Credit Reporting Issues for Domestic Violence Survivors

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Today’s Agenda

- Reasons to check a credit report.
- Concerns for domestic violence survivors.
- What is a credit report and who are the industry players?
- How to get the report.
- How to read a credit report.
- How to dispute data on your credit report.
- How to rebuild your credit report when safety is an issue.
- What debts is one liable for and why?
- How to separate credit from a former partner.
Poll

- How familiar are you with credit reports?
  A. My web browser opens up to annualcreditreport.com
  B. I pull my clients’ credit reports on intake
  C. Sometimes my clients’ credit reports come up
  D. I occasionally review my own credit report
  E. What’s that?
Why Check the Credit Report?

- Financial Responsibility
- Safety Reasons
Financial Reasons

- All credit cards will access (pull) your credit report prior to giving you credit.
- A credit report is accessed prior to signing a cell phone contract.
- Most landlords will access a tenant screening report prior to renting an apartment.
- You must have good credit (FICO score over 680) to obtain a mortgage.
- Car insurance rates are based on your credit report and score.
Safety Reasons

- Identity theft
- Identifying security risks
  - Joint accounts
  - Current address/phone number
  - Impermissible “pulls”
  - Current Identity (whether current identity can be matched with a former identity)
Concerns for Domestic Violence Survivors

- Most abusers will keep assets in their name and debts in the victim’s name.
- Abusers will track whereabouts by accessing ATM usage, credit card usage, and banking habits.
- One can use keystroke software to obtain passwords.
- Abusers illegally obtain credit cards, via the Internet, in the victim’s name.
- Abusers will keep assets in family members’ names to ensure victim’s have no access to the assets.
- Abusers frequently file false income tax returns, using victim’s information.
What Is A Credit Report

Consumer Report 15 U.S.C.§1681a(d) The term “consumer report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for

(A) credit or insurance to be used primarily for personal, family, or household purposes;
(B) employment purposes; or
(C) any other purpose authorized under section 1681b of this title.
Who are the Consumer Reporting Agencies?

- “Big Three”
  - Experian – www.Experian.com
  - Trans Union – www.TransUnion.com
  - Equifax – www.Equifax.com
- Mortgage
  - Innovis -
    https://www.innovis.com/InnovisWeb/pers_orderCreditReport.html
- Employment –
  - HireRight
    http://www.hireright.com/Consumers-Applicants.aspx#RequestForm
- Many locally based consumer reporting agencies
Score v. Report

- Report is the information
- Score is a number generated by a mathematical formula to determine a consumer’s statistical likelihood of default
- FICO is the frequently used scoring entity
  - Most major creditors use their own FICO formula to generate a score
- Other scoring companies exist (Vantage)
Impermissible Uses

- Litigation
- Investigative purposes (e.g., non-primary residence in Housing Court cases)
- Getting reports on consumer’s spouse, relatives, etc.
Right to a See the Consumer’s Consumer Report

- 15 U.S.C. §1681g
- One free copy of consumer file per year from any nationwide CRA
  - Consumer report v. Consumer file
- Identity theft
- Free file if adverse action
- Can also get free file if
  - Unemployed job seekers
  - Public benefits recipients
Getting the Report Safely

- **Big Three**
  - Annualcreditreport.com
    - Pitfalls:
      - hard identifying questions
    - Mail in form
    - Have client call 1-877-322-8228
  - Getting the report safely
    - Use safe address

- **Other CRAs**
  - 15 U.S.C. § 1681g requires disclosure from all
  - Contact directly (mail or phone)
Accuracy Procedures Required


- Would prohibit systematic problems caused by the manner in which the data is gathered, organized or presented.

- Not strict liability; Balancing test

- CRA permitted to presume reliability of its source
Identity Theft

- How does it happen?
  - Abuser or other known person uses ID information
  - Stolen Information
    - Discarded Mail
    - Credit Card Receipts
    - Security Breaches

- What to do
  - ID Theft Report (police, post office, FTC, etc.)
  - Dispute charges w/ creditor
  - Fraud Alert/Security Freeze

- Merged account?
Blocking Requirements

- 15 U.S.C. § 1681c-2(a) requires CRAs to block ID theft related debts if they receive:
  - Proof of consumer’s ID
  - Copy of an Identity Theft Report*
  - Consumer’s identification of fraudulent information
  - Statement by consumer stating the information does not relate to any transaction by consumer

- CRAs can deny if:
  - Request is erroneous
  - Consumer makes material misrepresentation
  - Consumer acquired goods, services, or money from transaction
Common Errors and Problems

- Resold debts/changes in servicers
- Stale entries
- Re-aged debts
- Unidentifiable accounts
- Joint accounts
- Merged files
- Mortgage modifications
- Settled account
Disputing Data on Credit Report

- www.MyFairCredit.com
- Dispute the data in writing (not by phone, email or online).
  - Certified mail, return receipt requested
  - Send the letter from the debtor
- Include:
  - full name
  - address
  - the Social Security Number
  - account number of the disputed item.
- Specify briefly the reason for the disagreement and include any supporting documentation.
- Credit reporting agencies have 30 days to respond.
Disputing Data with Creditors

- Use the same format used with the credit reporting agency, but the letter may come from a third party.
- Send the letter certified, return receipt requested.
- Request that they either prove the debt (validate) or remove it from the credit report.
- Not a requirement to send to the creditor. No private cause of action under FCRA. But RESPA, FDCPA, FCBA may apply.
- Send a carbon copy of any disputes to CRAs.
Rebuilding One’s Credit Report Safely

- Obtain a secured credit card from a bank.
- Ask your landlord to report your current rent payments.
- Obtain a store charge card.
- Keep your credit balances low.
- Keep the amount of credit you can take out to 80% of your balance.
- Pay your bills on time.
- Having no credit is worse than having bad credit.
Rebuilding One’s Credit Report Safely

- All personal information reported to a credit reporting agency will become part of one’s credit report.
- Anyone who knows your name, address and social security number can ILLEGALLY access your credit report.
- Always obtain credit reports on-line, if possible, and give PO boxes or addresses abusers already know (such as a friend or relative).
- When applying for credit, use a PO box.
- Do not give phone numbers to creditors or agencies.
- Remember location can be discovered through area codes, zip codes, and access points (such as the landlord’s report to the credit reporting agency).
- It may be better not to rebuild credit then to be located by an abuser.
Preventative Measures

- Choosing a billing address/ P.O. Box
- Security freezes
  - Some states have laws that requires CRAs to place freeze for free in cases of domestic violence or identity theft
- Fraud alerts
- If changing identities be thorough and consistent
  - CRAs will try to merge old and new identities
Various Debts

- Difference between married and non-married partners
- Difference between separate debts, joint debts, and authorized users on credit cards
- Difference between various types of debt
Married vs. Not married

- Debt Issues for married parties
  - All debts accumulated during a marriage may be considered marital debt and both parties may be liable regardless of whose name is on the debt.
  - Debts for necessary expenses (such as medical care) are the liability of both spouses.

- Debt Issues for non married parties
  - The account holder is the only one liable for the debt.
  - If one’s former partner is an authorized user, the account holder only is liable for all charges.
  - There is no right of the creditor to sue only the former partner in the above scenario.
Joint Debtors and Authorized Users

- Joint Debtors are co-borrowers. They jointly sign the contract to borrow, or the creditor’s contract.
- Authorized users are not co-borrowers. Authorized users are given access (such as by being given their own credit card) and are allowed to use the account.
- Account owners are liable for all the debts of the co-borrower and the authorized user.
- Creditors will go after an account owner and the account owner will then have to go after the co-borrower themselves.
- Creditors go after either co-borrower, or both, but will always go after the more solvent borrower.
Separating One’s Credit from a Former Partner - First Conduct A Safety Analysis to Determine if Safe!

- Put a red flag on your credit report, which states the credit reporting agency may not release your credit report without authorization (via phone) from you.
- Cancel all joint credit cards.
- Cancel all authorized user accounts.
- If possible, cancel all credit cards that are known to the abuser.
- Review all utility contracts, cell phone contracts, insurance policies, and bank accounts.
- Review all beneficiaries.
- Change credit card companies and banks.
- Review your credit report regularly for inaccuracies and improper credit.
- Change all passwords to information not known to the abuser.
Scenario

Rebecca and her husband, Richard, are in the process of obtaining a divorce. Richard handled all of the finances for the family and did not keep Rebecca informed. Rebecca knows that her husband has opened accounts in her name, but is unsure of what was opened, when, or if he paid them off.

As part of the divorce settlement, Richard has agreed to assume responsibility for all of the debts.

Lately Rebecca has been lots of collection calls and letters. Which of the following account is Rebecca responsible for?
### OCWEN LOAN SVC LLC

**12650 INGENUITY DR**  
**ORLANDO, FL 32826**  
**(800) 310-9729**

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<th>$260,000</th>
<th>Pay Status:</th>
<th>&gt;120 Days Past Due&lt;</th>
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<td>Mortgage Account</td>
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<td>$200,000</td>
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<td>Joint Account</td>
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<td>&gt;$65,000&lt;</td>
<td>Date Opened:</td>
<td>07/2005</td>
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<td>Terms:</td>
<td>$1,603 for 360 months</td>
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<tr>
<td></td>
<td></td>
<td>Responsibility:</td>
<td>Authorized Account</td>
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**Loan Type:** Conventional Real Estate Mtg  
**Remark:** Paying partial payment agreement  
>Maximum delinquency of 120+ days in 03/2002 for $4,811<

### CHASE BANK USA NA #

**800 BROOKS EDGE BLVD**  
**WESTERVILLE, OH 43081**  
**(800) 436-7939**

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<td>Date Closed:</td>
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**Loan Type:** Credit Card  
**Remarks:** Account closed by credit grantor  
**Estimated date that this item will be removed:** 10/2012

### DELL FINANCIAL SERVICES:

**1 DELL WAY PS2DF-2**  
**ROUND ROCK, TX 78682**  
**(800) 283-2210**

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**Loan Type:** Charge Account  
**Remark:** >Profit and loss writeoff<
Answers:

A. None of them
B. All of them
C. Ocwen and Dell
Rebecca has never heard of the Dell account before. She believes that Richard opened this account to purchase computers for his failed start-up business.

What is the FIRST thing Rebecca should do?
Questions?
Contact Information

Thank you. If you would like to contact us, our information is below:

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