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**MEMORANDUM**

July 13, 2004

To Our Clients and Friends

Re: FACT Act: FTC Summaries of Rights and Notices of Duties

The Fair and Accurate Credit Reporting Act of 2003 (“FACT Act”) amended the Fair Credit Reporting Act (“FCRA”) to expand the rights of consumers in a number of important areas. In conjunction with these changes, the Federal Trade Commission (“FTC”) was directed to prepare model summaries of consumer rights and notices of duties of furnishers of consumer information and users of consumer reports. The FTC is requesting public comment on its proposed model summaries and notices. Comments are due by August 16, 2004.

**SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS**

Section 609(d) of the FCRA, as added by the FACT Act, requires the FTC to issue a model summary of the rights of fraud or identity theft victims under the FCRA. The summary is to be distributed by consumer reporting agencies (“CRAs”) to victims of fraud or identity theft. The FTC’s proposed summary describes the following rights of victims of fraud or identity theft:

- the right to file fraud alerts
- the right to obtain free file disclosures
- the right to block reporting of information resulting from identity theft
- the right to prevent furnishers of information to CRAs from reporting information resulting from identity theft
- the right to obtain documents or information that relate to accounts opened or transactions made in the consumer’s name

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### **GENERAL SUMMARY OF CONSUMER RIGHTS**

The FACT Act requires the FTC to revise its model summary of consumer rights. The FTC's proposed model summary is to include an explanation of the consumer's right to obtain a copy of a consumer report from CRAs, including a free copy every 12 months, the consumer's right to obtain credit scores for a fee, and a statement that the consumer has a right to dispute incorrect or outdated information in a consumer report.

In addition, the FCRA continues to require CRAs to notify consumers that they may have additional rights under state law, that the FCRA does not require CRAs to remove current, accurate derogatory information from a consumer's files, unless it is unverifiable. CRAs must also provide a list of the Federal agencies responsible for enforcing the FCRA and contact information. This information is included in the FTC's proposed model summary.

### **NOTICES OF DUTIES OF FURNISHERS AND USERS OF INFORMATION**

The FACT Act amended the FCRA to impose new duties on parties who furnish information to CRAs and on users of consumer reports. New furnisher duties include:

- requirements for compliance with accuracy guidelines to be issued by the FTC and other regulatory agencies
- procedures to be followed to assist in preventing and correcting identity theft
- procedures relating to the furnishing of negative information and medical information.

The FCRA imposes new obligations on those who use consumer reports for employment purposes and on users of medical information contained in consumer reports. The notices also discuss the duties of resellers of consumer reports and procedures to protect against identity theft.

### **DISTRIBUTION OF SUMMARIES AND NOTICES**

The FCRA requires CRAs to distribute the summary of identity theft victims' rights to consumers who contact the CRA to report fraud or identity theft. The summary of consumer rights is to be distributed when a CRA makes a written file disclosure. CRAs are to distribute the furnisher and user notices on a one-time basis to users of consumer reports and furnishers of consumer information.

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The proposed summaries and notices can be found at  
[http://www.schwartzandballen.com/whats\\_new.html](http://www.schwartzandballen.com/whats_new.html).

If you have any questions, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.