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MEMORANDUM

November 22, 2004

To Our Clients and Friends

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

The Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”) amends the Fair Credit Reporting Act (“FCRA”) to expand the rights of consumers in certain areas. The FACT Act also directed the Federal Trade Commission (“FTC”) to issue summaries of the rights of identity theft victims, rights of consumers and notices of duties of furnishers of consumer information to consumer reporting agencies (“CRAs”) and duties of users of consumer reports. The FTC has now finalized the summaries and notices required under the FACT Act. The summaries and notices will become effective 60 days after the rule is published in the Federal Register.¹

SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS

The FTC summary of the rights of fraud or identity theft victims is to be distributed by consumer reporting agencies to consumers who believe they may be victims of fraud or identity theft when the fraud or identity theft is reported to CRAs. The summary includes 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 obtain information relating to fraudulent transactions made or accounts opened in the consumer’s name
- the right to block the reporting of information resulting from identity theft

¹ A copy of the proposed rule and memorandum on the proposed summaries and notices may be found on our web site at <http://www.schwartzandballen.com/factact.html>.

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- the right to prevent furnishers of information to CRAs from reporting information resulting from identity theft

GENERAL SUMMARY OF CONSUMER RIGHTS

The FTC revised general summary of consumer rights includes an explanation of the consumer's right to obtain file disclosures from CRAs, including one free disclosure 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 incomplete or inaccurate information in a consumer report. CRAs are required to distribute the FTC summary or a substantially similar summary to consumers when files are disclosed to consumers.

NOTICES OF DUTIES OF FURNISHERS AND USERS OF INFORMATION

The FACT Act imposes new duties on parties who furnish information to CRAs and on users of consumer reports. The FTC has amended the notice of furnisher duties to include:

- compliance with accuracy guidelines to be issued by the FTC and other regulatory agencies
- prohibitions on reporting inaccurate information and the duty to correct and update inaccurate or incomplete information
- procedures to follow when the accuracy of consumer information is disputed
- procedures relating to the furnishing of negative information and medical information
- procedures to follow to assist in preventing and correcting identity theft

The FTC also revised the notices for users of consumer information for employment purposes and for users of medical information contained in consumer reports. These notices also discuss the duties of resellers of consumer reports and procedures to protect against identity theft.

CRAs are to distribute the furnisher and user notices on a one-time basis to users of consumer reports and furnishers of consumer information. The FTC intends to revise the furnisher and user model notices when additional rules are issued under the FACT Act.

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A copy of the summaries and notices can be found on our web site at 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.