

BakerHostetler

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CONSUMER PROTECTION

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November 2, 2018

VIA OVERNIGHT MAIL

Office of the Attorney General
33 Capitol St
Concord, NH 03301

Re: Incident Notification

Dear Attorney General MacDonald:

On behalf of our client, Five Guys Holdings, Inc. and its subsidiaries (collectively, "Five Guys"), we are writing to notify you of a security incident involving New Hampshire residents.

On August 6, 2018, Five Guys detected suspicious activity related to an employee's corporate e-mail account. Upon first learning of this activity, Five Guys immediately took action to secure the account, initiate an investigation, and engage a leading data forensics firm to assist. The investigation confirmed that a number of emails were viewed by the unauthorized person(s), but was unable to conclusively determine the full extent of information that may have been accessed. Five Guys then engaged additional firms to assist searching the contents of the inbox for data meeting the definition of personal information. This review requires both programmatic search and manual review of the contents of the inbox, and remains ongoing.

The initial findings from the review identified two groups of individuals – employees and vendors – whose personal information was located in an e-mail or attachment contained in the employee's account. For employees, this information may have included name, address, date of birth, tax identification number or Social Security number, hire date, termination date, and 401K contribution information. For vendors, this information may have included name, vendor identification number, address, phone number, and tax identification number.

Today, Five Guys will begin notifying five (5) New Hampshire residents in accordance with N.H. Rev. Stat. Ann. § 359-C:20 in substantially the same form as the attached letter. Five Guys is offering eligible individuals involved a complimentary one-year membership in credit monitoring and identity theft protection services through Experian®, and has provided a phone

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

November 2, 2018

Page 2

number that individuals can contact with questions. If the ongoing investigation determines that additional New Hampshire residents are affected, Five Guys will notify that population once identified.

Five Guys takes the protection of personal information seriously, and it is taking additional measures to help prevent a similar occurrence from happening again. Five Guys is adding further technical safeguards and conducting additional security training for its employees to enhance and strengthen its security processes. Five Guys also engaged in an expedited process to implement multi-factor authentication.

Please do not hesitate to contact me if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Craig A. Hoffman", with a long horizontal flourish extending to the right.

Craig A. Hoffman
Partner

Enclosure

FIVE GUYS®

Return Mail Processing Center
P.O. Box 6336
Portland, OR 97228-6336

<<Mail ID>>
<<Name 1>>
<<Name 2>>
<<Address 1>>
<<Address 2>>
<<Address 3>>
<<Address 4>>
<<Address 5>>
<<City>><<State>><<Zip>>
<<Country>>

<<Date>>

Dear <<Name 1>>:

Five Guys Enterprises, LLC (“Five Guys”) understands the importance of protecting information about its employees and vendors. We are writing to inform you that we recently identified and addressed a security incident that may have involved some of your information. This notice describes the incident, measures we have taken, and some steps you may choose to take.

On August 6, 2018, we learned that an employee may have fallen victim to a phishing email incident that resulted in unauthorized access to the employee’s email account. We immediately secured the email account, conducted an internal investigation, and engaged a leading cyber security firm to assist in the investigation. We then began the extensive process of searching the employee’s inbox to identify the contents, and we determined that the email account contained an email message or attachment that may have included your name, date of birth, Social Security number, address, hire date, termination date, and 401K contribution information.

We wanted to let you know what occurred and offer you a complimentary one-year membership for Experian’s® IdentityWorksSM. This product helps detect the possible misuse of your personal information and provides you with identity protection support. For more information on IdentityWorksSM, including instructions on how to activate your complimentary one-year membership, as well as some additional steps you can take, please see the additional information provided in this letter.

We regret that this occurred and apologize for any inconvenience. To help prevent something like this from happening in the future, we are implementing additional procedures, education and training to further enhance and strengthen our security processes. If you have questions about this matter, please call 888-842-3153, Monday through Friday between 9:00 am and 9:00 pm Eastern Time.

Sincerely,



Sam Chamberlain
Chief Operating Officer

Activate IdentityWorks Credit 3B Now in Three Easy Steps

1. ENROLL by: <<Enrollment Deadline>> (Your code will not work after this date.)
2. VISIT the Experian IdentityWorks website to enroll: www.experianidworks.com/3bcredit
3. PROVIDE the Activation Code: <<Enrollment Code>>

If you have questions about the product, need assistance with identity restoration or would like an alternative to enrolling in Experian IdentityWorks online, please contact Experian's customer care team at **877-288-8057** by <<Enrollment Deadline>>. Be prepared to provide engagement number <<Engagement Number>> as proof of eligibility for the identity restoration services by Experian.

ADDITIONAL DETAILS REGARDING YOUR 12-MONTH EXPERIAN IDENTITYWORKS CREDIT 3B MEMBERSHIP:

A credit card is **not** required for enrollment in Experian IdentityWorks Credit 3B.

You can contact Experian **immediately without needing to enroll in the product** regarding any fraud issues. Identity Restoration specialists are available to help you address credit and non-credit related fraud.

Once you enroll in Experian IdentityWorks, you will have access to the following additional features:

- **Experian credit report at signup:** See what information is associated with your credit file. Daily credit reports are available for online members only.*
- **Credit Monitoring:** Actively monitors Experian, Equifax and Transunion files for indicators of fraud.
- **Identity Restoration:** Identity Restoration specialists are immediately available to help you address credit and non-credit related fraud.
- **Experian IdentityWorks ExtendCARE™:** You receive the same high-level of Identity Restoration support even after your Experian IdentityWorks membership has expired.
- **Up to \$1 Million Identity Theft Insurance**:** Provides coverage for certain costs and unauthorized electronic fund transfers.

If you believe there was fraudulent use of your information and would like to discuss how you may be able to resolve those issues, please reach out to an Experian agent at **877-288-8057**. If, after discussing your situation with an agent, it is determined that Identity Restoration support is needed, then an Experian Identity Restoration agent is available to work with you to investigate and resolve each incident of fraud that occurred (including, as appropriate, helping you with contacting credit grantors to dispute charges and close accounts; assisting you in placing a freeze on your credit file with the three major credit bureaus; and assisting you with contacting government agencies to help restore your identity to its proper condition).

Please note that this Identity Restoration support is available to you for two years from the date of this letter and does not require any action on your part at this time. The Terms and Conditions for this offer are located at www.ExperianIDWorks.com/restoration. You will also find self-help tips and information about identity protection at this site.

* Offline members will be eligible to call for additional reports quarterly after enrolling.

** Identity theft insurance is underwritten by insurance company subsidiaries or affiliates of American International Group, Inc. (AIG). The description herein is a summary and intended for informational purposes only and does not include all terms, conditions and exclusions of the policies described. Please refer to the actual policies for terms, conditions, and exclusions of coverage. Coverage may not be available in all jurisdictions.

MORE INFORMATION ON WAYS TO PROTECT YOURSELF

We remind you to remain vigilant for incidents of fraud or identity theft by reviewing your account statements and free credit reports for any unauthorized activity. You may obtain a copy of your credit report, free of charge, once every 12 months from each of the three nationwide credit reporting companies. To order your annual free credit report, please visit www.annualcreditreport.com or call toll free at 1-877-322-8228. Contact information for the three nationwide credit reporting companies is as follows:

Equifax, PO Box 740241, Atlanta, GA 30374, www.equifax.com, 1-800-685-1111

Experian, PO Box 2002, Allen, TX 75013, www.experian.com, 1-888-397-3742

TransUnion, PO Box 2000, Chester, PA 19016, www.transunion.com, 1-800-916-8800

If you believe you are the victim of identity theft or have reason to believe your personal information has been misused, you should immediately contact the Federal Trade Commission and/or the Attorney General's office in your state. You can obtain information from these sources about steps an individual can take to avoid identity theft as well as information about fraud alerts and security freezes. You should also contact your local law enforcement authorities and file a police report. Obtain a copy of the police report in case you are asked to provide copies to creditors to correct your records. Contact information for the Federal Trade Commission is as follows:

Federal Trade Commission, Consumer Response Center, 600 Pennsylvania Avenue, NW Washington, DC 20580, 1-877-IDTHEFT (438-4338), www.ftc.gov/idtheft

If you are a resident of Connecticut, Maryland, Massachusetts, North Carolina, or Rhode Island, you may contact and obtain information from your state attorney general at:

Connecticut Attorney General's Office, 55 Elm Street, Hartford, CT 06106, 1-860-808-5318, www.ct.gov/ag

Maryland Attorney General's Office, 200 St. Paul Place, Baltimore, MD 21202, www.oag.state.md.us, 1-888-743-0023 (toll free when calling within Maryland) (410) 576-6300 (for calls originating outside Maryland)

Office of the Attorney General, One Ashburton Place, Boston, MA 02108, 1-508-990-8686, www.mass.gov/ago/contact-us.html

North Carolina Attorney General's Office, 9001 Mail Service Center, Raleigh, NC 27699, www.ncdoj.gov, 1-919-716-6400

Rhode Island Attorney General's Office, 150 South Main Street, Providence, RI 02903, www.riag.ri.gov, 401-274-4400

If you are a resident of Massachusetts or Rhode Island, note that pursuant to Massachusetts or Rhode Island law, you have the right to file and obtain a copy of any police report.

Fraud Alerts: There are two types of fraud alerts you can place on your credit report to put your creditors on notice that you may be a victim of fraud—an initial alert and an extended alert. You may ask that an initial fraud alert be placed on your credit report if you suspect you have been, or are about to be, a victim of identity theft. An initial fraud alert stays on your credit report for at least 90 days. You may have an extended alert placed on your credit report if you have already been a victim of identity theft with the appropriate documentary proof. An extended fraud alert stays on your credit report for seven years. You can place a fraud alert on your credit report by contacting any of the three national credit reporting agencies.

Credit Freezes: You may have the right to put a credit freeze, also known as a security freeze, on your credit file, so that no new credit can be opened in your name without the use of a PIN number that is issued to you when you initiate a freeze. A credit freeze is designed to prevent potential credit grantors from accessing your credit report without your consent. If you place a credit freeze, potential creditors and other third parties will not be able to get access to your credit report unless you temporarily lift the freeze. Therefore, using a credit freeze may delay your ability to obtain credit. In addition, you may incur fees to place, lift and/or remove a credit freeze. Credit freeze laws vary from state to state. The cost of placing, temporarily lifting, and removing a credit freeze also varies by state, generally \$5 to \$20 per action at each credit reporting company. Unlike a fraud alert, you must separately place a credit freeze on your credit file at each credit reporting company. Since the instructions for how to establish a credit freeze differ from state to state, please contact the three major credit reporting companies as specified below to find out more information.

To place a security freeze on your credit report, you must send a written request to each of the three major reporting agencies by regular, certified, or overnight mail at the addresses below:

Equifax Security Freeze, PO Box 105788, Atlanta, GA 30348, www.equifax.com
Experian Security Freeze, PO Box 9554, Allen, TX 75013, www.experian.com
TransUnion Security Freeze, PO Box 2000, Chester, PA 19016, www.transunion.com

In order to request a security freeze, you will need to provide the following information:

1. Your full name (including middle initial as well as Jr., Sr., II, III, etc.)
2. Social Security number
3. Date of birth
4. If you have moved in the past five (5) years, provide the addresses where you have lived over the prior five years
5. Proof of current address such as a current utility bill or telephone bill
6. A legible photocopy of a government issued identification card (state driver's license or ID card, military identification, etc.)
7. If you are a victim of identity theft, include a copy of the police report, investigative report, or complaint to a law enforcement agency concerning identity theft

The credit reporting agencies have three (3) business days after receiving your request to place a security freeze on your credit report. The credit bureaus must also send written confirmation to you within five (5) business days and provide you with a unique personal identification number ("PIN") or password or both that can be used by you to authorize the removal or lifting of the security freeze.

To lift the security freeze in order to allow a specific entity or individual access to your credit report, you must call or send a written request to the credit reporting agencies by mail and include proper identification (name, address, and Social Security number) and the PIN number or password provided to you when you placed the security freeze as well as the identity of those entities or individuals you would like to receive your credit report or the specific period of time you want the credit report available. The credit reporting agencies have three (3) business days after receiving your request to lift the security freeze for those identified entities or for the specified period of time.

To remove the security freeze, you must send a written request to each of the three credit bureaus by mail and include proper identification (name, address, and Social Security number) and the PIN number or password provided to you when you placed the security freeze. The credit bureaus have three (3) business days after receiving your request to remove the security freeze.

Fair Credit Reporting Act: You also have rights under the federal Fair Credit Reporting Act, which promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. The FTC has published a list of the primary rights created by the FCRA (<https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>), and that article refers individuals seeking more information to visit www.ftc.gov/credit. The FTC's list of FCRA rights includes:

- You have the right to receive a copy of your credit report. The copy of your report must contain all the information in your file at the time of your request.
- Each of the nationwide credit reporting companies – Equifax, Experian, and TransUnion – is required to provide you with a free copy of your credit report, at your request, once every 12 months.
- You are also entitled to a free report if a company takes adverse action against you, like denying your application for credit, insurance, or employment, and you ask for your report within 60 days of receiving notice of the action. The notice will give you the name, address, and phone number of the credit reporting company. You're also entitled to one free report a year if you're unemployed and plan to look for a job within 60 days; if you're on welfare; or if your report is inaccurate because of fraud, including identity theft.
- You have the right to ask for a credit score.
- You have the right to dispute incomplete or inaccurate information.
- Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.
- Consumer reporting agencies may not report outdated negative information.
- Access to your file is limited. And you must give your consent for reports to be provided to employers.
- You may limit "prescreened" offers of credit and insurance you get based on information in your credit report.
- You may seek damages from violators.
- Identity theft victims and active duty military personnel have additional rights.

FIVE GUYS®

Return Mail Processing Center
P.O. Box 6336
Portland, OR 97228-6336

<<Mail ID>>
<<Name 1>>
<<Name 2>>
<<Address 1>>
<<Address 2>>
<<Address 3>>
<<Address 4>>
<<Address 5>>
<<City>><<State>><<Zip>>
<<Country>>

<<Date>>

Dear <<Name 1>>:

Five Guys Enterprises, LLC ("Five Guys") understands the importance of protecting information about its vendors. We are writing to inform you that we recently identified and addressed a security incident that may have involved some of your information. This notice describes the incident, measures we have taken, and some steps you may choose to take.

On August 6, 2018, we learned that an employee may have fallen victim to a phishing email incident that resulted in unauthorized access to the employee's email account. We immediately secured the email account, conducted an internal investigation, and engaged a leading cyber security firm to assist in the investigation. We then began the extensive process of searching the employee's inbox to identify the contents, and we determined that the inbox contained an email message or attachment that may have included your name, vendor ID, address, phone number, and tax identification number.

We wanted to let you know what occurred and offer you a complimentary one-year membership for Experian's® IdentityWorksSM. This product helps detect the possible misuse of your personal information and provides you with identity protection support. For more information on IdentityWorksSM, including instructions on how to activate your complimentary one-year membership, as well as some additional steps you can take, please see the additional information provided in this letter.

We regret that this occurred and apologize for any inconvenience. To help prevent something like this from happening in the future, we are implementing additional procedures, education and training to further enhance and strengthen our security processes. If you have questions about this matter, please call 888-842-3153, Monday through Friday between 9:00 am and 9:00 pm Eastern Time.

Sincerely,



Sam Chamberlain
Chief Operating Officer

Activate IdentityWorks Credit 3B Now in Three Easy Steps

1. ENROLL by: <<Enrollment Deadline>> (Your code will not work after this date.)
2. VISIT the Experian IdentityWorks website to enroll: www.experianidworks.com/3bcredit
3. PROVIDE the Activation Code: <<Enrollment Code>>

If you have questions about the product, need assistance with identity restoration or would like an alternative to enrolling in Experian IdentityWorks online, please contact Experian's customer care team at **877-288-8057** by <<Enrollment Deadline>>. Be prepared to provide engagement number <<Engagement Number>> as proof of eligibility for the identity restoration services by Experian.

ADDITIONAL DETAILS REGARDING YOUR 12-MONTH EXPERIAN IDENTITYWORKS CREDIT 3B MEMBERSHIP:

A credit card is **not** required for enrollment in Experian IdentityWorks Credit 3B.

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- **Experian credit report at signup:** See what information is associated with your credit file. Daily credit reports are available for online members only.*
- **Credit Monitoring:** Actively monitors Experian, Equifax and Transunion files for indicators of fraud.
- **Identity Restoration:** Identity Restoration specialists are immediately available to help you address credit and non-credit related fraud.
- **Experian IdentityWorks ExtendCARE™:** You receive the same high-level of Identity Restoration support even after your Experian IdentityWorks membership has expired.
- **Up to \$1 Million Identity Theft Insurance**:** Provides coverage for certain costs and unauthorized electronic fund transfers.

If you believe there was fraudulent use of your information and would like to discuss how you may be able to resolve those issues, please reach out to an Experian agent at **877-288-8057**. If, after discussing your situation with an agent, it is determined that Identity Restoration support is needed, then an Experian Identity Restoration agent is available to work with you to investigate and resolve each incident of fraud that occurred (including, as appropriate, helping you with contacting credit grantors to dispute charges and close accounts; assisting you in placing a freeze on your credit file with the three major credit bureaus; and assisting you with contacting government agencies to help restore your identity to its proper condition).

Please note that this Identity Restoration support is available to you for two years from the date of this letter and does not require any action on your part at this time. The Terms and Conditions for this offer are located at www.ExperianIDWorks.com/restoration. You will also find self-help tips and information about identity protection at this site.

* Offline members will be eligible to call for additional reports quarterly after enrolling.

** Identity theft insurance is underwritten by insurance company subsidiaries or affiliates of American International Group, Inc. (AIG). The description herein is a summary and intended for informational purposes only and does not include all terms, conditions and exclusions of the policies described. Please refer to the actual policies for terms, conditions, and exclusions of coverage. Coverage may not be available in all jurisdictions.

MORE INFORMATION ON WAYS TO PROTECT YOURSELF

We remind you to remain vigilant for incidents of fraud or identity theft by reviewing your account statements and free credit reports for any unauthorized activity. You may obtain a copy of your credit report, free of charge, once every 12 months from each of the three nationwide credit reporting companies. To order your annual free credit report, please visit www.annualcreditreport.com or call toll free at 1-877-322-8228. Contact information for the three nationwide credit reporting companies is as follows:

Equifax, PO Box 740241, Atlanta, GA 30374, www.equifax.com, 1-800-685-1111

Experian, PO Box 2002, Allen, TX 75013, www.experian.com, 1-888-397-3742

TransUnion, PO Box 2000, Chester, PA 19016, www.transunion.com, 1-800-916-8800

If you believe you are the victim of identity theft or have reason to believe your personal information has been misused, you should immediately contact the Federal Trade Commission and/or the Attorney General's office in your state. You can obtain information from these sources about steps an individual can take to avoid identity theft as well as information about fraud alerts and security freezes. You should also contact your local law enforcement authorities and file a police report. Obtain a copy of the police report in case you are asked to provide copies to creditors to correct your records. Contact information for the Federal Trade Commission is as follows:

Federal Trade Commission, Consumer Response Center, 600 Pennsylvania Avenue, NW Washington, DC 20580, 1-877-IDTHEFT (438-4338), www.ftc.gov/idtheft

If you are a resident of Connecticut, Maryland, Massachusetts, North Carolina, or Rhode Island, you may contact and obtain information from your state attorney general at:

Connecticut Attorney General's Office, 55 Elm Street, Hartford, CT 06106, 1-860-808-5318, www.ct.gov/ag

Maryland Attorney General's Office, 200 St. Paul Place, Baltimore, MD 21202, www.oag.state.md.us, 1-888-743-0023 (toll free when calling within Maryland) (410) 576-6300 (for calls originating outside Maryland)

Office of the Attorney General, One Ashburton Place, Boston, MA 02108, 1-508-990-8686, www.mass.gov/ago/contact-us.html

North Carolina Attorney General's Office, 9001 Mail Service Center, Raleigh, NC 27699, www.ncdoj.gov, 1-919-716-6400

Rhode Island Attorney General's Office, 150 South Main Street, Providence, RI 02903, www.riag.ri.gov, 401-274-4400

If you are a resident of Massachusetts or Rhode Island, note that pursuant to Massachusetts or Rhode Island law, you have the right to file and obtain a copy of any police report.

Fraud Alerts: There are two types of fraud alerts you can place on your credit report to put your creditors on notice that you may be a victim of fraud—an initial alert and an extended alert. You may ask that an initial fraud alert be placed on your credit report if you suspect you have been, or are about to be, a victim of identity theft. An initial fraud alert stays on your credit report for at least 90 days. You may have an extended alert placed on your credit report if you have already been a victim of identity theft with the appropriate documentary proof. An extended fraud alert stays on your credit report for seven years. You can place a fraud alert on your credit report by contacting any of the three national credit reporting agencies.

Credit Freezes: You may have the right to put a credit freeze, also known as a security freeze, on your credit file, so that no new credit can be opened in your name without the use of a PIN number that is issued to you when you initiate a freeze. A credit freeze is designed to prevent potential credit grantors from accessing your credit report without your consent. If you place a credit freeze, potential creditors and other third parties will not be able to get access to your credit report unless you temporarily lift the freeze. Therefore, using a credit freeze may delay your ability to obtain credit. In addition, you may incur fees to place, lift and/or remove a credit freeze. Credit freeze laws vary from state to state. The cost of placing, temporarily lifting, and removing a credit freeze also varies by state, generally \$5 to \$20 per action at each credit reporting company. Unlike a fraud alert, you must separately place a credit freeze on your credit file at each credit reporting company. Since the instructions for how to establish a credit freeze differ from state to state, please contact the three major credit reporting companies as specified below to find out more information.

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In order to request a security freeze, you will need to provide the following information:

1. Your full name (including middle initial as well as Jr., Sr., II, III, etc.)
2. Social Security number
3. Date of birth
4. If you have moved in the past five (5) years, provide the addresses where you have lived over the prior five years
5. Proof of current address such as a current utility bill or telephone bill
6. A legible photocopy of a government issued identification card (state driver's license or ID card, military identification, etc.)
7. If you are a victim of identity theft, include a copy of the police report, investigative report, or complaint to a law enforcement agency concerning identity theft

The credit reporting agencies have three (3) business days after receiving your request to place a security freeze on your credit report. The credit bureaus must also send written confirmation to you within five (5) business days and provide you with a unique personal identification number ("PIN") or password or both that can be used by you to authorize the removal or lifting of the security freeze.

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To remove the security freeze, you must send a written request to each of the three credit bureaus by mail and include proper identification (name, address, and Social Security number) and the PIN number or password provided to you when you placed the security freeze. The credit bureaus have three (3) business days after receiving your request to remove the security freeze.

Fair Credit Reporting Act: You also have rights under the federal Fair Credit Reporting Act, which promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. The FTC has published a list of the primary rights created by the FCRA (<https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>), and that article refers individuals seeking more information to visit www.ftc.gov/credit. The FTC's list of FCRA rights includes:

- You have the right to receive a copy of your credit report. The copy of your report must contain all the information in your file at the time of your request.
- Each of the nationwide credit reporting companies – Equifax, Experian, and TransUnion – is required to provide you with a free copy of your credit report, at your request, once every 12 months.
- You are also entitled to a free report if a company takes adverse action against you, like denying your application for credit, insurance, or employment, and you ask for your report within 60 days of receiving notice of the action. The notice will give you the name, address, and phone number of the credit reporting company. You're also entitled to one free report a year if you're unemployed and plan to look for a job within 60 days; if you're on welfare; or if your report is inaccurate because of fraud, including identity theft.
- You have the right to ask for a credit score.
- You have the right to dispute incomplete or inaccurate information.
- Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.
- Consumer reporting agencies may not report outdated negative information.
- Access to your file is limited. And you must give your consent for reports to be provided to employers.
- You may limit "prescreened" offers of credit and insurance you get based on information in your credit report.
- You may seek damages from violators.
- Identity theft victims and active duty military personnel have additional rights.