

Dec 12, 2017

Ohio House of Representatives

Ladies and Gentlemen of the Committee:

My name is Jim Davee, and I am a victim of identity theft. And to my surprise and dismay, it is only by first being a victim that I can quickly and easily protect myself and my personal credit information. The laws of the State of Ohio play a role in this legal mess, and I am here today to relate a bit of my story and ask that you approve HB386 to allow easy and immediate protection for all Ohioans before they are victims instead of after.

My case started in summer of 2012. After returning from vacation with my family in Florida, I was notified by three credit companies that there was suspicious activity on my accounts.

The first was over \$3000 in airline ticket charges made to a backup credit card that I used once while on vacation. These charges were immediately rejected by the credit card company.

In what was likely a test for a valid card number, the second was for two small charges of under \$100 each made on a credit card tied to an empty savings account associated with my mortgage. What is most surprising is that while I received the unsolicited credit card, I never called and activated it, never signed it, never used it, and it had been locked in my safe deposit box since it was sent to me a year before. Yet here it was being used for purchases.

The third, and the one that constituted an actionable identity theft incident, came through the online payment service PayPal. PayPal had an "instant credit" option for making purchases, and on a Saturday someone twice applied for credit in my name for \$500 worth of camera lenses from a New York City store. Twice PayPal declined to issue credit. But the thief made a third attempt on Sunday that was approved, credit was issued, the lenses were purchased and mailed to a home in Hollywood, Florida.

When I talked with PayPal representatives they would only confirm that the thief had to have my name, address, birthday, and Social Security Number in order to secure credit.

Now, let me sidebar for a moment to tell you about my sense of security. I have been a privacy advocate for decades. I've never allowed my actual signature to be digitized, I don't provide my address or phone number for store databases, and I refuse to provide my Social Security Number to anyone that doesn't have a legal requirement to have it. I remember when SSNs were used for college student IDs, driver's license numbers; even the Holiday Inn Traveler's Club used SSN as the account number! I entered "123-45-6789" as my SSN with Holiday Inn, and would tell the desk clerks that yes, I'm the one that got that number. Lucky me. Even today, I'm not on Facebook, I don't do any social network apps, I don't use Google due to their user tracking, and I disable all of the spyware and keystroke logging built into in Windows 10.

Yet here was someone with all of my personally identifiable information, my PII, and using it to get credit in my name.

PayPal would not provide me with any information on the thief or the eBay order of the lenses. Despite being the victim, they would not disclose details on the seller or where they were shipped. Even after filing a report with my local police department, PayPal would not release any information without a court order. So while the camera lenses were already shipped, the credit line was canceled and PayPal had to cover the costs with the seller.

I was able to do some additional detective work. I was told some details about the camera lenses and by searching back in eBay I was able to find the seller. I contacted the New York camera company directly and explained that they were victims as well. They had no problem telling me the address in Hollywood, Florida where the lenses were shipped under my name.

I did more research on the home in Florida, and eventually spoke with the local police detective covering ID theft. He checked out the house and determined that the home was just a drop site, a benign location where thieves send packages that they will pick up off the porch later. He also related story after story of the rampant identity theft scams going on, including one case where he stopped a motorist and found hundreds of debit cards worth tens of thousands of dollars issued by the IRS from fraudulent tax returns. It turns out that the IRS is so committed to fast refunds that they will issue them before cross checking the W2 income statements filed by employers each year. The thieves take great advantage of this IRS security failure to file false tax returns resulting in billions of dollars of stolen refunds issued each year.

My local police department was able to secure some additional information about the order. They found the IP address of the site where the credit requests were made, tracked to a family home in Huber Heights, Ohio. After questioning the parents and two teenage children, the police determined that they were not involved and that someone either spoofed their IP address or piggybacked onto their Wi-Fi signal.

Several months before my ID theft a credit card handling company reported a hack and breach of their database. This company serves as a middle-man between stores and the credit card issuers like Visa and MasterCard. Consumers don't do business with these handling companies, yet our information goes through them with every credit card purchase. I didn't know for sure that this was how my data was breached, but it seemed the most likely of the known data breaches at the time.

I'm relating all of these elements of the story to make an important point. I didn't do anything to expose my information. I go out of my way to not expose PII data, and yet through no fault or action of my own I became a victim. It was a bit ironic that a privacy advocate like me got hit with identity theft.

I was fortunate in two distinct areas. First, when the regular PayPal weekday staff came into work they recognized that the weekend credit requests were fraudulent. While they never explained how credit was issued after two denials, I was not going to be responsible for the purchase. The thief got the lenses but nothing more. I was not actually out of pocket any money and my bank accounts were untouched.

Second, now that I had an incident and a police report I could finally protect myself. And that protection starts with the three major credit report agencies, TransUnion, Experian, and Equifax.

As a victim I was able to immediately freeze my credit at all three agencies at no cost to me. Ohio law then and now establishes a \$5 junk fee for every freeze and unfreeze of credit with these reporting agencies unless you are already a victim of identity theft. It is this cost, this unneeded burden, that HB386 eliminates.

In 2012 under Ohio law, I could freeze and unfreeze my credit history at no cost for the rest of my life, but only because I was already a victim. Not so for my wife. To protect her I would have to pay the fee to all three agencies. My two children, who were then under 18, were in worse shape. I could do nothing for them. Ohio law at that time did not force the credit reporting agencies to provide any protection for minors, despite use of children's identification being a major part of the larger ID theft problem. I couldn't even find out if my kids had any records with the credit agencies, let alone freeze their accounts.

I am happy to report that since then, you in the legislature have updated Ohio's laws to allow for the protection of minors with the credit agencies. I am disappointed to report that during that update you did not remove the \$5 junk fees to invoke those protections. HB386 actually deals with the same sections of the law that were just updated for minors to correct this oversight in retaining the fees.

I'm concerned about the credit records of my wife and children because I am a government contractor, working for a small software company at Wright-Patterson Air Force Base. In that role I'm required to submit background check information through the federal Office of Personnel Management, the OPM. Yes, this is the same OPM that was hacked and breached in 2015. The background check information I am required to submit includes name, address, birthday, and other private details for my entire family. Once again, through no fault or action of my own, my entire family's personally identifiable information was exposed, making all of them at risk.

The major event that finally resulted in HB386 was the Equifax breach earlier this year. Here was one of the three major credit reporting agencies allowing disclosure of the personal information of over 140 million people. With my kids now over 18 and working to establish credit of their own, there was no doubt that they were at risk. I contacted my representative, Mike Henne, and asked him to take action to remove this junk fee for freezing and unfreezing credit reports with the credit agencies.

The response by Equifax to the breach was and continues to be unsatisfactory. The initial offer to affected customers was to enroll in a year's worth of free credit monitoring. Hidden in the legal agreement was the fact that the credit monitoring was from their own subsidiary and users would be automatically signed up for the paid service after a year. Even worse, agreeing to the service required consumers to give up their rights to any future legal action. Equifax has since removed the loss of consumer legal protection part of the agreement, and is offering free credit freezes but only until January 2018. They and the other two credit agencies are also offering a new twist, a "credit lock", but mostly not for free or only bundled with other credit monitoring services.

For all the claims by the credit reporting agencies about ease of use, phone apps, and no PIN numbers to remember with this new credit lock, the key distinction of a credit lock versus a credit freeze is that only the freeze is regulated by law, meaning only a freeze has teeth. All of

the other methods offered by the credit reporting agencies are created and controlled solely by them, and are clearly for the purpose of preventing consumers from freezing their credit by providing shiny but lesser alternatives. It is only when frozen that consumers have real and actionable protection for their credit history.

The laws and regulations that enforce credit freezes are made state by state. What HP386 does in removing the junk fee of \$5 is put Ohio in agreement with several other states that give their citizens the authority to have the credit agencies to freeze and unfreeze their credit reports for free without first having to be a victim of identity theft. Our neighbors in Indiana have this authority. So do the citizens of Maine and both Carolinas. Many other states are also looking at revising their laws in reaction to both the Equifax breach and the generally poor response of all three agencies to provide consumer focused safeguards.

In my opinion the bottom line is this: The information being collected by these agencies that makes up my credit history is mine and mine alone, generated when I engage in consumer activity. I don't do business with any of the three agencies, I have no contract or agreement with them, yet they have my credit history and are allowed by the laws of Ohio to let me protect it at no cost only AFTER I've been victimized.

And specific to Equifax, there has so far been no true penalty to them for their negligence besides bad publicity. They even went so far as to attempt to shield themselves from legal action despite being fully and totally responsible for one of the largest breaches of identity information in history. And in a truly sad and ironic twist, Ohio citizens who paid to freeze their credit history had to provide a credit card for payment, and it was this credit card information that was a major part of the Equifax breach. Paying Equifax to protect your information actually gave more information for the thieves to steal.

The credit agencies don't want consumers to freeze their credit because it limits their ability to sell and market the information of those who demand privacy and security. This \$5 junk fee allowed by the State of Ohio, charged every time any consumer wants to freeze and unfreeze their credit history, is nothing but profit for companies that claim the highest standards of security, yet in the case of Equifax fail miserably in their responsibilities. As for TransUnion and Experian they have been late to respond to consumer demands and limited in their acceptance of the rights of each person to limit and control access to personal information, information that not you, nor I, nor any other consumer asked them to collect.

I recognize that the credit reporting agencies service a business purpose. Freezing credit histories does not prevent the core offering - the relating of credit usage by consumers when consumers solicit new credit. Freezing blocks the unsolicited requests for credit, the illegal and fraudulent requests made by identity thieves. I've been able to easily unfreeze my credit history when I refinanced my mortgage, when I secured a car loan, and other times when there was a legitimate need for me to authorize someone to review my credit history. And once those tasks were done, I immediately refroze my credit, making me again safe from identity thieves opening credit or accounts in my name.

But I can only do that at no cost because I first had to be a victim. As fortunate as I was in my case to have not lost any money, many others in Ohio and across the country have lost life

savings, seen their retirement accounts drained, and face months or years of effort correcting their records and cleaning up the mess left by these thieves.

There is simply no justification to force Ohio citizens to pay for the privilege of protecting their personal data. These credit reporting agencies are making a profit marketing our information, and we should have every right to protect ourselves and our data without facing additional costs, legal hurdles, or alternative schemes that serve more to protect the agencies than consumers. I and my family should have the right to protect our personal information for no other reason than we want that protection and privacy. And Ohio should help ensure our rights by law with no junk fees or red tape of any type.

I ask you to move quickly to advance HB386 to the full House and Senate and there approve it for the Governor's signature, and remove this junk fee that forces citizens of Ohio to have to pay to protect themselves.

Thank you,  
Jim Davee