

IDENTITY THEFT

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Identity theft is one of the most prolific crimes in the United States today, and it is growing exponentially each year. When individuals misuse identity information in a bankruptcy, there are several ways to fashion an appropriate remedy, depending on the problem.

1. Background

The Social Security Act was enacted in 1935 for the purpose of tracking annual earnings of employed individuals through use of a unique numerical identifier (Social Security Numbers). Social Security Numbers (SSN's) have evolved into identification numbers for such matters as enrolling in school, becoming a licensed driver, opening a bank account, applying for a loan or other financial assistance, obtaining insurance, and receiving medical care.

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In his statement for the record in the hearing on Social Security Number Misuse conducted on May 9, 2000, by the United States House of Representatives Committee of Ways and Means (Social Security Subcommittee), James G. Huse, Inspector General of the Social Security Administration (SSA), reported that,

...the introduction of the SSN into the stream of electronic commerce has been accompanied by a dramatic rise in SSN misuse. There is no end to the creativity and ingenuity employed by those with fraudulent intent. Our office is acutely aware of this problem due to the large number of SSN misuse allegations received by our Fraud Hotline and by the increasing number of requests for constituent assistance that we receive from Congressional offices. In FY 1999, our Fraud Hotline processed over 75,000 allegations. Over 80 percent of the allegations and referrals made to our office involve the misuse of an SSN....In the future, we expect this number to escalate as we begin to process investigative referrals from the Federal Trade Commission (FTC), which was designated as the federal clearinghouse for identity theft complaints in the Identity Theft and Assumption Deterrence Act of 1998 (Identity Theft Act). Once the public is fully aware of the FTC's

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new role, we expect a considerable increase in the number of referrals of SSN misuse each month. ...

SSNs consist of nine numbers.² The first three digits represent the state of residence where the card was issued; the middle two numbers have no particular significance; and the last four digits are used for numeric sequencing. A person has only one social security number. Only in rare circumstances does the SSA issue an additional number (although some debtors do list on their petitions all the social security numbers they have used, some of which are not theirs).

The SSA currently issues three types of cards:

1. Standard Card: Issued to most people; is used for employment without restriction.
2. Restricted Use Card: Contains the language “Not Valid for Employment.”
3. Restricted Use Card Involving the INS: Contains the language “Valid for Work Only with INS Authorization.”

2. Bankruptcy issues in identify theft

Some of the reasons that individuals misuse identity information in bankruptcy are to delay a foreclosure proceeding, delay an eviction, conceal their

true credit record, or to further a scheme to defraud. Such individuals may also “dump” property into a pending bankruptcy, thereby making unauthorized use of an innocent debtor’s identity and “borrowing” the automatic stay. Using these techniques, individuals may achieve their goals of delay while not harming their own credit records.

Proof of identity and the SSN are examined carefully at the § 341 meeting for each individual debtor. Case trustees often detect the use of false SSNs and misuse of identity by doing the following:

1. Requiring debtors to provide an original Social Security card and government issued photo identity card, or other acceptable proof of identity, at the section 341(a) meeting.
2. Inspecting the physical characteristics of the social security card.
 - a. The top and left edges of a legitimate card are ridged.
 - b. Colored dots, either pink, blue, or yellow, are part of the paper.
 - c. The name and social security number are typed, while the rest of the lettering is done with Intaglio print, which gives a slightly rough feel to the lettering.

² See section 4 for a more detailed discussion on ways to identify false Social Security numbers.

d. Observing obvious falsifications such as erasures, white out, misaligned lettering, different size or type of font, different shades of darkness for the lettering.

3. Inspecting Social Security cards for invalid numbers.

a. Asking the debtor where the card was issued and checking the first three digits of the social security number against the SSA's state prefix listing (which is available at www.ssa.gov.)

b. All zeros in any of the three sections of the number indicate an invalid number.

c. SSNs are not issued containing the 800 or 900 series of numbers in the first three digits.

d. The 700 series of numbers were only issued to railroad workers through 1963.

4. Inspecting a government-issued photo identity card.

a. Matching the name on the card to the name on the petition.

b. Looking for obvious signs of alteration or tampering.

c. Ensuring it is issued by an appropriate governmental agency.

d. Comparing the photo to the debtor's physical appearance.

e. Comparing the signatures on the identity card (and the Social Security card) to the petition.

When questions arise as to the validity of the identity or the SSN of a debtor, verification from a secondary source will be obtained. The SSA will verify that a specific number was issued to a specifically named individual. In order to get the highest probability of a match, it is important to be able to provide a full name and a date of birth. The SSA will indicate whether the number has ever been issued; whether a number matches a person's name (not who actually is assigned the number); and whether the person to whom it was issued is still alive.

While suspected identity misuse comes to the attention of the United States Trustee from the case trustee through verification of the SSN, the issue is also often raised by a victim contacting a United States Trustee office reporting that his SSN or name has been used in a bankruptcy that he did not file. Occasionally, leads on identity misuse will also come from law enforcement, or a name or SSN alteration will be uncovered in a multiple filer investigation.

Initially, all information available about the involved bankruptcy case(s) will be gathered, including the docket, a copy of the petition, schedules, and statement of financial affairs. Sometimes a review of proofs of claim and any relief from stay motions filed in the case provides additional useful information.

If the bankruptcy case clearly does not relate to the victim (different name, address, work information, etc.), it is likely that the individual has been victimized. A copy of the victim's original Social Security card and driver's license will be

obtained and examined. The SSA will be contacted to check both the debtor's name and the victim's name (and date of birth) against the SSN. Assuming the SSA confirms that the number is assigned to the victim, a declaration is prepared for the victim which states the victim holds the number used in the bankruptcy, that the victim is not the debtor and has never been known by that name, and that the signature on the petition is not the victim's signature. With the declaration and a certified report from the SSA, a motion will be filed to either strike the SSN and make a finding that the holder of the number did not file the bankruptcy, or to expunge the SSN from the record.

One additional step that may be taken to determine a debtor's true SSN, or whether the "incorrect" SSN is a simple typographical error or a misuse of the SSN, is to conduct a search on a publically available data base such as LEXIS/NEXIS. Creditors may also be contacted to determine if the SSN on the petition matches the SSN on the debtor's credit application. If the debtor is located, she will be questioned at the 341 meeting or a Rule 2004 examination will be conducted.

The misuse of a SSN may lead to a referral to the United States Attorney for criminal prosecution. The Identity Theft and Assumption Deterrence Act of 1998 makes it a federal crime when a person "knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to

commit, or to aid or abet, any unlawful activity that constitutes a violation of federal law, or that constitutes a felony under any applicable state or local law.” Under the Act, a name or a Social Security Number is considered a means of identification. So is a credit card number or any other piece of information that may be used alone or in conjunction with other information to identify a specific individual.

3. Useful information for victims of identity theft

The Federal Trade Commission’s **Identity Theft Hotline** may be reached by telephone at **1-877-IDTHEFT (438-4338)**; TDD at 202-326-2502; by mail at Identity Theft Clearinghouse, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580; or online at www.consumer.gov/idtheft.

Contact information for the three credit reporting agencies:

EXPERIAN
PROFILE MAINTENANCE
P. O. BOX 9558
ALLEN, TEXAS 75013

TRANS UNION CORPORATION
ATTN: PUBLIC RECORDS DEPT.
555 WEST ADAMS STREET
CHICAGO, IL 60661

EQUIFAX
P. O. BOX 144717
ORLANDO, FL 32814

4. Tips in identifying false SSNs

All social security numbers are arranged in a nine-digit sequence divided into three parts: three numbers, two numbers, and four numbers.

1. Geographic Identifiers. The first three digits identify the geographic location in which the social security number was obtained. For example, the State of Iowa has the area designators 478 - 485.

2. Group Designators. The next two digits of the Social Security Number are the grouping numbers. The odd group of 01 - 09 are issued first and then the even groups of 02 - 10.

3. Numeric Series. The last four digits of the Social Security Number are issued in a straight numerical series in each geographic location from 0001 - 9999.

4. Railroad Workers Series. The 700 area number series were issued only to railroad workers through 1963.

5. Unissued Numbers. The 800 and 900 area numbers have never been issued.

There are certain key signs that can identify a subject social security card as either legitimate or fraudulent.

1. Unissued Numbers. No Social Security Number has ever been issued with a series of straight 0000 in the last four digits or a series of 00 as the middle two digits.

2. Micro-Printing. The signature line of a legitimate card contains engraved micro-printing above the word signature. The micro-printing reads "SOCIAL SECURITY ADMINISTRATION" in all capitals.

3. Fluorescence. Although not practical to check in a real world setting, with a legitimate card the social security administration seal glows florescent under black light.

4. Perforations. On a legitimate card, the top and left edges are perforated or ridged. All perforations are eight (8) to the inch and the legitimacy of the card can be verified by counting the number of tips per inch in any perforated area.

5. Color Planchettes. A legitimate card uses one of three color planchettes (colored dots) as part of the paper. They are put into the paper when printed and come in yellow, pink, or blue.

6. Intaglia Print. On a legitimate card, the social security number and the name are in typed while the rest of the card is done in intaglia print. Intaglia print

gives a legitimate card a tactile or abrasiveness that can be felt by rubbing your finger over the card.

7. Sequential Control Number. On the rear of a legitimate card there is a sequential control number. The control number is a combination of alpha and numeric that bears no relation to the actual. social security number on the card. However, the computer records of the Social Security Administration should show a correlation between the control number and the social security number and name on the card.

8. False Card Identifiers. To identify a false card, look for the following:

- A. Erasures (erasures should be obvious because the marbled blue print used on a legitimate card is an erasable tint that will show any attempts of fraudulent alteration.);
- B. Whiteouts;
- C. Alterations;
- D. Poor type writing or strike-overs;
- E. Faulty printing such as smudged or uneven lines;
- F. Impossible numbers or numbers that have not yet been issued such as 800 or 900 numbers; or,
- G. "Pocketbook" numbers (see below).

Beginning in 1938, wallets and pocket books came with a sample social security card. Some people who got one of these cards in a purchased wallet assumed the number was the one assigned to them.

The number 078-05-1120 was the first of the numbers used as "pocketbook numbers." There are now 20 different "pocketbook" numbers. The following are the most common pocketbook social security numbers:

022-2871852	141-18-6941	212-09-7694
042-10-3580	165-16-7999	219-09-9999
062-36-0749	165-18-7999	306-30-2348
078-05-1120	165-20-7999	308-12-5070
095-07-3645	165-22-7999	468-28-8779
128-03-6045	165-24-7999	549-24-1889
135-01-6629	189-09-2294	987-654320