

TOP TIPS ON HOW TO HANDLE IDENTITY THEFT

I have handled FCRA cases for thirty years now. Fair Credit Reporting Act 15 USC 1681

After years of seeing how this hurts people and in some cases, how it could have been prevented, here are my top tips to help manage ID Theft.

Sorry, but this is gonna suck and you better suck it up.

TWO BONUS TIPS AT THE END

My Story: I'm Brian Parker

Tip #1: My Worst. Suck it up and prepare to lose time and money. Not being a jerk, but here is why I say this. You have been screwed and the stuff rolls down hill on the unrepresented and naïve victim.

So, from here on out, expect disappointment and rage and brick walls and doors hitting you in the face.

Top Tip #2: CHRONOLOGIZE YOUR RESPONSE

Put together all the dates of false trade lines, when debts were opened up or debt collectors started calling you for the debts and then trace your steps back 6 months from the first or average debt. See if you were out of the country, your wallet or cards went missing, friend or relative was visiting and now you don't hear from that person. Stuff adds up. Did you start or end a new job where there is usually personal information given to the employer or HR.

Now the sad truth: Most ID Theft is from relatives or good friends.

Top Tip #3: Report to the Police as soon as possible. Get Police Report.

As in Top Tip #1, expect disappointment and rage and brick walls and doors hitting you in the face. Why? The police or state authorities will automatically tell you it is a Civil Matter and to contact an attorney as they have burglaries, robberies and murders to worry about.

Today, identity theft charges are more severe than ever in Michigan. The state's **Identity Theft Protection Act** enforces strengthened legal protections against this crime, making identity theft a felony.

445.69 Certain violations as felony; penalty; consecutive sentences; defense in civil action or criminal prosecution; burden of proof; exception.

Sec. 9.

(1) Subject to subsection (6), a person who violates section 5 or 7 is guilty of a felony punishable as follows:

(a) Except as otherwise provided in subdivisions (b) and (c), by imprisonment for not more than 5 years or a fine of not more than \$25,000.00, or both.

(b) If the violation is a second violation of section 5 or 7, by imprisonment for not more than 10 years or a fine of not more than \$50,000.00, or both.

(c) If the violation is a third or subsequent violation of section 5 or 7, by imprisonment for not more than 15 years or a fine of not more than \$75,000.00, or both.

Under Florida Statute 817.568(2), a conviction for fraudulent use of personal identification information is a third-degree felony, punishable by up to five years in prison and a \$5,000 fine.

Take this information with you to the police station. Then remind them how serious this is. Look at your state statute in your state.

Penalties for violating Federal Law range from 5 to 30 years in prison, depending on the seriousness of the crime.

So, report it to the cops.

Tip #5: Another Suck up Rule.

You are going to have to turn Aunt Ginny or Brother Steve into the cops. There is no amount of money that I have got for my clients over the years that can ever compensate the amount of grief and damage that is done by ID Thefts. If you don't make the criminal pay, they will do it to others. **Also, work place ID Theft is a real thing.**

Tip #6 Another Suck up. Save all your records from hereon in. Proving your dispute under the FCRA and with the Court. Why should you have to prove everything when you did nothing wrong. Cause if you don't, it will only get worse. Keep a paper trail, register by mail.

You will face a lot of questions from courts, attorneys, even the police about your role in creating the mess you are going through.

Try to imagine every angle to the thing and how you are culpable in some way and then have proof to show you are not in error or responsible.

Tip #7: Send a validation letter to every collector contacting you about the debts. It is a huge and free discovery device that again adds to your chronology of how this all started. Also, good proof and documentation for an eventual FDCPA case.

Tip #8: All income is reported to the IRS. You are eventually going to get a lot of this stuff taken care of and debts in your name will start disappearing. This could lead to another problem. The IRS will see you have debts waived, will consider it cash or income and want their piece. I would write to the IRS every time a debt in your name is cleared explaining specifically why the income is not yours. It's a bit of an unusual thing to advise but communication is always a good thing, and it

is better to take this thing on proactively than at the other end of having to explain things to the IRS after the machine has started against you.

Tip #9: Dispute Letters to the Credit Reporting Agencies and Furnishers:

This is Credit Clean up 101. Keep a paper trail, register by mail. Be very specific in your letters with support of the police report, case dismissals and copies of ID. That letter you sent to the IRS-use it. Adds to your credibility. Podcast +

Tip #10: Your own Affidavit. Create and Affidavit stating that you do not owe the debt you are being pursued for. Make sure it is notarized. Send with your dispute letters to the Credit Bureaus.

Bonus Tip: Damages. Every cent, expense of your time, travel, meetings, payments to attorneys, costs of mailings, copies and all other time and money expenditures should be documented. Why? Because the Federal Courts are dismissing cases if there are no damages incurred as a result of a violation of a Federal Consumer law-generally. This should be an Affidavit Form too.

Bonus Tip: If you are being sued on debts that are not yours, get a hold of the pleadings in each court. Personal Identifying Information in Court Filings:

Personal Identifying Information (PII)? MCR 1.109(D)(9)(a) provides that protected personal identifying information “shall not be included in any public document or attachment filed with the court . . . except as provided by these rules[.]” What information is considered “protected” PII? MCR 1.109(D)(9)(a) provides that the following PII is protected: i. Date of birth, ii. Social security number or national identification number, iii. Driver’s license number or state-issued personal identification card number, iv. Passport number, and v. Financial account numbers. Redact, redact, redact.

Bonus Tip: Weirdly, some ID Theft criminals are close by watching you. They may have accounts and going to your mail box that they collect and make payments on the debt to keep the ruse going. So, are you in a location close with others like shared mailboxes or apartment complexes. Does the one person seem to always be around. Watch the watchers.

Bonus Tip. In some states there is good case law that states that if you dispute the debt and the debt collector dumps the debt back on the original creditor the company servicing the debt for, they must advise the new collector of the dispute-the debt must travel with the debt. A big burden for Debt collector to do as their machine is rarely properly set up to incorporate this into their mechanism.

So, make sure your Validation letter emphasizes disputing the debt and asks, do you have the right person to incorporate you attempt be a couple of steps ahead if the case goes to court. The work you do now makes it easier down the road.

Now, I don't want to be a Debbie Downer with all this but the long and the short of this is forewarned, forearmed.

Remember, first the bad guy victimizes you, then the banks and credit companies victimize you, then the courts victimize you and then the attorneys.