



MULLEN
COUGHLIN_{LLC}
ATTORNEYS AT LAW

RECEIVED

MAY 25 2022

CONSUMER PROTECTION

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426 W. Lancaster Avenue, Suite 200
Devon, PA 19333

May 20, 2022

VIA U.S. MAIL

Consumer Protection Bureau
Office of the New Hampshire Attorney General
33 Capitol Street
Concord, NH 03301

Re: Notice of Data Event

Dear Sir or Madam:

We represent Thesy LLC d/b/a Element Vape (“Element Vape”) located at 10620 Hickson Street, El Monte, CA 91731, and are writing to notify your office of an incident that may affect the security of certain payment card information relating to one (1) New Hampshire resident. The investigation into this matter is ongoing, and this notice will be supplemented with any new significant facts learned subsequent to its submission. By providing this notice, Element Vape does not waive any rights or defenses regarding the applicability of New Hampshire law, the applicability of the New Hampshire data event notification statute, or personal jurisdiction.

Nature of the Data Event

On or about February 13, 2022, Element Vape detected potentially malicious code on its website. Element Vape quickly launched an investigation to determine the nature and scope of the activity, working with industry-leading computer forensics specialists to determine what happened and what information may have been affected. On March 30, 2022, it was confirmed that the malicious code potentially captured credit card information for certain customers. Element Vape subsequently determined on April 28, 2022, that this code could have captured payment card information for customers who made purchases during certain timeframes between February 13, 2022, to March 10, 2022. Element Vape then worked to locate address information for those whose payment card information may have been captured during the time the code was present on its website and just completed that effort.

The information that was potentially captured by the code includes your name, credit card number, expiration date, and security code.

Notice to New Hampshire Resident

On or about May 20, 2022, Element Vape provided written notice of this incident to one (1) New Hampshire resident. Written notice is being provided in substantially the same form as the letter attached here as *Exhibit A*.

Other Steps Taken and To Be Taken

Upon learning of this incident, Element Vape moved quickly to investigate and respond to the incident, assess the security of relevant systems, and notify potentially affected individuals. Element Vape's response included immediate removal of the code from its website, reviewing the transactions conducted during the time the code was present on the website, and reviewing internal systems to identify contact information for purposes of providing notice to potentially affected individuals. As part of its ongoing commitment to the security of information, Element Vape is also reviewing existing policies and procedures to reduce the likelihood of a similar future incident. Further, Element Vape consulted with federal law enforcement regarding the event.

Additionally, Element Vape is providing impacted individuals with guidance on how to better protect against identity theft and fraud, including advising individuals to report any suspected incidents of identity theft or fraud to their credit card company and/or bank. Element Vape is providing individuals with information on how to place a fraud alert and security freeze on one's credit file, the contact details for the national consumer reporting agencies, information on how to obtain a free credit report, a reminder to remain vigilant for incidents of fraud and identity theft by reviewing account statements and monitoring free credit reports, and encouragement to contact the Federal Trade Commission, their state Attorney General, and law enforcement to report attempted or actual identity theft and fraud.

Element Vape is providing written notice of this incident to relevant state regulators, as necessary.

Contact Information

Should you have any questions regarding this notification or other aspects of the data security event, please contact us at (267) 930-4786.

Very truly yours,

Ryan C. Loughlin of
MULLEN COUGHLIN LLC

RCL/mah
Enclosure

NH DEPT OF JUSTICE
MAY 25 2022 AM 11:21

EXHIBIT A



10300 SW Greenburg Rd.
Suite 570
Portland, OR 97223

<<First Name>> <<Last Name>>
<<Address1>> <<Address2>>
<<City>>, <<State>> <<Zip>>

May 20, 2022

NOTICE OF <<SECURITY INCIDENT / DATA BREACH>>

Dear <<First Name>> <<Last Name>>:

Thesy LLC d/b/a Element Vape, (“Element Vape”) writes to inform you of an incident that may affect the security of some of your payment card information. This notice provides information about the incident, our response, and resources available to you to help protect your information from possible misuse, should you feel it necessary to do so.

What Happened? On or about February 13, 2022, Element Vape detected potentially malicious code on its website. We quickly launched an investigation to determine the nature and scope of the activity, working with industry-leading computer forensics specialists to determine what happened and what information may have been affected. On March 30, 2022, it was confirmed that the malicious code potentially captured credit card information for certain customers. We subsequently determined on April 28, 2022 that this code could have captured payment card information for customers who made purchases during certain timeframes between February 13, 2022, to March 10, 2022. We then worked to locate address information for those whose payment card information may have been captured during the time the code was present on our website and just completed that effort.

What Information Was Involved? The information related to you that was potentially captured by the code includes your name, credit card number, expiration date, and security code.

What We Are Doing. We take this incident and the security of personal information in our care seriously. Upon learning of this incident, we moved quickly to investigate and respond to the incident, assess the security of relevant systems, and notify potentially affected individuals. Our response included immediate removal of the code from our website, reviewing the transactions conducted during the time the code was present on the website, and reviewing internal systems to identify contact information for purposes of providing notice to potentially affected individuals. As part of our ongoing commitment to the security of information, we are also reviewing existing policies and procedures to reduce the likelihood of a similar future incident. Element Vape is notifying relevant state and federal regulators.

What You Can Do. We encourage you to remain vigilant against incidents of identity theft and fraud by reviewing your account statements and monitoring your free credit reports for suspicious activity and to detect errors. We encourage you to promptly report any suspicious charges on your payment card statements to the bank that issued your payment card. This number can be found on the back of your payment card. You may also review the information contained in the attached *Steps You Can Take to Help Protect Personal Information*.

For More Information. We understand that you may have questions about this incident that are not addressed in this letter. If you have additional questions, please call our call center at 1-800-939-4170 between 6am-6pm Pacific Time.

We sincerely regret any inconvenience or concern this incident may have caused.

Sincerely,

Kenny Sy
President
Thesy LLC d/b/a Element Vape

STEPS YOU CAN TAKE TO HELP PROTECT PERSONAL INFORMATION

Monitor Your Accounts

Under U.S. law, a consumer is entitled to one free credit report annually from each of the three major credit reporting bureaus, Equifax, Experian, and TransUnion. To order your free credit report, visit www.annualcreditreport.com or call, toll-free, 1-877-322-8228. You may also directly contact the three major credit reporting bureaus listed below to request a free copy of your credit report.

Consumers have the right to place an initial or extended “fraud alert” on a credit file at no cost. An initial fraud alert is a one-year alert that is placed on a consumer’s credit file. Upon seeing a fraud alert display on a consumer’s credit file, a business is required to take steps to verify the consumer’s identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting seven years. Should you wish to place a fraud alert, please contact any one of the three major credit reporting bureaus listed below.

As an alternative to a fraud alert, consumers have the right to place a “credit freeze” on a credit report, which will prohibit a credit bureau from releasing information in the credit report without the consumer’s express authorization. The credit freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a credit freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit. Pursuant to federal law, you cannot be charged to place or lift a credit freeze on your credit report. To request a security freeze, you will need to provide the following information:

1. Full name (including middle initial as well as Jr., Sr., II, III, etc.);
2. Social Security number;
3. Date of birth;
4. Addresses for the prior two to 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, etc.); and
7. A copy of either the police report, investigative report, or complaint to a law enforcement agency concerning identity theft if you are a victim of identity theft.

Should you wish to place a credit freeze, please contact the three major credit reporting bureaus listed below:

Equifax	Experian	TransUnion
https://www.equifax.com/personal/credit-report-services/	https://www.experian.com/help/	https://www.transunion.com/credit-help
1-888-298-0045	1-888-397-3742	1-833-395-6938
Equifax Fraud Alert, P.O. Box 105069 Atlanta, GA 30348-5069	Experian Fraud Alert, P.O. Box 9554, Allen, TX 75013	TransUnion Fraud Alert, P.O. Box 2000, Chester, PA 19016
Equifax Credit Freeze, P.O. Box 105788 Atlanta, GA 30348-5788	Experian Credit Freeze, P.O. Box 9554, Allen, TX 75013	TransUnion Credit Freeze, P.O. Box 160, Woodlyn, PA 19094

Additional Information

You may further educate yourself regarding identity theft, fraud alerts, credit freezes, and the steps you can take to protect your personal information by contacting the consumer reporting bureaus, the Federal Trade Commission, or your state Attorney General. The Federal Trade Commission may be reached at: 600 Pennsylvania Avenue NW, Washington, DC 20580; www.identitytheft.gov; 1-877-ID-THEFT (1-877-438-4338); and TTY: 1-866-653-4261. The Federal Trade Commission also encourages those who discover that their information has been misused to file a complaint with them. You can obtain further information on how to file such a complaint by way of the contact information listed above. You have the right to file a police report if you ever experience identity theft or fraud. Please note that in order to file a report

with law enforcement for identity theft, you will likely need to provide some proof that you have been a victim. Instances of known or suspected identity theft should also be reported to law enforcement and your state Attorney General. This notice has not been delayed by law enforcement.

For District of Columbia residents, the District of Columbia Attorney General may be contacted at: 400 6th Street, NW, Washington, DC 20001; 202-727-3400; and oag@dc.gov.

For Maryland residents, the Maryland Attorney General may be contacted at: 200 St. Paul Place, 16th Floor, Baltimore, MD 21202; 1-410-528-8662 or 1-888-743-0023; and www.oag.state.md.us. Element Vape is located at 10620 Hickson Street, El Monte, CA 91731.

For New Mexico residents, you have rights pursuant to the Fair Credit Reporting Act, such as the right to be told if information in your credit file has been used against you, the right to know what is in your credit file, the right to ask for your credit score, and the right to dispute incomplete or inaccurate information. Further, pursuant to the Fair Credit Reporting Act, the consumer reporting bureaus must correct or delete inaccurate, incomplete, or unverifiable information; consumer reporting agencies may not report outdated negative information; access to your file is limited; you must give your consent for credit reports to be provided to employers; you may limit "prescreened" offers of credit and insurance you get based on information in your credit report; and you may seek damages from violator. You may have additional rights under the Fair Credit Reporting Act not summarized here. Identity theft victims and active duty military personnel have specific additional rights pursuant to the Fair Credit Reporting Act. We encourage you to review your rights pursuant to the Fair Credit Reporting Act by visiting www.consumerfinance.gov/f/201504_cfpb_summary_your-rights-under-fcra.pdf, or by writing Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.

For New York residents, the New York Attorney General may be contacted at: Office of the Attorney General, The Capitol, Albany, NY 12224-0341; 1-800-771-7755; or <https://ag.ny.gov/>.

For North Carolina residents, the North Carolina Attorney General may be contacted at: 9001 Mail Service Center, Raleigh, NC 27699-9001; 1-877-566-7226 or 1-919-716-6000; and www.ncdoj.gov.

For Rhode Island residents, the Rhode Island Attorney General may be reached at: 150 South Main Street, Providence, RI 02903; www.riag.ri.gov; and 1-401-274-4400. Under Rhode Island law, you have the right to obtain any police report filed in regard to this incident. There are two (2) Rhode Island residents impacted by this incident.

