge that language be added to accommodate the legitimate business needs of retailing. Specifically, we urge incorporation of language to make it clear that (a) the prohibited communication of account numbers does not encompass subsidiaries, divisions and affiliates of the same company and (b) the furnishing of account numbers for a legitimate business purpose of the transferor is not prohibited. Attached to this statement is language which addresses these concerns within the framework of the present bill.

NRMA and ARF commend the Subcommittee for its concern with the serious problem of credit card fraud, as well as with the issue of access to customers' account numbers, and we appreciate the opportunity to express our views on these subjects.

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