

**TESTIMONY OF  
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**Subcommittee on Financial Institutions and Consumer Credit  
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**Containing:     Testimony and Addendum = 11 pages  
                  Exhibits #1-18 (total exhibits = 36 pages)**

My name is Stephen Strachan and I am a small business owner residing in York, PA. Thank you for this opportunity to air experiences, grievances, and suggestions for inclusion to future amendments to the Truth in Lending and Fair Credit Reporting Acts. I have been importing fresh flowers for over 27 years, acting as importer, broker, and wholesaler. The international nature of my business has required a considerable amount of travel along with a comprehensive knowledge and working understanding of banking, finance and general procedures relevant to international trading in perishable commodities. I have supplied a brief CV along with written testimony for your review. As a small business owner, my businesses, clients, family and I were severely impacted by dubious practices that are now loosely and vaguely refer to as "Risk-Based-Pricing", "Credit Scoring" and "Universal Default", and addressed in HR5244. My testimony is representative of similar experiences befallen and continuing to plague small business credit card holders. During the period in which I experienced the lion's share of lender abuse, I was the U.S. partner with three Australian joint ventures in CA during a 9-year tenure as an Australian Trade representative (AUSTRADE), a partner and principal in a wholesale floral distributor in NY, and operated my business in CA importing and distributing fresh floral products and commodities. It was during this time that I was forced to cut back medical benefits, reduce hiring, and eventually shut down businesses due to predatory abuses suffered at the hands of some lenders that effectively left me with an insufficient access to working capital. Throughout my career, traditional financing for my flower businesses has been elusive due to the Perishables nature. Personal credit limits totaled over \$500,000, and low-APR promotional offers are still received regularly. I continue to maintain a high FICO score (782). Deficits were met by utilization of my credit as loans to my business as required, at affordable rates literally unobtainable otherwise. I had no reason to foresee the abuses that I came to experience.

Over a 4-year period from 2001-2004, I had over 140 payable vendors to whom checks and wires were sent regularly. My experiences with one vendor, Bank One/Chase, represents the sum total of credit issues that I wrestled with then and must still deal with today. Repeated consecutive occasions saw Chase Bank "computer updates" delete part of my mailing address after moving offices and notifying Chase. At first, statements arrived as normal. I was then told by a Chase "Supervisor" that they were not required to send out statements. In another case, another Chase account was even overpaid many years early after consecutive multiple APR increases, all the while receiving 3.99% "Life of Loan" offers on the same account. I was unable to confirm a final payoff amount and overpaid the balance by over \$700. A Chase supervisor's comments resulted in my most favored card account being closed, only to reopen ~16 months later, all the while offering me 3.99% on my \$70,600 "closed" line. Four credit card accounts with Chase saw APR increases to as high as 30% on existing balances. Litigation was the only recourse left to me in order to recover excess finance charges. Payments to Chase have been posted weeks late, and in some cases, not at all. At other times, Chase credit limits were continually adjusted downward following my balances. When a finance charge was added, I was then pushed me over the artificial limit generating yet another fee and rate hike. On yet another instance, a senior Chase supervisor combined multiple accounts but dropped the total credit limit, creating an appearance of much higher but artificially-inflated "Debt-to-Credit ratio" hence lowering my FICO score and leading to higher APRs again. The events surrounding my Chase credit card accounts are unparalleled with 139 other vendors. The only consistency that I expect has now become punishment for following the rules. I was naive in thinking that the lenders would do the same. Regularity of monthly rate increases became the norm. Lenders have shown themselves to be negligent in adequately disclosing such a treacherous predisposition, and must be held accountable to strong, meaningful legislation. The effects of my experiences resulted in the disruption of small business employment and personal sacrifice that still impacts me and mine daily. I offer a further detail of negligent abuse and an explanation of what happened in the following pages of testimony.

My contention is that the marketing, acceptance, granting, and subsequent usage of credit has created a situation in which lenders satisfy their shareholders at the expense of American stability. Responsible borrowers, in choosing and using *seemingly* generous credit card offers, get stuck between a proverbial "rock and a hard place". A choice between usurious 200-500% increases in APR or election of total account closure is extortive and detrimental. Either choice negatively impacts a Cardholder's credit score, predominantly expressed as a "Debt-to-Credit Ratio". A higher "Debt-to-Credit Ratio" then triggers "Universal Default". Contrary to TILA, consumers can no longer make an educated, free choice as to which bank or what terms to accept. Inaccurate and omitted CBR data gleaned from the lenders themselves serve to further fuel an already caustic situation. Fundamental freedoms of choice in lender, terms, and repayment are a constantly shifting morass of opaque algorithms (I question whether or not even Dr. Stephen Hawking could navigate these murky proprietary waters!) Lenders' powers to flagrantly abuse the system is neither disclosed in the "Schumer Box", nor subject to a free-market ethical influence as intended in TILA, FCRA, and FDCPA.

Major credit card lenders have adopted *virtually identical* language in the Arbitration Clauses of their Cardholder Agreements. It has thus become *impossible* for most American consumers to pursue redress or relief through court (CA being the exception). It is difficult to challenge the Arbitration Clause now that I reside in PA when confronted with expenses of extended litigation. The opportunity to shed some light on such predatory practices in this and other venues promises to have a more widely-distributed and profound effect on the issue. As proven, it is not necessary to violate any logical or commonly accepted definitions of "default" in order to be placed in "Universal default", but only to use the credit available (thus already earned, assigned, and granted). An onslaught of "Universal Default" began in the 1990s contemporaneous with unfettered real estate speculation. This funding, in many cases, was made possible through the usage of "easy money" promulgated by low-APR credit offers. Applications of Universal Default are illustrated in the following timeline detailing one account with Chase. Other vendor accounts do not exhibit such predatory penalty during this or any other time.

For example, my initial credit line with another bank was \$50,000 at Prime + 1% (~5% total at the time). I was "rewarded" with two subsequent credit increases to \$54,000. Absent of "defaults", the APR was increased to 20.21% *retroactively*. Responsibly, I "Opted Out" of this 400%+ increase. What accountable adult would do otherwise? My account was closed, instantly raising my "Debt-to-Credit Ratio". Litigation ensued against the bank, part of a vicious cycle shared by U.S. Bank, Bank One, Chase Bank, CitiBank, American Express, and MBNA (Bank of America) following suit. In a short period of time, various lenders unilaterally lowered my available credit lines by ~\$200,000 (~40%) in the wake of an avalanche of "Universal Default". My "Debt-to-Credit Ratio" then had the *appearance* of higher risk due to this *artificially induced* increase. MBNA appreciating my patronage by considering ~\$150,000 of payments not even reflected in my FICO score, and froze my original APR keeping a good customer to this day. However, another account with MBNA does not even appear on my CBR.

Bank One/Chase Bank	"British Airways Visa Signature"	Acct. #xxxx xxxx xxxx 5024
Opened ~08/06/1999	Initial Terms:	Limit \$25,000 APR: 10.90%
~08/99-06/00 1 <sup>st</sup> Revision:	Combined Card Lines	New Limit \$65,000
	Account #3574 (\$40,000) rolled in to Account #5024)	
~06/13/2000 2 <sup>nd</sup> Revision:	Combined Card Lines	New Limit \$90,000
~08/00-11/02	Account #2529 (\$25,000) rolled in to Account #5024	APR: 10.90%
Sep-Oct/2002	Checks not posted by Chase/All replaced with EFTs/bank wires.	
	No checks posted to <u>any</u> Chase accounts #5024/7434/1007. <u>All</u> replaced with EFTs.	
~09/13/2002	3 <sup>rd</sup> Revision: \$1783 Due 10/04/2002	Paid \$1750, Check #6243
~09/18/2002	3a) \$1750/Chk #6243 never posted	Paid \$1783, Check #6251
~10/??/2002	3b) \$1783 Payment #6251 Posted	APR increased to 19.99%
~09/09/2002	3c) \$35 Late Fee Posted	1st Payment 17 days early

~10/07/2002	4th Revision: \$1750 Due 11/02/2002	\$1750 Wired #B11280922
~10/07/2002	4a) \$1750 Wire Payment Posted	APR unchanged at 19.99%
~10/08/2002	4b) \$35 Late Fee Posted	Payment 25 days early
~11/25/2002	5th Revision: \$3524 Due 12/02/2002	Paid \$3524, Check #6356
~11/28/2002	5a) \$3524 Payment Posted	APR unchanged at 19.99%
~04/23/2003	6th Revision: Decrease Line \$70,600	APR increased to 22.99%
~10/??/2003	6a) Line almost exactly at balance	APR variable Prime + 18.74
~06/??/2004	7th Revision: \$4014 Fin. Chg. credit	APR increased to 24.99%
*** Every ~03-31 days:	Low-APR Promo Check: \$70,600 Limit @ 3.99%/Life of Loan.	
~07/??/2004	8th Revision: Account overpaid	~\$719.70 credit balance
~08/16/2004	8a) Paid Off bal. for 3.99% life promo.	Credit balance \$00,000.00
8/04/04-0920	8b) Call to confirm \$69,000 available	"OK after 2 days bill cycle"
~08/04/2004	8c) Refusal to honor Conv. Check	Chase Supervisor level
~08/04/2004	8d) Personal insinuation re payoff	Chase Supervisor level
~08/04/2004	8e) Conv. Checks blamed on Mktg.	Chase Supervisor level
~08/04/2004	9th Revision: Account closed by Chase	Rec. ~\$720 credit refunded
~08/16/2004	10th Revision: \$65 Annual Fee charged	APR increased to 25.24%
~08/04/2004	11th Rev: Unauthorized hard inquiry	Account already closed.
	11a) Negative Experian data wrong	FICO drop due to Inquiry?
	11b) Attempts to remove inaccurate report unsuccessful to date.	
~08/05/2004	12th Revision: Unauthorized inquiry #2	Account was already closed
	12a) Inaccurate Experian data <i>twice</i>	FICO drop due to Inquiry?
~10/??/2004	13th Revision: \$65 Annual Fee refunded	APR increased to 25.49%
~12/??/2005	14th Rev: Rec. new card 16 months later	APR increased to 28.24%
	14a) New card arrival. Improved FICO with now lowered D-C Ratio	
~04/??/2006	15th Revision: Account paid in full	APR increased to 28.74%
~06/??/2006	16th Revision: Account paid in full	APR increased to 28.99%
~07/??/2006	17th Revision: Account paid in full	APR increased to 29.24%
~10/06/2006	18th Revision: Account paid in full	APR decreased to 28.74%
~11/06/2007	19th Revision: Account paid in full	APR decreased to 28.49%
~12/??/2007	Equifax shows account as \$0 credit limit.	Data reporting by Chase?
~01/06/2008	20th Revision: Account paid in full	APR decreased to 28.24%

My highest total credit line was with Chase, applied for and agreed upon at APRs ranging between ~3.99-10.90%. As balances were paid down, Chase lowered my credit limits to points virtually skirting the remaining balances, all the while increasing the APR. I paid off a high balance years early by over \$700 when I was unable to confirm the final payoff amount in response to a 3.99% "Life-of-Loan" offer simultaneous to an APR increase up to ~25%. Obviously, a locked in 3.99% offer and using my overpaid credit balance was preferable to a continually rising APR already running at 25%!

Before depositing that check, I called to confirm my credit balance and was told that the checks would not be honored. I asked, "Why not, you send them to me every month?" (this offer came from Chase every month even during a 16-month period when the account was supposedly closed!) I was told by Chase: "The 'Marketing Department' sends those out". The Chase supervisor asked me "Where did you get the money, from another credit card?" Frankly, I didn't see that question as appropriate, but gave a truthful, courteous reply anyway. After my APR climbed to ~25%, my wife and I used other funds in order to halt further increases. The Chase supervisor made personal insinuations about funds having initiated from my wife's account and summarily closed mine! Two "hard" inquiries were performed by Chase on consecutive days after the account was supposedly closed. Surprisingly, about 16 months later a new card arrived with the same \$70,600 limit, still carrying a high default APR.

A competitive APR with my original credit line is sensible and reasonable, but any decrease of credit limit again would be tantamount to another example of manipulation of my Debt-to-Credit Ratio, as has already been witnessed, and "Universal Default" or "Risk-Based Pricing" types of adjustments are unwarranted. Another Chase account (#8554) witnessed several instances in which Chase "computer glitches" deleted part of my mailing address repeating a consecutive non-receipt of statements. With all other Chase accounts, as soon as any instance of error was discovered, payments were immediate. "Universal Default" was instituted, spreading like a virus to other credit accounts.

Chase #5024 was my favored and most utilized credit card. I made use of its previous \$90,000 limit as it helped me to earn international air travel by rewarding miles. Balances now are paid each month or Advances/Transfers limited to low-APR "Life of Loan"-type products. In ~2002, Chase Bank's "Customer Service Representative" and "Supervisors" recommended combining individual accounts together so as to have more efficient accounting with the equivalent total credit line. I had already experienced an instance in which Chase actually lowered the total credit line instead of combining those individual card limits. The Supervisor promised me such a thing would not happen again. Inevitably, Chase did it again. Numerous subsequent telephone calls to that Supervisor were futile. Previously, Chase had "rolled in" two or more accounts with no problems. In 2002, payments made on three separate Chase accounts never posted and were paid by phone. Those checks were later voided, and have not been presented for payment.

While visiting a client in Sacramento, I was notified that a "Convenience Check" had not been honored by Chase Bank. A few days earlier, while still in CA, more than sufficient credit was available on the account to accommodate the check. A "Credit Decrease" notice had been bulk-mailed out, arriving after the check had been presented. There are instances in which I would like to avail myself of promotional offers but Chase and other lenders have proven themselves to be perfectly capable of "changing the rules in the middle of the game". It is thus difficult to expose myself to these predatory practices again without the assurance of the sanctity and stability of the "rules". As long as I hold up my end of the bargain, I expect the lender to honor theirs. Chase handling of my auto loan has gone much more smoothly than their credit card practices; after my auto loan was approved there was no billing uncertainty. Any issues can be addressed, as was the case with MBNA #0028.

In the case of Chase #7434, I applied in response to a deep discount Dell Computer promotion. I was declined for the card, initially so, the ~\$6000 purchase was the made at the higher price. A short time later, that very card arrived in the mail, along with a \$25,000 credit line far exceeding my original \$6000 purchase request. Chase #8554 saw consecutive "computer updates" resulted in my not having received several statements, drastic APR increases, account closure, and ultimately, applications of Universal Default by almost all of my credit card lenders, regardless of merit for "default". The period surrounding the merger of Bank One with Chase in 2004 seems to have been the period in which the vast majority of my problems with them occurred. Their practices were virtually indistinguishable.

The maneuvering of credit scoring formulas as parameters of risk continually seems to slip under the radar of Congressional and media-driven oversight. Naturally, assignment of a credit limit is well within the bailiwick of the lender. However, unilaterally influencing credit limits and reporting in order to trigger application of "Universal Default" as a tool to raise finance charges is unconscionable, unethical, only serving lenders, thus creating a subsequent windfall of profitable and cascading abusive tactics. Omission of reporting to CBRAs has a similar impact to that of most erroneous data...raising "Debt-to-Credit Ratio". Fair, Isaacs Credit Organization's (FICO) scoring platform remains a "Black Box" and a critically over-weighted mechanism influenced to produce lower scores and create a sense of "increased risk" resulting in higher APRs. Cardholders are presented with a fait accompli due to oft unwarranted "Changes in Terms". Forced choices of "Opting Out" or account closure victimizes Cardholders by utilizing a hammer of Universal Default via the sleight of hand of Credit Scoring.

Banks' unrestrained powers of manipulation merely by lowering credit limits or omitting accounts from reporting are not evident metrics of FICO or other scoring systems, and can not be disputed by the consumer. As long as lending institutions stand to profit from lower credit scores, unilateral and arbitrary applications of Universal Default permit lenders to freely initiate a discretionally capricious exploitation of "Debt-to-Credit Ratio" with no apparent or previously agreed upon rhyme or reason. Some lenders have come to "Shoot first, deny responsibility later". It is necessary for me to have filed a "Consumer Statement" and "Dispute" due to a Chase credit line inaccurately listed on my CBR. Lenders are not accountable to any as yet effective ombudsman since OCC oversight protects corporate interest at the expense of American Cardholders. OCC participation in a landmark action against Provident was not effectuated until an activist prosecutor, in effect, obviated OCC action.

As of April, 2008, my FICO score was ~782, statistically among the very lowest risk tier of credit Cardholders. I have paid a king's ransom due to extortive and usurious finance charges in order to sustain a high score while still honoring other existing commitments. Post 9-11, it was necessary to severely downsize business so as to meet ballooning finance charge payments. Medical insurance benefit reductions, insufficient in addressing the shortfall, hurt employees most in need of coverage. During slower cyclical seasons, reduced cash flow proved inadequate in meeting continually escalating and top priority repayment demands while satisfying other obligations. A distribution and logistics warehouse opened in CA could not be amply capitalized. Hiring cutbacks of drivers and warehouse workers were not enough, and another joint venture in NY was closed due to budgetary constraints. In addition to budget slashing and hiring cutbacks, personal assets were liquidated at fire-sale prices to address compounding finance charges; investments appreciating ~7800% in replacement value 2-3 years later. Downsizing and personal sacrifice were just not enough

I understand a contract to be just that...a legally-binding, mutually agreed-upon and established arrangement. I survived the experience, albeit worse for wear. The "800-pound gorilla" is the relationship that exists between scoring/reporting agencies such as Equifax, Experian, and TransUnion vis-à-vis lenders themselves. Lenders practice carte blanche in influencing proprietarily opaque scoring algorithms. Simply raising, lowering, or omitting credit limits affects the most basic platform of a credit score, the "Debt-to-Credit Ratio". To encapsulate all the credit card ordeals relevant to this testimony and quantify direct and indirect loss in a five minute verbal testimony is difficult, to say the least. I assembled a world-class collection of investment grade vintage guitars. To meet escalating demands of credit card lenders, it became necessary to very prematurely sell this investment in order to address an ever-worsening situation. In 2-3 years, the actual market replacement value of that investment appreciated to over \$2 million but was liquidated for a fraction of its worth.

Over the past several years, credit card lenders have launched marketing campaigns directly targeting small-business owners as "Business Lines of Credit". These ersatz "Business" lines are underwritten by the personal guarantee of the applicant(s), and report to CBRAs by referencing the Social Security Number. The type of entity often not matter. Specific demographics of high school and college-level students are target-marketed in record numbers. Lenders appear to be "priming the pump" for the next round of Universal Default and "potential prey," regardless of "Risk-Based Pricing" or whatever label is used this time around. Waters are muddied by the terms "Business" and Personal" as millions of small, closely held corporations utilize personal credit on a regular and growing basis.

I have operated four small businesses since ~1993. I ultimately ended up relocating my remaining business from CA to PA in ~2004. "Changes in Terms" notices and APR increases kept coming even in the absence of defined "default". Post 9/11, I was assigned ~\$500,000 in credit lines due to strength as a lowest risk borrower. My Accounts Receivable (perishables) were not of a nature conducive to borrowing. As Promotional Offers ended, I paid off balances before the APRs converted and availed myself of other low promotional offers.

All accounts are still monitored regularly so as to preclude any "default". It is that same responsibility that has come to define me as a man. Integrity, professional ethics, and that very sense of honor are what make my testimony here today possible. This usage was then utilized as a basis upon which lenders instituted "Universal Default". I was "fortunate" to have repaid debt early in this process. I do not envy Cardholders more recently affected in light of the current economic climate.

By common definition, "Default" refers to either: 'Missing payments', 'Exceeding a credit limit', or 'Payment not honored by the bank'. However, from ~2002, I experienced up to 400%+ increases of agreed-upon APRs retroactively on existing balances with no regard to bank violations or consideration of responsibilities expected of the lenders. At one point, Chase lowered my limit so close to the balance that a finance charge surpassed the limit. Chase removed fees incurred after several telephone calls but still continued to increase the APR.

Fair, Isaacs Credit Organization (FICO, a closely participating partner of Equifax) has obviously not addressed the issue to date. Tens of millions of Americans have been essentially deceived out of hundreds of billions of dollars. FICO, in lock-step with the lending institutions, bears some responsibility for this meltdown, as well. FICO is very quick to factor in the appearance of a "negative report", whether factual or perceived. However, "Default" works both ways. In the absence of actual default on the consumer's part, lenders are able to essentially default on contractual terms and use FICO as a shield. By the same token, a lender merely omitting the report of entire credit lines can have an even worse effect than simply lowering it. "Correcting the record" is an exercise in futility.

Throughout this entire experience I have witnessed massive swings in my FICO score. My CBR clearly shows no late payments, no bad checks, or exceeding of credit limits. We have twin 15-year old girls, both Honors students in high school. Due to the fact that I'm still digging myself out of debt, the onus of mortgage, groceries, college tuitions, etc. are on Sherry's full-time employment. Keeping vendors satisfactorily paid and making ends meet in business makes retirement look to be a very remote possibility at this juncture.

Recently, some lenders have indicated suspension of "Universal Default" as has been so widely utilized over the past decade or so, in favor of "Risk-Based Pricing". I submit to you that the current economic crises we now find ourselves in have their roots in the lending institutions' exploitive victimization on the heels of very successful marketing campaigns. They have done immeasurable damage. Credit was made available with certain terms, and summarily violated, often at the behest of the lenders themselves. As long as a situation exists in which financial lending institutions benefit from lower FICO scores (along with dubious OCC oversight), financial damage has been, and will continue to be, heaped upon responsible Americans. Lenders that have taken advantage of lax TILA and FCRA enforcement must be held accountable for the depth of economic damage and financial hardship that we all now endure. Punitive reparation for unethical practices and oversight to prevent future recurrence are long overdue. Reasonable expectations of "Due Process" as inferred under both the 5<sup>th</sup> and 14<sup>th</sup> Amendments are not secure in light of the denial of legal redress as stated in the Arbitration Clause. Due Process must be restored.

It now appears that small business owners are regular prey of credit card lenders. However, heaven forbid that these businesses actually use credit they've earned! Lacking pro-consumer oversight, this "domino effect" promises to continue unabated. FICO's role is not to be understated, and the time for reparation, recompense, and accountability has come. Bank of America is reportedly in another round of "Universal Default", albeit under another label. Such hardship contributes greatly to the further degradation of the American family's unity and hopes. Mortgage meltdown threatens to be paled by credit card "default" in comparison, and is likely to be an indirect result of this rampant opportunism already. TILA, FCRA, and FDCPA are clearly well overdue for update and amendment.

Basic tenets of HR5244 are cogent. In support, please consider the fact that CBRA-scoring firms and their heavily-weighted effect on lending policies and terms may emerge unscathed in the sense that their own reports reflect recondite, omitted, and highly dubious, data supplied by their corporate clients themselves. Opaque algorithmic formulas used by FICO and others do not necessarily address key points, several of which reflect salient indicators of the consumer's credit card use, payment patterns, and probity, such as:

1) Credit Limit Adjustment Relevant to "Debt to Credit Ratio":

The power to lower a Cardholder's credit limit rests solely with the lender in exactly the same way it does to raise limits. This is the single most effective, important, and historically relevant contributing aspect of "Universal Default". As long as the lender stands to profit from lower scores, the entire system begs manipulation.

2) Consideration for Early Payment of Statement Amounts Due (see #4):

No scoring consideration is made for payments received before Due Date. However, a payment be received after the Due Date the Cardholder is considered "in default".

3) Consideration for Excess Monthly Payment of Statement Amounts Due:

A "Minimum Payment" currently receives the same scoring similar regard as a much larger payment. Similarly, additional payment(s) throughout the course of the billing cycle receive the same consideration as the receipt of a Minimum Payment.

4) Consideration for Full Payment of Statement Balance:

Due to the fact that scoring systems are opaque, it is unclear as whether or not the Cardholder's score is positively impacted or not when Statement Balance is paid in full. The mere fact that such a point remains unclear is illustrative of the abstract and virtually incomprehensible nature of FICO, and questions the wisdom of our heavy reliance on credit scoring as a whole, at least in the absence of fact-checking.

5) Arbitration Clause Supersedes Due Process:

Redress and reparation (outside the State of CA) are not realistic expectations for the average Cardholder. This "trumping" of Due Process is not referenced in the "Schumer Box". Representation in Arbitration is expensive and exists only *ex post facto*. Absent an ability to pursue legal remedy through the court, unchallenged lenders run rampant over the Cardholder's innate expectation to a doctrine of fairness. Currently, lenders operate with impunity and little fear of penalty.

6) Scoring Products and CBRA as Actively Engaged Partners of Lenders:

Since CBRA scoring is so heavily weighted by lenders, impermeable formulas and "Black Box"-type proprietary technology has been foisted upon Cardholders with no regard for veracity supplied by the lenders themselves. Cardholders have the ability to challenge details comprising the printed CBR, but actual elements relevant to credit scoring are impossible to either navigate or confirm. This system is ripe for abuse and/or error. "FICO 2008" may or may not address issues that have ravaged Cardholders in favor of corporate clients. I trust that testimony given here today will reflect in a new version of FICO scoring. Ability to dispute some types of inaccuracies is difficult, at best, and impossible in practice.

For example, a false/erroneous report was posted on a CBR in ~2003/2004. This negative listing then further spread to another database. I was successful in correcting the record with one, but have thus far not been successful in getting the other CBRA to correct their report, even after supplying necessary documentation.



This inaccurate and damaging record threatens to remain on my CBR for years, and has resulted in illiquidity of considerable financial resources. Additionally, finance charges subsequently paid that originated with such erroneous reports are funds that are unavailable to me with which to pay off legitimate debt. All subsequent attempts to correct the offending CBRA's records have met with resistance and difficulty; they point to one party, that party points to another party, and so on. Frequently, CBRAs and vendors would not even believe that I was truly me due to the fact that data used to verify my identity was wrong in the first place! The whole situation is somewhat akin to untying the proverbial "Gordian Knot". As recently as this week, repeated attempts to correctly revise inaccurate, false, and/or totally omitted records in order to even attempt to begin the process of dispute and recompense have been futile.

7) CBRA Steps to Prevent "File-Sharing" vs Debt-to-Credit Ratio Manipulation:

What little that has been made public about "FICO 2008" appears to address abilities of some parties to positively influence credit reports by "File Sharing". However, what steps does "FICO 2008" take to curtail the lender's ability to negatively impact a Cardholder's report? It is imperative that CBRAs and scoring programs adhere to a strict posture of neutrality. Fact-checking for accuracy is in the best interest of the CBRA rather than be faced with the dissemination of inaccurate reports and scores. Lenders' omissions are often even more damaging than simple errors or adjustments. Such erroneous data is supplied by lenders and only serves to further their interests.

8) Data Dumping:(also see #9-10):

Currently, FCRA statute allows for some CBR data to remain for seven years, while "Public Records" remain for ten years. "Hard Inquiries" (reportedly initiated at the Cardholder's behest) remain for a shorter period. I have experienced many instances in which relatively ancient credit records have gone far beyond these statute periods and "fallen off" my CBR for years, only to reappear. It may be possible that this occurs as a product of credit card industry consolidation and database updating. My CBR references many long dead accounts (all positive references and paid/closed satisfactorily) that create the impression that I have many accounts that I don't have, while many other current accounts are not even mentioned. How does FICO weigh such references, and how do these "phantom" accounts, albeit all positive references in this case, impact my score? Many accounts and credit lines are omitted in favor of others that are totally unrecognizable to me. Lenders make weighty decisions with their own faulty data, and consumers suffer.

9) CBRA Adherence to FCRA Statutes

Recent CBR reports mention old paid off/closed "Installment Accounts"...several automobiles from long ago. Beyond statute references may reflect inherited industry consolidation. Credit score "advice" supplied by CBRs is off the mark inferring that having "too many" accounts is bad, although closing current accounts and their attendant credit limits simply raises a Cardholder's "Debt-to-Credit Ratio". Perhaps the sensible and responsible solution would be accurate and timely reporting.

10) "Zombie Debt":

Of late, there has been a spate of old, written-off, negotiated, clerically incorrect and other literally ancient debt (in some cases not even "debt" at all!) that has been sold and resold to collection agencies over the years. The average consumer is very likely to have underpaid (and been forgiven) a dollar here or a few cents there at one time or another. Likewise, not every creditor is accurate in their records or collections based on some possibly incorrect records. "Zombie Debt" is debt that has "risen from the grave". This form of "fishing" has created a virtual cottage industry and impacted the economic well-being of many Americans.

Consumer protection afforded by the terms of FDCPA has been ignored by some unscrupulous 3<sup>rd</sup>-party collection firms regardless of statutes of limitation, accuracy, relevance, or ultimate cost. The consumer is left to fend for him/herself against inevitable impact on the FICO score. CBRAs obviously do not require supporting documentation or proof from reporting members, nor does the consumer's side of the story appear to have any legitimacy until well after financial damage has been done, if then.

I have made it a point to educate myself as to the "finer points" of credit card policy, lending practices, and phrasing. Under current credit card policy, how does the average consumer prepare for an eventuality that is today's reality? Informed Cardholders who truly understand the nature of this beast are either increasingly rare consumers or among the growing ranks of Cardholders who have been "raked over hot coals", as I have.

As a business owner, it is necessary for me to carry and finance Accounts Receivable and Payables. On occasion, some accounts fall behind and it is normal and at times necessary to contact the debtor personally. However, when it comes to credit card lenders, it is a rare day indeed when any sort of "personal contact" is made with a Cardholder. It is commonly accepted for lenders to "bulk mail" innocuous "Changes in Terms" letters virtually indistinguishable from "junk mail" solicitations. I often receive my monthly statement accompanied by a solicitation from the same exact lender on the same precise day in a separate envelope. I have learned from my experiences to peruse everything that comes from my credit card lenders. It is only this "obsessive compulsion" that has literally "spared me" from further duress and financial harm, since it is in the economic best interest of the lender to raise APRs, increase Finance Charges, impose Late Fees, etc. An upcoming payment or balance due warrants a telephone call or e-mail.

I have had repeat instances of "computer updates" being deemed responsible for not having received several monthly statements for Chase #8554, now closed. When I moved my office and notified Chase of the change, statements arrived smoothly for a couple of periods until a "computer update" deleted part of my address, necessitating requests for copies of 3 missing statements. Others arrived long after their Due Dates. Previously, my payment pattern was consistent and regular. I finally spoke with a "Customer Relations Escalation Specialist". Chase admitted the errors and reversed most of the various penalty charges levied. I refused to accept having to pay for all of the bank's "Telephone Payment Fees" so as to cover for the lender's own errors, so the account was closed, negatively impacting my FICO score making the already bad situation even worse. Unfortunately, Chase lost a customer due to a petulant Customer Service Representative and numerous errors. The account balance was then paid off and closed. To expect the Cardholder to foresee and pay for a lender inaccuracies is both irresponsible, unrealistic, and ultimately not in either party's best interest.

Conversely, I must give credit where due. Experiences with American Express have been thoughtful, yet mixed. My disagreements with American Express are not with service or courtesy, but in question of practice with the same product's marketing and promotion to prospective clients in one way and established clients in another. Similarly, Bank of America's policy of treating one "type" of account differently than another leaves me bewildered...both accounts are mine yet virtually unrecognizable as such, so one naturally gets more attention and use than the other. Bank of America is likely to have inherited this example of dual account treatment. This "unequal treatment" by a lender of multiple accounts with the same Cardholder is illustrative of runaway corporate bureaucracy.

Within the past year, I took advantage of a low-APR Cash Advance promotion which was paid back a few months later, including the Transaction Fee and accrued daily interest, the DPR of which was gleaned from the bank statement itself. Shortly after the initial loan posted, I received a "FICO Alert" from a subscription CBR service reflecting a small drop in my score.

I took no issue with that as that was expected. However, after paying back the loan, fee, and interest, the next "FICO Alert" I received showed another small drop in score. Rather than being "rewarded" for paying back my loan several years early, it appeared that I had actually been "penalized". As previously stated, FICO's "Black Box" algorithms are mysterious in their machinations. In considering all my other accounts individually or in totality, my usage during that period, and all payments made, there is absolutely no logical or useful pattern distinguishable by which to gauge future credit usage and FICO score protection or improvement. In retrospect, my score was actually 2% better when my debt level was higher, the exact opposite of any sort of rational analytic expectation. This has been a recurring theme throughout the past year or so, and is especially pronounced as of late. Experiences with Bank One/Chase time after time reflected lender errors often made worse by CBRA reporting and then magnified exponentially as a result of data used in scoring.

Subcommittee Members, as a 55-year old businessman, I find credit card lending policies and the inherent predatory practices thereof to be confounding at the least and appalling at best. Basic principles of ethics, courtesy, and "The Golden Rule" appear to have no place in the arena, breeding resentment and further negativity. Do schools prepare young adults for such treacherous behavior...the credo "Use Credit Wisely" is best taught defensively, as well. My father's advice to "Pay Yourself First" was sage wisdom. Taught to honor my obligations, promises, and debts to others, those have always taken priority over my own immediate wants. Please consider my contribution here today as an introduction to my participation in the legislative process. I have also shared these experiences with the NY Times, ABC News PBS/Frontline, Business Week, the Washington Post, and others, as well as involving myself with relevant litigation. My credit card accounts currently represent a widely varying complexion of corporate policies and cultures, including U.S. Bank, Bank of America, MBNA, American Express, CitiBank, Capital One, Advanta, Chase Bank, etc. This broad exposure to such diverse approaches to public relations and credit card policy practices, in addition to my many years as a credit card user, give me a well-rounded view as to how similar products are treated in such disparate manners. Throughout the entire credit card experience, I have developed an insight into patterns of abuse that the Committee and Subcommittees will find helpful to rein in predatory lending tactics in the future, and recognize other exceptions that may not have been quite so evident for TILA and FCRA. I welcome your questions and offer my support.

Thank you.

Stephen M. Strachan  
2635 Springwood Road  
York, PA 17402

(717) 741-4345 (Private)  
(717) 840-0193 (Facsimile)  
(213) 798-6868 (Mobile)  
sevensea@earthlink.net

## Addendum

- 1) Brief Curriculum Vitae (2 pages)
- 2) "Truth in Testimony" Disclosure Form (1 page)
- 3) Equifax FICO and Experian PLUS scores (dated 03/08/2008 through 04/12/2008) (7 pages)
- 4) DELETED
- 5) DELETED
- 6) DELETED
- 7) DELETED
- 8) DELETED
- 9) Account Closure Letter received from Bank One (dated 08/04/2004) (1 page)
- 10) Declination Letter from Bank One (dated 08/05/2004) (1 page)
- 11) Credit Line Decrease Letter received from Bank One (dated 04/23/2004) (1 page)
- 12) Promotional Low-APR Checks received from Bank One/Chase (received 08/2004) (1 page)
- 13) Communication to/from-Bank One/Chase re: bank error exceeding limit (05/2004) (6 pages)
- 14) Note to bank/securities attorney re: Chase #5024 closure (dated 08/04/2004) (2 pages)
- 15) E-mail Recap of card activity to NYT/PBS Frontline producer (dated 08/23/2004) (7 pages)
- 16) Excerpt (page #5-6) of NYT article "The Plastic Trap" (published 11/21/2004) (2 pages)
- 17) OCC Advisory Letter to banks re: "Credit Card Practices" dated 09/14/2004) (1 page)
- 18) E-mail from bank/securities attorney re: Arbitration elimination (received 09/03/2005) (1 page)

## Partial index of terms referred to in written testimony:

TILA	Truth In Lending Act
FCRA	Fair Credit Reporting Act
FDCPA	Fair Debt Collection Practices Act
APR	Annual Percentage Rate
DPR	Daily Percentage Rate
CBR	Credit Bureau Report
CBRA	Credit Bureau Reporting Agency
FICO	Fair, Isaacs Credit Organization (also refers to credit score)
<i>Fait accompli</i>	Predetermined "lose-lose" choice in either case
<i>Gordian Knot</i>	Reference to a virtually impossible task
OCC	Office of the Comptroller of Currency
EFT	Electronic Funds Transfer

**Brief Synopsis of Professional Career Experience**

To accompany written testimony to U.S. House Committee on Financial Services  
Subcommittee on Financial Institutions and Consumer Credit Hearing (04/17/2008)

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Stephen M. Strachan	Age:	55
2635 Springwood Road	Birthplace:	Akron, OH
York, PA 17402	Education:	College and trade
(717) (telephone) /	Status:	Married
(717) (facsimile) /	Employment:	See following
	(mobile)	

EX-1  
(2 pages)

Gemstar International, LLC York, PA 2006 - present Managing Director/Buyer/Sales	Seven Seas Trading, Inc. Carpinteria, CA 1992 - present President/Lead Buyer/Sales	Zurel USA, Inc. Seattle, WA 1990-1992 US Manager/Division Buyer
All Flower Handling, Inc. Los Angeles, CA 2000-2003 Director/Co-owner	Michael's Wholesale Florist Denver, CO 1986-1990 Director/Head Buyer/Sales	Strachan Wholesale Florist Dallas, TX 1981-1986 Director/Head Buyer

Above references share similar responsibilities/administrative functions within same industry.

- a) International purchasing for wholesale, retail, and mass market on both preorder and out-of-inventory bases. Seasonal adjustments/international holidays, geopolitical factors, market psychology.
- b) Sales and brokerage of fresh floral products and foliages to wholesale, retail, and mass market.
- c) U.S. Custom import duties and classification, statistics, Form 7501, inspection/clearance.
- d) Import of perishable commodities. International air and marine freight logistics/handling. International and domestic fuel and security surcharges (pre- and post-9-11 revisions). Air freight requirements in order to ensure available lift and related scheduling. Familiarity with various equipment on import, export, and transfer-point sides of equation. Marine/land bridge perishables cargo contracting, sourcing, funding, shipping, sales.
- e) 3rd-party re-export brokerage in Europe. Cargo consolidation at origin/Certificates of Origin. Brokerage within USA to consolidate/import/export to/from Europe, Taiwan, Australia.
- f) Familiarity with U.S. Customs and Border Protection (USCBP)/post 9-11 security applications. U.S. Dept. of Agriculture / Dept. of Homeland Security (USDA/APHIS-PPQ/DHS). PQ determination/fumigation/destruction/re-export to point of origin processes. Rudimentary/practical familiarity with Entomology and Pathology relevant to commerce.
- g) Perishable commodities domestic cargo shipping and freight handling, local cartage/drayage. Perishable/packing parameters/environment, accountability, freight contract negotiation.
- h) Brokerage and import from Europe, Australia, New Zealand, South Africa, Thailand and others. Packing specifications vis-à-vis marketability, drop-shipping, consultancy. New multi-year turnkey perishables marketing programs. Emerging markets. Familiarity with governmental licensing/permit requirements, overtime accounting. Counsel with USDA/APHIS-PPQ (district and federal) for classification/determination. Foreign currency exchange contracts/forward spreads/EUR, AUD, NZD, ZAR/foreign banking.

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**Brief Synopsis of Professional Career Experience**  
**To accompany written testimony to U.S. House Committee on Financial Services**  
**Subcommittee on Financial Institutions and Consumer Credit Hearing (04/17/2008)**

- i) Export wild harvest gourmet mushrooms to Europe. Contract, funding, packaging, Mycology. Supplier to international gourmet food exposition-Paris, France (~1991). U.S. Customs clearance and EEU import solutions both pre- and post-NAFTA and 9-11. Source proper packaging to prevent challenging loss due to water vapor evaporation.
- j) Export wholesale sundry/dry goods, and marketing to Australia/U.S. via air and surface freight. Perishable trend/demand of collectibles, sourcing relationships, financing/shipping.
- k) "Chain of Life" temperature/humidity control to ensure shelf life of perishable commodities. Perishables inventory control, product rotation, forced-air and vacuum pre-cooling. Labeling for redistribution, lot-splitting and sorting/general warehousing functions. Post-fumigation expedition/pre-cooling processes to mitigate loss. Marine survey reports.
- l) Australian Trade Representative to U.S., Canada, Europe ("AUSTRADE" for 9 years) Staffing requirements, payroll, banking, accounting, and bookkeeping, budget Familiarity with Export Insurance programs, government incentives for exports.
- m) Keynote speaker: Specialty Cut Flower Association, Australian Grower Association, California Cut Flower Commission, WF&FSA (wholesale florist trade group). Consultant for general industry issues relevant to import challenges and export demands. Convention/trade show organization, set-up and attendance.
- n) Successful turnaround of U.S. division of bureaucratic Netherlands multinational corporation. Realized first consistently profitable quarters since inception (8 years) via creative innovative programs. ~100 year old corporate culture presented challenging and powerful opportunities for trials.

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03/10/2008

EX-2  
(1 page)

United States House of Representatives  
Committee on Financial Services

"TRUTH IN TESTIMONY" DISCLOSURE FORM

Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee on Financial Services require the disclosure of the following information. A copy of this form should be attached to your written testimony.

<p>1. Name:</p> <p>Stephen M. Strachan</p>	<p>2. Organization or organizations you are representing:</p> <p>Self</p>
<p>3. Business Address and telephone number:</p> <p>2635 Springwood Road York, PA 17402 717-741-4345</p>	<p>Home: 877 Heritage Hills Dr. York, PA 17402 717-840-0133</p>
<p>4. Have you received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2005 related to the subject on which you have been invited to testify?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>5. Have any of the organizations you are representing received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2005 related to the subject on which you have been invited to testify?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>6. If you answered "yes" to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets.</p>	
<p>7. Signature:</p> <p><i>Stephen M. Strachan</i></p>	

Please attach a copy of this form to your written testimony.

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Equifax Personal Solutions: Credit Reports, Credit Scores, Protection Against Identity Th

1/7

At Equifax, your opinion matters. That's why we've been listening carefully - making changes to the Equifax Member Center to better benefit you. See for yourself! You'll discover simpler navigation, enhanced Credit Score and Credit Report summaries and easy-to-customize alerts. Check out our Member Center Quick Use Guide

### Your FICO® Score as of 04/02/2008

782

Based on Alert

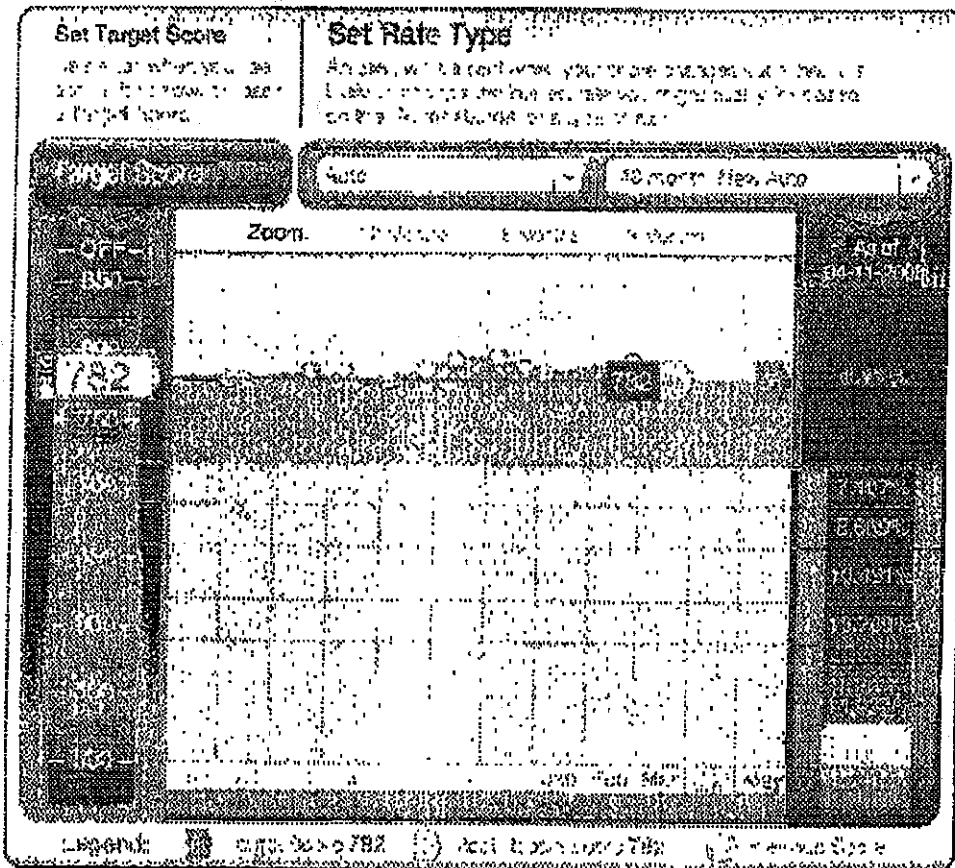


What triggers your score alerts?

- Credit Alerts
- Score Bands
- Target Score

How Lenders See You

### Score Trending



EX-3  
(7 pages)

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Equifax Personal Solutions: Credit Reports, Credit Scores, Protection Against Identity Th...

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Welcome Stephen Strachan, [Logout](#) [Contact Us](#) | [Site Map](#) [Quick Search](#)

36186

# EQUIFAX

## Score Watch™

### What Your Score Means

YOUR SCORE As of 03/08/08

795

Based on: Alert

- [The Bottom Line](#)
- [Average Loan Rate Finder](#)
- [How Lenders See You](#)
- [A Guide to Your Credit Score](#)

### FICO Score Range

Your score is

#### The Bottom Line: What a FICO® Score of 795 means to you

Your score is well above the average score of U.S. consumers and clearly demonstrates to lenders that you are an exceptional borrower.

- It is extremely unlikely your application for credit cards or for a mortgage or auto loan would be turned down, based on your score alone.
- You should be able to obtain relatively high credit limits on your credit card.
- Most lenders will consider offering you their most attractive and most competitive rates.
- Many lenders will also offer you special incentives and rewards targeted to their "best" customers.

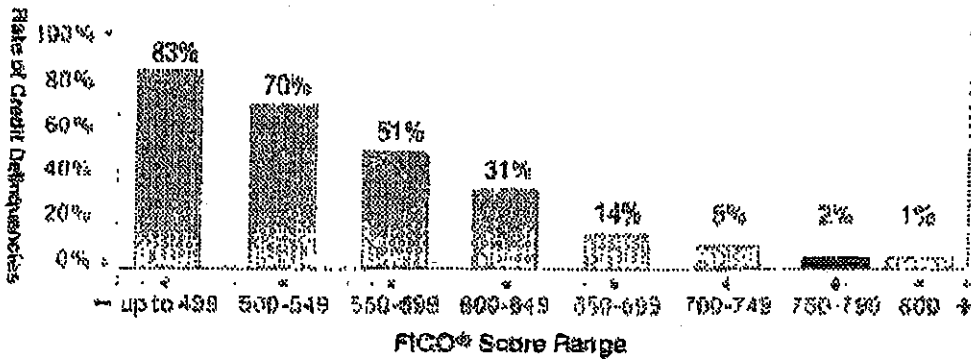
It is important to understand that different lenders set their own policies and tolerance for risk when making credit decisions, so there is no single "cutoff score" used by all lenders.

### How Lenders See You

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### Equifax Personal Solutions: Credit Reports, Credit Scores, Protection Against Identity Th.

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Most lenders would consider consumers in this score range as extremely low risk.

Delinquency rate is defined as the percentage of borrowers who reach 90 days past due or worse on any credit account over a two year period.

#### Average Loan Rate Finder

See how a score influences what interest rate you may receive.

Select loan type and locale to see average rates:

Category:

Loan Type:

State:

Interest Rates as of 03/10/2008

FICO Score	Avg Rates
760- 850	6.022%
700- 759	6.244%
680- 699	6.421%
660- 679	6.635%
640- 659	7.065%
620- 639	7.611%
600- 619	8.922%
580- 599	9.490%
550- 579	9.955%
500- 549	10.489%

FICO ® score band and interest rate source: ©2007, Informa Research Services, Inc, 26565 Agoura Road #300, Calabasas, CA 91302-1942. All rights reserved. May not be reproduced or retransmitted in any form without express written consent of Informa Research Services, Inc. The information has been obtained from various financial institutions and Informa Research Services cannot guarantee the accuracy of such information.

#### A Guide to Your Credit Score

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Equifax Personal Solutions: Credit Reports, Credit Scores, Protection Against Identity Th...

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Pay your bills on time.

Delinquent payments and collections can have a major negative impact on your score.

Keep balances low on credit cards and other "revolving credit".

High outstanding debt can affect a score.

For more tips on how to understand your score, [Learn More](#)

Copyright Equifax 2008 | [Privacy Policy](#) | [Terms of Use](#) | [FCRA](#) | [Become An Affiliate](#)

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# Score Trending

Interest Rates as of 2008-03-11

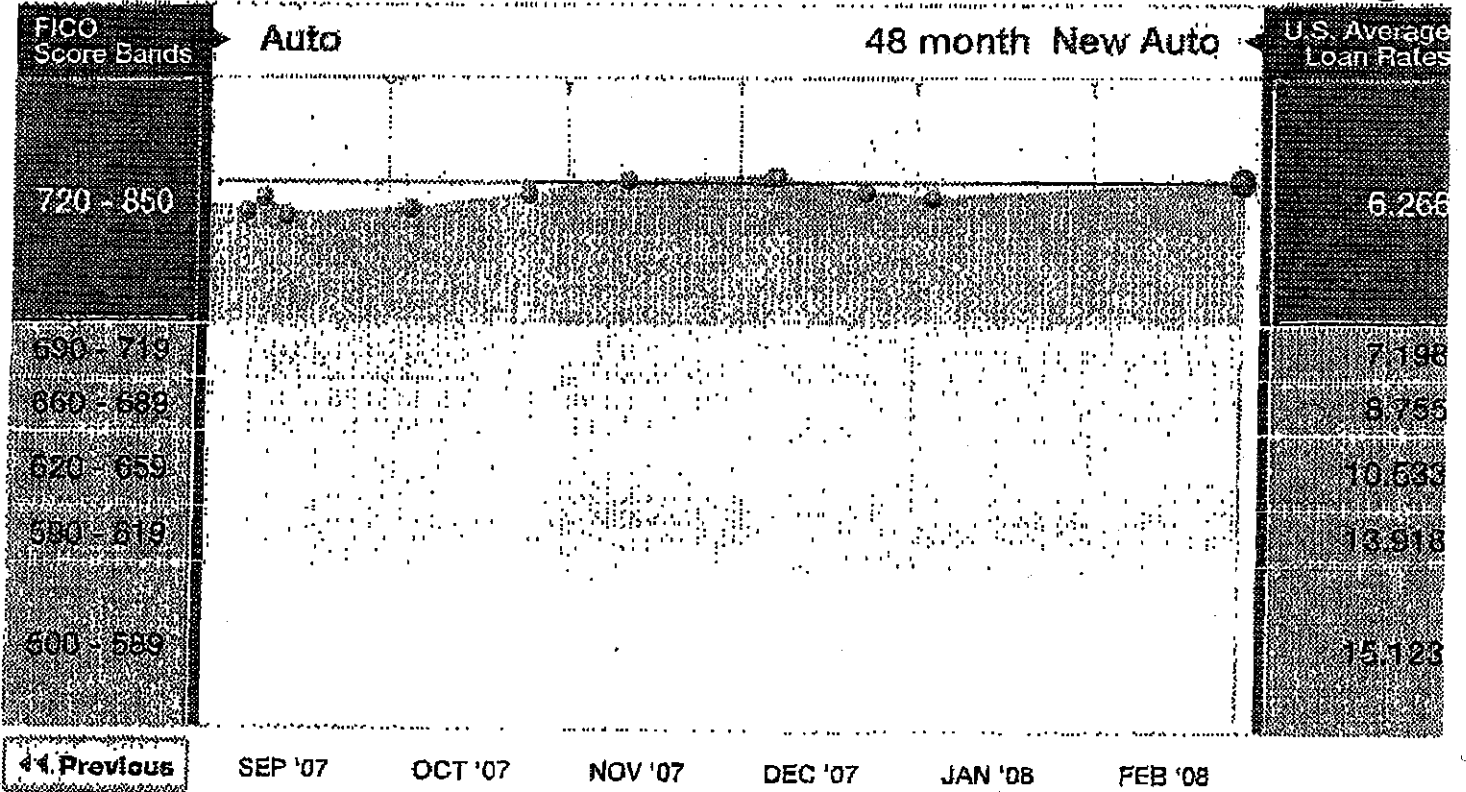
Legend:

● Target Score: N/A

● Most Recent Score: 795

● Previous Scores

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4 Previous



View By: 1 Month 3 Months 6 Months 1 Year



Print This Chart

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# Credit Expert

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[View Full Report](#)   [Printable Report](#)   [Dispute Information](#)   [Credit Report Guide](#)

Prepared for: **STEPHEN M STRACHAN**

Report Date: **4/8/2008**

[Personal Profile](#)   [Credit Summary](#)   [Public Records](#)   [Credit Inquiries](#)   [Account History](#)   [Credit Score](#)

## PLUS Score Report

A PLUS Score is a numerical representation of your credit worthiness. The majority of lenders use some sort of credit scoring model to help predict what kind of credit risk you may be. For each bureau's score and explanation, click on the colored tabs below.

EXPERIAN	EQUIFAX	TRANSUNION
----------	---------	------------

### PLUS Score from Experian

This PLUS Score is based on information from your Experian credit report.

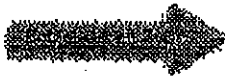
Your PLUS Score is calculated using the information in your credit report. Since information often differs among your three bureau reports, your PLUS Scores based on those reports will also vary.

Your PLUS Score is: **783** on a scale of 330 - 830.

#### Your Credit Category is:

Very Poor                      Poor                      Fair                      Good                      Excellent

Percentile: Your credit rating ranks higher than 94.80% of U.S. consumers.

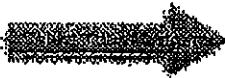


1. Excellent

2. Good

3. Fair

4. Needs Improvement



1. 30 Yr Fixed

2. 15 Yr Fixed

3. 3/1 ARM

4. 5/1 ARM

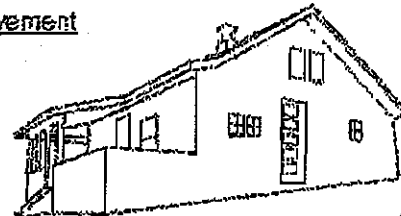


1. Home Refinance

2. Home Equity

3. Debt Consolidation

4. Line of Credit



LowerMyBills.com

Help

#### Score Details

##### About your PLUS Score:

Your PLUS Score is formulated using the information in your credit file. Your score helps potential lenders, landlords, and employers quickly gauge your credit history and decide what kind of a risk they are taking if they approve your application. Your PLUS Score can range between 330 and 830, with a higher score indicating a lower risk. There are many scoring models used in the marketplace. The type of score used, and its associated risk levels, may vary from lender to lender. But regardless of what scoring model is used, they all have one purpose: to summarize your creditworthiness. Keep in mind that your score is just one factor used in the application process. Other factors, such as your annual salary and length of employment, may also be considered by lenders when you apply for a loan.

##### What your PLUS Score means:

Factors in your credit file indicate you have excellent credit. Lenders will likely offer you the best rates and terms.

##### What this means to you:

Credit scoring can help you understand your overall credit rating and help companies better understand how to serve you. Overall benefits of credit scoring have included faster credit approvals, reduction in human error and bias, consistency, and better terms and rates for American consumers through reduced costs and losses for lenders. While lenders may use different scoring models to determine how you score, and each major credit bureau has its own method for calculating credit scores, the scoring models have been fairly well standardized so that a score at one bureau is roughly equivalent to the same score at another.

##### What factors raise your PLUS Score:

- You have paid your bills on time and currently do not have any overdue accounts or derogatory information, such as a collection, charge-off, or bankruptcy, on your report.
- You have a good cushion of available credit between your current balance and your credit limits on all open trades. This has a positive affect on your credit score. This cushion shows lenders that you are unlikely to overextend yourself

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Credit Expert

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financially.

- The total balance on all your credit cards is relatively low compared to your total available credit limit. This has a positive impact on your credit score.
- Your average credit limit for your major credit cards, such as Discover, VISA, MasterCard, or American Express, is high. This tells lenders that you have enough financial experience, and they will be more likely to see you as a good credit risk.

What factors lower your PLUS Score:

- Credit scores are calculated based on various factors in your credit report. Currently, your credit report does not show any significant negative or derogatory information. You can be proud of the fact that you are building a good credit history, so continue with your positive credit behavior!

Consumer Statement:

Statement: No Statement(s) present at this time

DISCLAIMER

The PLUS Score™ developed by Experian is not an endorsement or guarantee of your credit worthiness as seen by lenders. The different risk levels presented here are for informational use only. Your PLUS Score can help you understand what factors impact your credit score.

Please be aware that there are many scoring models used in the marketplace, and each lender's scoring model has its own set of factors. How each lender weighs their chosen factors may vary, and the exact formula used to calculate your score is proprietary. In general, the higher your score, the better your chances are of obtaining favorable rates and terms.

Your PLUS Score was calculated using your actual data from your credit file on the day that you requested your report, making it comparable to most scoring models in the industry. Keep in mind however that other factors, such as length of employment and annual salary, are often taken into consideration by lenders when making decisions about you.

Also note that each lender uses its own set of data, resulting in a separate PLUS Score for each of your credit files.

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CARDMEMBER SERVICE  
P.O. BOX 8650  
WILMINGTON, DE 19899-8650

**BANK ONE**

EX-9  
(1 page) 

August 4, 2004

VISIT US ONLINE AT [WWW.CARDMEMBERSERVICES.COM](http://WWW.CARDMEMBERSERVICES.COM)

STEPHEN STRACHAN



*Rec. 8/14/04*  
Not requested!

RE: Account No: 5024

**Important information is provided below regarding your credit card account.**

Dear Stephen Strachan:

As your credit card company, we value your business. It is important to us that we provide you with timely information regarding your account.

After careful consideration, we have decided to close the above-noted account for the following principal reasons:

- \* high balances owed on bankcards
- \* balances too high compared to crdt limit
- \*

This decision was based in whole or in part on information provided by the consumer-reporting agency noted below. Other than providing information, this agency played no part in our decision. If you have questions about our decision to close your account, we suggest that you first obtain a copy of your credit report from this reporting agency:

Experian: (888)397-3742, P.O. Box 2002, Allen, TX 75013

Under the Fair Credit Reporting Act, you are entitled to receive a free copy of your credit bureau report from this agency if you request the report within 60 days of the date of this letter. We encourage you to obtain and review a copy of this report. If you then suspect that there are errors in your credit bureau report, you may work with the credit bureau agency to correct those errors.

(continued)



CARDMEMBER SERVICE  
P.O. BOX 8650  
WILMINGTON, DE 19899-8650

**BANK ONE**  
EX-10  
(1 page) 1/1

VISIT US ONLINE AT [WWW.CARDMEMBERSERVICES.COM](http://WWW.CARDMEMBERSERVICES.COM)

August 5, 2004

STEPHEN STRACHAN

Rec 8/11/04



RE: Account No: 5024

*-did not request that  
this account be reinstated  
Any inquiry was unauthorized*

**Information is provided below regarding  
your request to reinstate your account.**

Dear Stephen Strachan:

As your credit card company, we value your business. It is important to us that we provide you with timely information regarding your credit card account.

Thank you for your recent inquiry concerning your above-noted credit card account. We regret that, at this time, we are unable to reinstate your account for the following principal reason(s):

- \* High Balances Owed On Bankcards
- \* Balance Too High Compared To Crdt Limit
- \*

This decision was based in whole or in part on information provided by the reporting agency noted below. Other than providing information, this agency played no part in our decision. If you have questions about our decision, we suggest that you first obtain a copy of your credit report from this reporting agency:

Experian: (888)397-3742, P.O. Box 2002, Allen, TX 75013

Under the Fair Credit Reporting Act, you are entitled to receive a free copy of your credit bureau report from this agency if you request the report within 60 days of the date of this letter. We encourage you to obtain and review a copy of this report. If you then suspect that there are errors in your credit bureau report, you may work with the credit bureau agency to correct those errors.

(continued)

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BRITISH AIRWAYS

# Three convincing reasons to stay with us.

EX-12  
(1 page)

PG 1 1/1

Per \$50,000 payment on account.

Rec 08/2004

\*\*\*\*\*AUTO\*\* 3-DIGIT 174  
Stephen Strachan

Your credit access line: \$70,600



RE: Account ending 5024

Dear Stephen Strachan:

We want to be your number one credit card. We noticed that you recently made a large payment to your British Airways Visa® account and want to make sure we're not losing your business. That's why we want to remind you again of these low-rate reasons to stay — it's our way of showing you that your business is important to us.

**3.99% APR** for the life of the balance†

**Enjoy a low 3.99% APR†.**

Take advantage of this offer and you'll enjoy bigger savings in your pocket — and more breathing room in your budget — with a special low **3.99% fixed APR for the life of the balance†** when the enclosed checks post to your account by September 30, 2004.

**Please use this money-saving "thank you" to your advantage today.**

Use your low-APR Convenience Checks to save with your British Airways Visa® account, to deposit for extra cash, or consolidate higher-rate balances. Write them for any amount up to your available credit access line — and enjoy the money-saving result.

Sincerely,

*Carter Franke*

Carter Franke  
Chief Marketing Officer

**P.S. Your checks must post to your account by September 30, 2004 to take advantage of your special savings. Use all three low-rate Convenience Checks.**

Miles will not be earned on these checks.

**IMPORTANT INFORMATION:**

- **Promotional APR:** Your low promotional APR will apply only to the transferred balances and purchases made with the attached checks which post to your account by September 30, 2004 and will remain in effect for each check until the balance for that check is paid off, subject to the Payment Allocation described on the reverse side. Any other promotional offer you may have does not apply to the enclosed checks.
- **Transaction Fees:** The Transaction Fee for each Convenience Check in this offer is 3% of the amount of the check, with a minimum of \$5 and a maximum charge of \$50.
- **Right to Decline:** Checks that post after the void date printed on the check or that are made payable to Bank One or one of our related banks will be declined.

(Continued on reverse side)

Visit us at [www.cardmemberservices.com](http://www.cardmemberservices.com) for exclusive cardmember offers.

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1109100001110011

EX-13  
(6 pages)

1/0

Stephen M. Strachan  
c/o Seven Seas Trading, Inc.  
P.O. Box 1115, Carpinteria, CA 93014  
Phone (213) ... Fax (717)

To: Ms. Dawn Turk  
Bank One  
Card Member Services

26 May, 2004

Fm: Stephen Strachan

Re: 1007

Dear Dawn,

Following you will find the "Credit Card Over Limit" report that was made to Experian in reference to my account # 1007.

As we discussed, my credit limit was decreased to \$27,250 on 04/23/04. When finance charges were applied to the account on May 04, the account was forced into an "Over Credit Limit" situation. I called on May 10 and the situation was rectified internally within Bank One by a slight increase in the credit limit and a waiving of the Over Limit Fee. However, the report had apparently already been forwarded to Experian...apparently, that had not been addressed at the same time on May 10. I was notified by Experian on May 22 that this information now appeared on my Experian credit bureau report. You and I spoke today, May 26...per your request, I have printed out a copy of the information and am faxing that to you directly. You agreed to supply me with a letter explaining/correcting the situation that has occurred.

Please feel free to contact me should you have any questions or concerns. I would appreciate it if you would fax your letter to me at either of the following fax numbers:

or

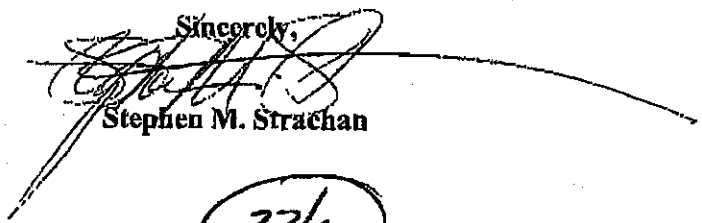
I can be reached by telephone at the following numbers, should you require:

or

or

Dawn, thanks for your assistance in getting this cleared up. I apologize for any inconvenience.

Sincerely,



Stephen M. Strachan

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# CreditExpert

My Credit Center | PLUS Score | Alert Tool

My Credit Center: | View Current Report | View Archived Reports | View Alerts | Edit Profile

## Daily Monitoring Alerts

Enjoy peace of mind knowing your Experian credit profile is scanned every day to keep you informed of key changes that r  
Actively monitoring your credit can be your first line of defense against identity fraud and inaccuracies that may affect your  
You can rest easy knowing Credit Manager is monitoring your credit for you.

You have 0 unviewed monitoring alerts.

When we checked your credit file, we did not find changes to these items:

- New Inquiries
- Potentially Negative Information
- Public Records
- New Accounts
- Address Changes

### Disclosure

Each monitoring alert is available on this report for 90 days from the date the alert is posted, with the most recent addition at the monitoring alert category. Please note that you are notified of the key change(s) detected to your file within 24 hours, thereafter, if is posted and the date you are notified may differ by one calendar day.

## New Inquiries

The following inquiries are "hard" or voluntary inquiries and were generated because you authorized the companies listed to i your credit report.

Alert Date	Business Name	Inquiry Date
<a href="#">Back To Top</a>		

## Potentially Negative Information

An item is "potentially negative" when a creditor reports that you have not met the terms of your agreement with them, which payments, accounts that have been charged off, accounts sent to collection, bankruptcies, liens, judgments, etc

Alert Date	Business Name	Balance Date	Balance Amount	Status Date	Payment Sta:
5/22/2004	FIRST USA BANK N A	---	---	---	Bank/Credit Card Over

[Back To Top](#)

## Public Records

Public record information includes bankruptcies, liens, judgments or garnishments and comes from county, state or federal cr

Alert Date	Reporting Court Name	Public Record Amount	File Date	Type
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[Back To Top](#)

## New Accounts

New accounts include bankcards, credit cards, and loans including car, business, home equity, mortgage, retail, and student

23/43

2E 2004 14:41 FR FIRST USA

302 985 1633 TO

Cardmember Service  
Three Christiana Centre  
201 North Walnut Street, DE1-1445  
Wilmington, DE 19801  
Tel (800) 216-4367  
Fax (302) 985-1633

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# Fax

**To:** STEPHEN M. STRACHAN      **From:** DAWN TURK

---

**Fax:**      **Phone:** 1-888-298-5623 EXT. 1484

---

**Phone:**      **Pages:** (Including Cover Sheet) 2

---

**Re:** 1007      **Date:** May 27, 2004

---

Urgent     For Review     Please Comment     Please Reply     Please Recycle

■ **Comments**

24/43

\*\*\*Confidentiality Note\*\*\*

The documents accompanying this telecopy contain information concerning First USA Bank which is confidential, legally privileged, and exempt from disclosure under applicable law. This information is intended only for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action in reliance on the contents of this transmission is strictly prohibited and that the documents should be returned to the Sender immediately. If you have received this communication in error, please notify us by telephone immediately so that we can arrange for the return of the original documents to us at no cost to you.

24/43

MAY 26 2004 14:41 FR FIRST USA

302 985 1633 TO

Three Christina Centre  
201 North Walnut Street  
Wilmington, DE 19801



May 27, 2004

Mr. Stephen M. Strachan  
P.O. Box 115  
Carpinteria, CA 93014

INCORRECT ADDRESS

Re: 307

Dear Mr. Strachan,

Thank you for your recent inquiry regarding you credit card account.

Bank One acknowledges that you did not intentionally or irresponsibly charge the above referenced account over the credit line.

We have since corrected the situation with the credit bureau reporting agencies. The account should not reflect as ever being over the credit line by any credit bureau reporting agency as of this date.

Thank you for calling this to our attention.

Sincerely,

Dawn Turk  
Lending Operations  
1-888-298-5623

I didn't charge  
AT ALL to put the  
account in "over credit  
line" status - I haven't  
placed any new charges on  
the card for 2 years!!!  
Bank One lowered the limit -  
after finance charge was added  
in, account went "over limit"

25/43

Statement of account number: 907

New Balance: \$27,542.44  
 Payment Due Date: 05/29/04  
 Past Due Amount: \$0.00  
 Minimum Payment: \$442.44

Amount Enclosed: \$

Make your check payable to Bank One  
 New Address or Priority Mail Back



84244027542447

5/6

CARDMEMBER SERVICE  
 P.O. BOX 60214  
 PALM BEACH, FL 33406-0214

STEPHEN M STRACHAN

0029107

5000 120 2810

303730



Statement Date: 04/14/04 - 05/04/04  
 Payment Due Date: 05/29/04  
 Minimum Payment Due: \$442.44

CUSTOMER SERVICE  
 In U.S. 1-866-452-3456  
 Español 1-866-448-3108  
 TDD 1-800-935-3900  
 Outside U.S. call collect  
 1-302-394-9200

VISA ACCOUNT SUMMARY

Previous Balance: \$27,981.73  
 Payments, Credits: - \$1,000.00  
 Purchases, Cash, Debits: + \$0.00  
 Finance Charges: + \$560.71  
 New Balance: \$27,542.44

Account Number: 11007  
 Total Credit Line: \$27,250  
 Available Credit: \$0  
 Cash Amount Line: \$5,600  
 Available for Cash: \$0

ACCOUNT ACQUISITION  
 P.O. BOX 6020  
 WASHINGTON, DC 20009-0020

PAYMENT ADDRESS  
 P.O. Box 60214  
 Palm Beach, FL 33406-0214

VISIT US AT: www.visa.com/us/visa

The YAHOO! Rewards Summary

Want to know your total number of Yahoo! Points earned?  
 Go to <http://my.yahoo.com> and link your account.  
 Already linked? See your total at <http://my.yahoo.com>.

TRANSACTIONS

Trans. Date	Reference Number	Merchant Name or Transaction Description	Credit	Debit
04/14	74817200503000	PAYMENT - THANK YOU	\$1,000.00	
04/14		FINANCE CHARGE		\$560.71

FINANCE CHARGES

Category	Periodic Rate 30 days in cycle	Daily Corresponding APR	Average Daily Balance		Finance Charge	Transaction Fees	FINANCE CHARGES
			Previous Cycle	Current Cycle			
Purchases	06200%	21.60%	\$0.00	\$27,817.39	\$560.71		\$560.71
Cash advances	06200%	22.16%					\$0.00

Total finance charges

\$560.71

Effective Annual Percentage Rate (APR): 22.99%

Grace Period Type: A (Please see back of statement for the Grace Period explanation.)

The Corresponding APR is the rate of interest you pay when you carry a balance on purchases or cash advances. The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

PAY  
 \$1000 -  
 Mail Date  
 5/17/04

800-219-0015 Securities

Lisa 5/10 - 1735

Bal 27,542.44 (over limit)

Ruby

5/26-1620

Said Expiscion would update every 30 days.  
 Said I was sent a letter showing my limit raised  
 to cover over limit situation caused. I did not  
 receive letter. I requested another letter.

Dawn: 302-985-1633. FAX

Trick Fax the Expiscion printout to her. I will be making a letter and cover for me

Luisa - 5/10 - 1735

Dropped limit due to out of use cash  
 debt (I knew what she did). She will  
 "lock into" what can be done about the  
 over limit, created by reduction in limit.

Aresha - increase to 27,700.00 as

you avoid over limit situation

I questioned the legality of Sec

of 1702bce.

26/43

26/42

CARDMEMBER\_SERVICE  
P.O. BOX 8650  
WILMINGTON, DE 19899-8650

**BANK ONE**

6/6

VISIT US ONLINE AT [WWW.CARDMEMBERSERVICES.COM](http://WWW.CARDMEMBERSERVICES.COM)

April 23, 2004

STEPHEN M STRACHAN

CARPINTERIA CA 93014-1115

Limit raised back to 27,700 by  
"Aneshw" at 800-219-0015 on  
5/10 - 1755 EST.



RE: Account No: 1007

**Important information is provided below regarding the credit line for your account.**

Dear Stephen M Strachan:

As your credit card company, we value your business. It is important to us that we provide you with timely information regarding your credit card account.

After careful consideration, we have decreased the credit line on your above-noted account to \$27250 for the following primary reasons:

- \* high balances owed on bankcards
- \* balance too high compared to crdt limit
- \* using too many bank card accounts

This decision was based in whole or in part on information provided by the reporting agency noted below. Other than providing information, this agency played no part in our decision. If you have questions about our decision to decrease the credit line on your account, we suggest that you first obtain a copy of your credit report from this reporting agency:

Experian: (888)397-3742, P.O. Box 2002, Allen, TX 75013

Under the Fair Credit Reporting Act, you are entitled to receive a free copy of your credit bureau report from this agency if you request the report within 60 days of the date of this letter. We encourage you to obtain and review a copy of this report. If you then suspect that there are errors in your credit bureau report, you may work with the credit bureau agency to correct those errors.

(continued)

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Ex-14  
(2 pages)

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Wed/08-04/1815 EST

Michael--

Following is a recap of the latest Bank One debacle - in brief:

- 1) I paid the approximately \$70,000 balance down to a credit balance of about \$700 in approximately 60 days or so. In doing so, funds that could have been used to finance my business went to pay off 24.99% A/R debt.
- 2) I received "Convenience Checks" in the mail on 08/02/04 (3.99% for life of balance up to the amount of my credit line - \$70,600).
- 3) I wanted to use the offer for a \$69,000, low-interest loan, and in doing so, would have satisfied my vendors. I called Bank One before I deposited the check so as to be sure I wouldn't have yet another embarrassing moment when the check was presented to them for payment.
- 4) I was connected to "Josie S." in their Orlando, FL site. She said she pulled my Experian report and that since my debt levels were high, would not only not honor a \$69,000 check, but when I asked her what amount I could write the check for, she stated "nothing", and that my credit limit would be even further reduced (it was reduced from \$90,000 to \$70,600 recently (April, 2004 statement)). Since I was told that no check would be honored, I can only assume that a payment is "in progress"

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28/43

APR 2 10 41

2/2

2/2

- Since I've not been advised that it's closed.
- 5) At approximately 1845/04, while writing this letter to you, I again called Bank One and was informed that my account was closed apparently by "Josie S." although I can only assume that. I then spoke to another person in "Portfolioisk Review" (877-399- ) who confirmed that the account was closed due to "High debt levels reported by Experian of \$220,000."
  - 6) Experian's records do not reflect approximately \$100,000 of unsecured debt that has been paid down in the past couple of months, as well as several other "irregularities" - that's another topic.
  - 7) As you can see from the mailer accompanying the checks, the invitation was quite clear - in retrospect, I'm not sure if I did the right thing by calling first or not - as I explained, this \$60,000 out of cash flow may be the end of my business after fighting to "do the right thing."
  - 8) It's debatable whether or not TILA applies - I don't know if my card would have been good or not yesterday. I only know that I wasn't worth \$1.00 of risk today (although the Bank One computer, up through this morning, still stated my credit limit of \$70,600 and credit balance (\$719.70).
  - 9) "Elizabeth" confirmed my refund request of \$719.70 to be sent in 7-14 business days at 1845/044.

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29/42 RE: ID - Bank - ...

(1/7)

**Stephen Strachan**

From: Stephen Strachan [sevensa@earthlink.net]  
 Sent: Monday, August 23, 2004 10:36 PM  
 To: Nelli (New York Times) (E-mail)  
 Cc: Robin (New York Times) (E-mail)  
 Subject: NYT/PBS Project Overall

E-Mail to NYT  
 relevant to 2004  
 NYT/PBS Frontline  
 Project

Nelli/Robin: Following is the overall view I promised. It's taken a lot of time and careful research into my files so as to be as objective and factual as is humanly possible. Sorry for the delay, but I think your patience will prove to have been worth the wait.

EX-15  
 (7 pages)

[Large redacted area consisting of multiple thick black horizontal bars covering the majority of the page's content.]

(30/43)

2/7



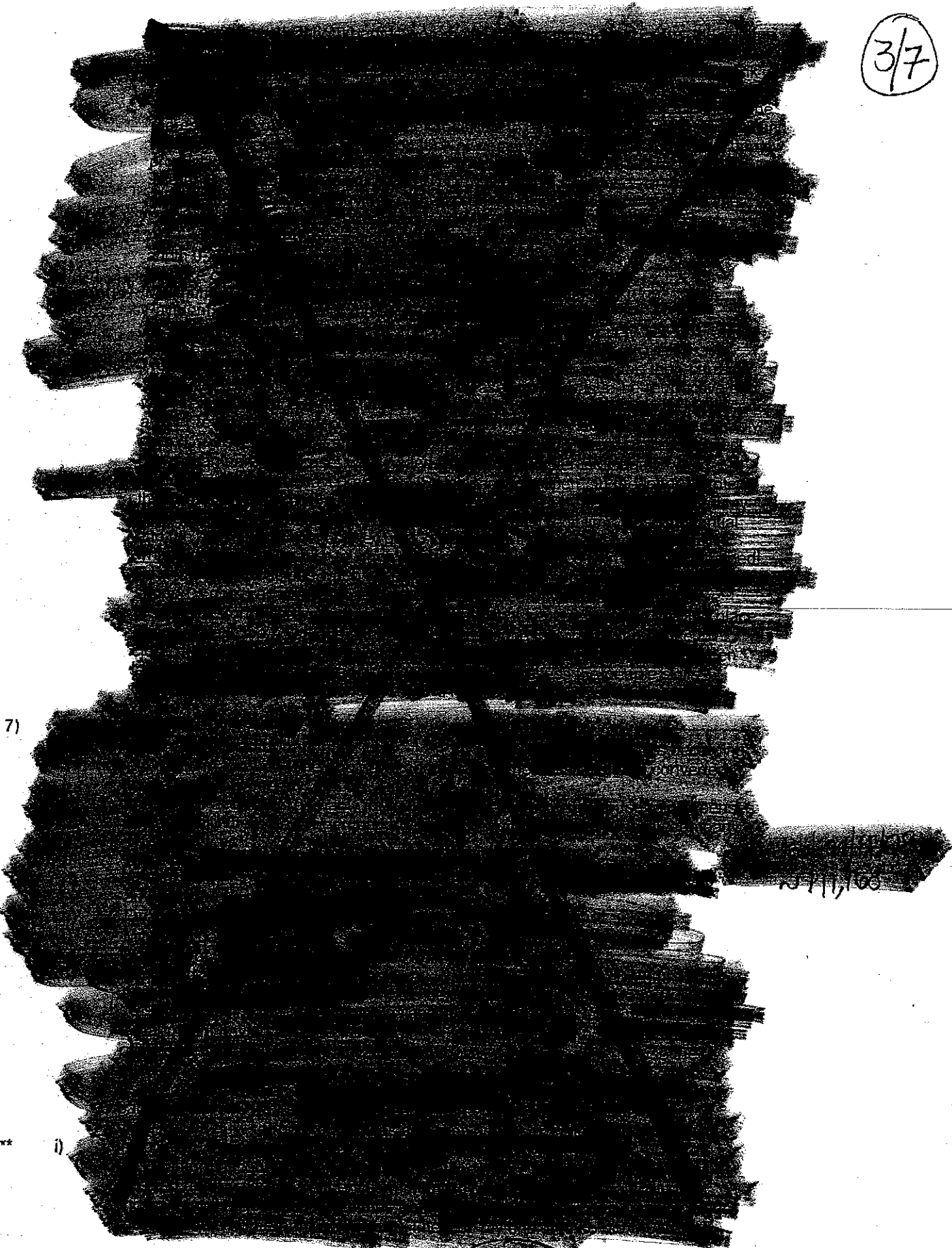
- 5) Chase #8554 XXXX (Chase Platinum Mastercard)
  - a) Account opened approximately April, 2001.
  - b) Primary usage is for personal, family, and household, as well as limited company use. Original credit limit was \$15,000.
  - c) Closing balance as of statement ended 06/14/04 was \$9,711.26
  - d) APR on purchases as of statement ended 06/14/04 was 15.99% (originally 12.99% with 1.99% promotional for 9 billing cycles. APR for cash advances 19.99%.
  - e) Finance charge from statement ended 06/14/04 was \$134.89
  - f) Minimum payment due from statement ended 06/14/04 was \$194.00.
  - g) Payment of \$500.00 was made 06/21/04.
  - h) Credit limit was increased from \$15,000 to \$16,500 approximately 05/2002, and then again from \$16,500 to \$18,500 approximately 07/2002.
  - i) I changed my mailing address around July, 2002 and notified Chase in writing accordingly in the space provided on the statement stub. Chase made an error in data entry, apparently, so statements were interrupted. I corrected the record with them, only to have the same thing occur again just a couple of months later. Even though statements were returned to them, I was not notified or contacted until I called Chase. I had been reported to Experian as delinquent, penalized with a "Late Payment Fee", and my APR was increased to 23.99%. When I confronted Chase, their representative refused to waive a "telephone payment fee", even though it was readily admitted that the error had been Chase's on both occasions. I was unwilling to be further penalized or inconvenienced by Chase, so the account was closed. After much telephoning and complaining, a supervisor finally reviewed the entire sequence of events and waived all late fees, credited back all excess finance charges, and reinstated the account back to the previously existing rate of 11.99%. Additionally, she agreed to correct the record with Experian, as my FICO score had plummeted by approximately 47 points because of the error. Meanwhile, due to the intransigence of both the original phone representative and myself, my account remains closed to this day.
  - j) Generally, I would have to say that Chase is far and away the most disorganized and seemingly "shoot themselves-in-the-foot" compared to any other, even among those that gave me worse treatment.
  - k) The most recent statement ending in August, 2004 shows yet another late payment penalty of \$35.00. This payment was made a full 17 days before the due date, but was posted a full 7 days after the due date. Chase's representative told me that they could not make adjustments to closed accounts (just add fees, apparently).

Bal 04/11/08  
\$0  
Acct Closed



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3/7



7)

3/11/08

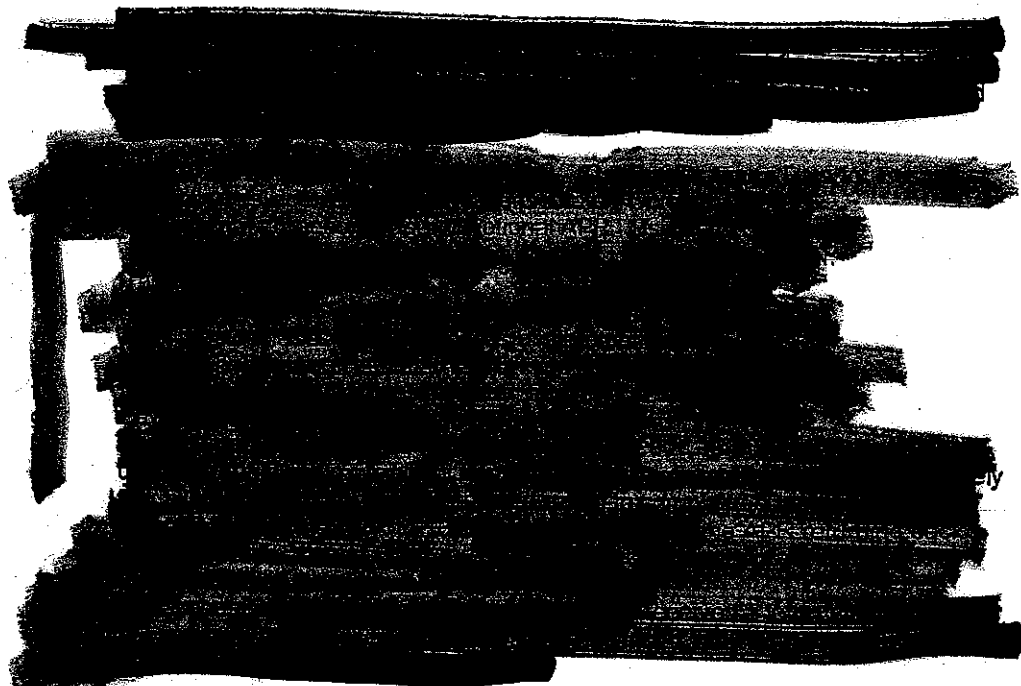
\*\*\*

i)

3/4.2

4/7

8)



Bal 04/14/08  
\$0

9)

Bank One/Chase #1007 xxx (Bank One Yahoo! Visa)

- a) Original account was Yahoo! Visa offered through First USA Bank.
- b) Original credit limit was \$25,000. Another First USA account (#5139) with a limit of \$25,000 was rolled into this one for a total credit limit of \$50,000.
- c) The Yahoo! account was opened approximately August, 2000. The other "First USA Platinum Card" account was opened approximately November, 2000. These two accounts combined 05/21/2001 under the Yahoo! account number.
- c) Primary use is for personal, family and household incidentals. There have also been occasions in which a balance transfer or promotional cash offer was attractive enough to act on.
- d) Closing balance as of statement ending 06/02/04 was \$27,041.17.
- e) APR for purchases was 22.99% as of statement ending 06/02/04. Frankly, it's very difficult to tell what the originally agreed-upon APR was in the first place as there have been so many changes, both upward and downward.
- f) As the usage of this card was primarily for promotional cash offers and balance transfers, the standard, fixed APR was between 12.99%-14.99% after any expiration of promotional time period offers that I availed myself of.
- g) Finance charge for the statement ended 06/02/04 was \$498.73.
- h) Minimum payment as of statement ended 06/02/04 was \$\_\_\_\_\_.
- i) Payment of \$1,000 was made 06/08/04.
- j) My credit limit was decreased from \$50,000 to \$40,200 on 06/20/02. This was dangerously close to the balance on the card (\$40,093.87 as of 07/03/02).
- k) My credit limit was decreased again from \$40,200 to \$39,800 on 10/07/02. This again was dangerously close to the balance at the time (\$39,545.68 as of 10/03/02).
- l) **It's become obvious to me that Bank One's intention was simply to continue decreasing my credit limit so as to eventually close the account. I suppose that if my account went "over the limit" as a result of the razor-thin tolerance that was left between my current balance and newly-lowered credit limit, it would therefore also allow Bank One to add penalties and additional rate hikes of the APR. This theory became evident with another account I have with Bank One.**
- m) My APR was increased from a nominal 8% to 14.99% to 22.99%.
- n) My credit limit was decreased again from \$39,800 to \$27,250 effective from 04/23/02. At the time of this most recent credit limit decrease, my balance was again dangerously close and was actually forced over!!! (\$27,542.44 as of 05/04/04). This placed me in an "over the limit" situation for which I was penalized by Bank One and reported to Experian. I began calling Bank One to correct this situation on 05/10/04. I had been notified by Experian of the derogatory report placed by Bank One. When I confronted

Bal 04/14/08  
~\$4600-

33/43

5/7

Bank One, they admitted their 'mistake' and actually had the audacity to raise my limit to \$27,650 to cover the difference. I was promised that corrective measures would be taken with Experian, but as of the end of May nothing had changed...In fact, that same incorrect derogatory report was still on my Experian report as recently as the end of July. I do have a letter from Bank One clearly stating that the "over-the-limit" situation was not due to anything that I did, but rather, a Bank One error. In fact, I have not used the account for over two years.

- o) Bank One holds an 'Undisputed First Place' position in the ranks of dishonorable dealing and dubious business practices with regard to their credit card divisions. This holds true for all 3 accounts listed here. When First USA was responsible for the administration, I found people to be more reasonable and realistic. What Bank One did (and continues to do) to me is unconscionable, unethical, undeserved, bad business and arguably legal.

10) Bank One Chase #7434 XXX (Bank One e-Card)

- a) This account was originally with First USA Bank, and was first applied for due to its being an advertised incentive (0% APR) with the purchase of a Dell computer system. I applied over the telephone with Dell while buying a new client/server system for my California office.
- b) When I applied for the First USA/Dell Computer card, I was declined. I bought the computer system anyway, and simply used my American Express, I believe. Imagine my surprise when, approximately 01/22/2001 a brand new First USA/Dell Computer credit card shows up at my office with a credit limit of \$25,000!!! So much for being declined, and so much for a 0% APR incentive!!! I expected to receive a letter of declination, but instead received a \$25,000 credit line (the computer system was maybe 1/3 of that amount).
- c) Primary usage of this account has been for family and household incidentals, as well as balance transfers and promotional cash offers.
- d) Closing balance as of statement ending 06/09/04 was \$9,424.04.
- e) Finance charge as of statement ending 06/09/04 was \$194.40.
- f) Minimum payment due as of statement ending 06/09/04 was \$235.00.
- g) Payment of \$750.00 was made 06/17/04.
- h) APR on purchases as of statement ending 06/09/04 was 24.99%, and 24.99% for advances. The original APRs were all promotional (approximately 2.99%-5.99%). At the expiration of the promotional periods, the default APR was approximately 15.90% for purchases and 19.49% for cash advances.
- i) My credit line increased from \$25,000 to \$30,000 approximately 12/11/2001.
- j) My credit line was then decreased from \$30,000 to \$18,500 approximately 06/20/02. This credit line decrease was, again, dangerously close to the balance (\$18,246.03 as of 06/11/02).
- k) A payment sent was returned by the USPS approximately September, 2002. This showed up on my 09/11/2002 statement as a non-payment, accompanied by a late fee. It was a "no win" situation, so I accepted the late fee and made arrangements for a telephone payment so as to both honor my commitment and avoid a negative report on my bureau report. The following month, a situation occurred in which the account went late again. Aside from a clerical error on the part of my bookkeeper (whose duties include all this bill paying), I assumed the full responsibility for her error...what choice? I was severely punished by First USA (see following)
- l) Due to these back-to-back foul-ups, my APR on ALL FIRST USA ACCOUNTS was increased drastically (this account alone went up to 19.99% from its promotional APR). At the time, the total outstanding balances due to First USA were approximately \$150,000, and now all 3 account balances jumped...in some cases, as high as 24.99%!!!
- m) I contacted First USA, and questioned them as to why my APRs had been increased so much. After all, when the first payment came back in the mail, I contacted First USA, made a phone payment commitment, and stuck to it. I was reassured that since I did so, there was no report made to the credit bureaus. When I queried about the huge increase in APR, I was told that just like it says in the Cardholder Agreement about being late twice in a 6-month period, likewise I should wait about 6 months and the APRs would roll back assuming the account remains in good standing. That sounded perfectly reasonable, so I had no reason to doubt it.
- n) My APR was increased again from 19.99% to 22.99% approximately 04/10/03 (prime + 18 7/8%).
- o) My APR was increased yet again from 22.99% to 24.99% approximately 12/03/03. Throughout all these APR increases, I hadn't used any of my First USA/Bank One accounts for over 2 years!!!
- p) Practically concurrent with the latest APR increase to 24.99%, (now) Bank One actually had the audacity to increase my credit limit from \$18,500 to \$21,300!!! Apparently, there was confusion as to whether or not I was a good risk or a bad risk, but as long as I was a foolishly profitable risk I was a risk worth taking...or so I thought.
- q) Effective 04/23/04, Bank One decreased my just-recently increased credit limit from \$21,300 down to \$11,050. Once again, this was very close to my balance at the time (\$10,749.84 as of 04/09/04).
- r) Just as a bit of added entertainment, I wanted to tell you that Bank One decreased my credit line

04/14/08 \$0

Not error!  
Payment made - never posted.  
Check voided later  
Oct/2002 Chase period late or no postings, returned mail, etc.  
Statements missing BSSA  
ONLY Bank One/Chase  
April 2008 renew

34/43

s) yet again again, from \$11,050 to \$9,150 approximately 08/04/04 (balance was \$8,610.33 at the time). In retrospect, it would have been a lot simpler had I truly been turned down in the beginning like I was told.

11) Bank One / Chase #5024 XXXX (British Airways Visa Card)

6/7

a) Originally opened with First USA approximately August, 1999. The original credit limit was \$25,000. I had another First USA account (#3574) that had a \$40,000 credit limit that was combined with the British Airways card to total \$65,000. These were combined some time between August, 1999 and June, 2000. A third First USA account (#2529) was also rolled in to the British Airways card, for a grand total credit limit of \$90,000

b) This was my main card of choice, as my business afforded me regular opportunities to travel. The British Airways Frequent Flyer program worked very well, so the unusually high credit limit was a definite convenience. Usage was broad, ranging from balance transfers to promotional cash offers for the company to travel expenses as well as daily various and sundry charges. I used this card at almost every opportunity for personal and household expenses.

Bal 04/14/08 \$0

c) Closing balance as of statement ending 06/07/04 was \$68,601.91.

d) Finance charge as of statement ending 06/07/04 was \$1,367.08.

e) Minimum payment due as of statement ending 06/07/04 was \$1,370.00.

f) Payment of \$50,000 was made via Fed-Ex 06/18/04. Various credits (\$4,013.93) were issued to the account 06/20/04. Another payment of \$11,000 was posted 07/22/04, and another final payment of \$5,000 was made via Fed-Ex and posted 08/03/04. These payments and credits paid off the account, and left a credit balance of \$719.70.

g) APR on purchases was originally 10.99%, and increased to 19.99% approximately April, 2003. (I'm not sure of the date. It's very difficult to "reverse engineer" First USA/Bank One statements.) The APR was increased from 19.99% to 22.99% right around the time of the First USA/Bank One merger, and then was increased yet again from 22.99% to 24.99% approximately July, 2004. My credit limit was decreased from \$90,000 to \$70,600 approximately 04/23/04. True to form, the difference between my balance due at the time (\$70,318.97 on 04/07/04) and this newly-decreased credit limit was razor thin.

Checks h) Received thru 2005 for...

As recently as February, 2004, I was still receiving convenience checks offering 3.99% fixed APR for the life of the loan up to my available limit of \$90,000 at the time. These checks are still arriving, albeit for a lower \$70,600 limit as recently as August 3rd, 2004!!!

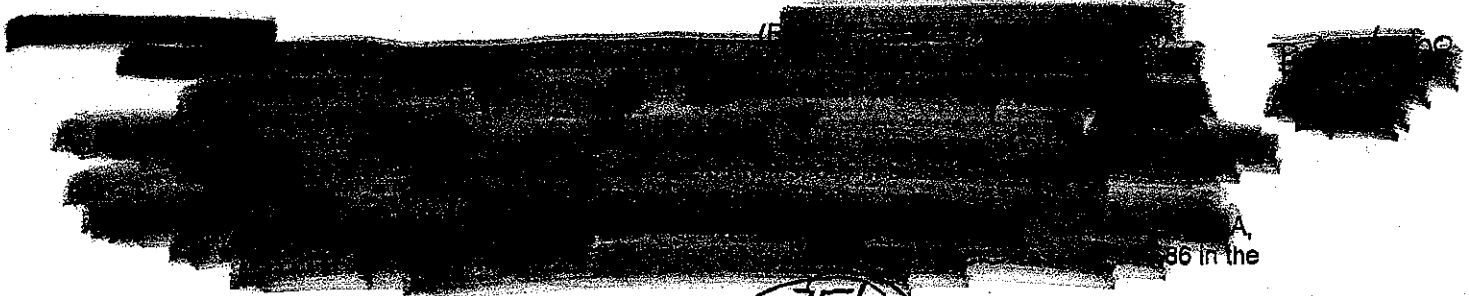
On August 4th, 2004, I checked with Bank One to confirm that my account was, in fact, paid off. I intended to avail myself of the 3.99% fixed APR. My account balance was confirmed to be zero, plus an additional credit balance of \$719.70. And, yes, the checks were also confirmed as valid up to my available \$70,600 credit limit. However, before I merely wrote myself a check for \$69,000, I thought it prudent to call Bank One first (I've already had a taste of their somewhat "dubious" ethics and "truth in lending"). I planned to use the money to satisfy some other higher interest debt, and 3.99% fixed was an attractive offer. To make a long story short, I was not only told that a \$69,000 check would not be honored, but that I couldn't even write a check for \$1,000!!! I was told further that my account was closed!!! Not because of late payment or NSF checks or going over the limit, but allegedly due to my unsecured debt level (approximately \$100,000 of it had already been paid off to Bank One themselves, but they had not reported it to Experian!!!)

k) I received a refund check for my credit balance of \$719.70.

l) I also received a statement asking for \$167.57 back to cover finance charges for approximately \$4,800 for the previous month. Another entry on the statement was a \$65 Annual Membership Fee (needless to say that's been removed now). The statement (closing date of 08/06/04) also states that my Total Credit Line of \$70,600 has \$0 available, and my Cash Access Line of \$14,120 also has \$0 available.

m) I also received a letter dated August 5th, 2004, stating that "my request for reinstatement has been declined". I did not request any such reinstatement. In fact, my account was already closed on the 4th!!! I reconfirmed that fact on the 5th, but never authorized another inquiry!!! Not only did that unauthorized inquiry cost me more valuable FICO points, but my account had just been closed!!!

n) Where's the "truth in lending"??? I received yet another 3.99% offer up to \$70,600 on August 16th!!!



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Anyway, Nelli, there should be sufficient data here for you to develop a list of questions or topics you'd like to cover. There are a few spots in this overall that need to be polished up, but it is true and factual to the absolute best of my knowledge.

Please contact me at your earliest convenience, and we can move on to the next step.

All the Best,

Stephen Strachan  
Seven Seas Trading, Inc.

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The New York Times > Business > The Plastic Trap: Soaring Interest Compounds Credit

NY Times excerpt (11/21/2004)

too much debt, has missed or is late on payments to other creditors, or is otherwise mishandling their personal finances, it is not unreasonable to determine that this behavior is an increased risk. In the interest of all of our customers, we must protect the portfolio by adjusting a customer's rate to compensate for that increased risk "

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EX-16  
(2 pages)

### The Credit Score

The interest rate on a credit card is theoretically correlated to the likelihood that a borrower will make good on his debts. Lenders typically measure those odds by a three-digit number known as a FICO score

Calculated by and short for the Fair Isaac Corporation, a company in Minneapolis, that score has become the most vital of statistics to many Americans

Credit scores are used to determine everything from how much a person can borrow to how much he or she pays for life insurance to whether he or she can rent a home. A utility company in Texas even experimented last summer with using credit scores to set prices for electricity.

The number crunchers at Fair Isaac do not make lending decisions. They simply take information collected by the three largest credit-reporting agencies, Experian, Equifax and TransUnion, and apply mathematical formulas to boil it down to a single number on a scale that runs to 850.

"Lenders use that score, almost like a thermometer, to determine if they're going to grant credit or not," said Tom Quinn, a spokesman for Fair Isaac. He estimated that his company had calculated a credit score for about 75 percent of American adults.



The average FICO score is 720, he said. A score below 620 lands a consumer in the riskiest category, known as subprime, and virtually ensures the highest borrowing rates, if the consumer can obtain any credit at all. Credit reports generally note only those payments made at least 30 days late

Consumers with better-than-average scores are usually, but not always, eligible for the lowest rates. As Steve Strachan, a flower importer in York, Pa., learned, a relatively high credit score does not guarantee favorable terms.

A thick credit report on Mr. Strachan from January showed a FICO score above 730, but by then he had already been through a battle with the issuer of a card that had once been his favorite method of payment.

In the 1990's, Mr. Strachan traveled frequently from his home on the West Coast to Amsterdam and other foreign cities to meet with suppliers of tulips and exotic flower varieties that he distributed to domestic florists and wholesalers. He obtained a WorldPerks Visa card that rewarded him with seat upgrades through Northwest Airline's frequent-flier program

"I used that card whenever I possibly could because of the travel benefits," he recalled, sitting in his living room before stacks of credit card bills, change-of-terms notices and other correspondence between him and several lenders. "Never paid a penny of interest."

He was such a valued customer then, he said, that US Bank, which issued the card, had extended him a high credit limit of \$54,000 even though the card rate was just one percentage point above the prime rate. When the economy wilted after the collapse of the stock market in early 2000, so did Mr.

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The New York Times > Business > The Plastic Trap: Soaring Interest Compounds Credit ..

Strachan's business. He began using his credit lines on that Visa card and a few others to stay afloat, paying smaller portions of his growing balances

Then, in May of last year, US Bank sent Mr. Strachan a letter telling him that it planned to raise the card's rate to 20.21 percent, nearly quadrupling the existing rate of 5.25 percent.

"I wasn't late, and I didn't go over the credit limit, and I didn't write bad checks," Mr. Strachan said. A representative of US Bank told him he was using too much of his available credit, he said.

A US Bank spokesman declined to comment on Mr. Strachan's account.

The monthly interest charge on his \$50,000 balance jumped from \$209 in June to \$756 in July and \$808 in August. He eventually persuaded the bank to restore the original rate, but the bank closed the account, shutting off a key source of credit.

By then, Bank One, another creditor, had compounded Mr. Strachan's woes. He was carrying a balance of about \$70,000 on one account when the bank started raising his rates, first to 19.99 percent in April 2003, then to 22.99 percent the next month, then to 24.99 percent in June. By October of last year, he was incurring a monthly finance charge of about \$1,500 on a \$77,000 balance.

"It was like they almost all had a little meeting in the back room and said, 'Let's get Strachan,'" he said of his creditors. "How does it serve them to treat people like that? Are they trying to force them into bankruptcy?"

Lawyers he consulted advised Mr. Strachan to take the easy - and increasingly popular - way out by filing for bankruptcy protection, but he refused. He is struggling to make good on his debts "because I have principles and ethics."

But the battle to dig out of a deepening hole has taken a toll. Mr. Strachan said he had lost 30 pounds and described himself as a "broken man."

Lately, he said, Bank One has periodically reduced his credit limit to a level just above his remaining balance, leaving him little margin for error. Some months, he said, if he were to pay only the minimum due, the ensuing finance charge would put his balance over the limit, triggering a penalty fee.

By doing that, he said, "They create their own little monster."

### The Regulators

Consumer complaints prompted the Office of the Comptroller of the Currency, which oversees the nationally chartered banks that constitute most of the major card issuers, to warn banks about giving fair notice of term changes and about sending out tempting offers to people who are unlikely to qualify for them.

Julie Williams, the acting comptroller, said in an interview that as long as the lenders were not intentionally deceiving their customers, they were free to set whatever rates and fees their home states allow. If customers do not want to pay a particular rate, "they have choice," she said. "They can find another card."

But consumers clearly are unhappy with the choices they have. About 80,000 people lodged complaints

EX-17  
 (4 pages)

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AL 2004-10

# OCC ADVISORY LETTER

Comptroller of the Currency  
 Administrator of National Banks

Subject: Credit Card Practices

**TO:** Chief Executive Officers of All National Banks, Department and Division Heads, and All Examining Personnel

## PURPOSE

The Office of the Comptroller of the Currency ("OCC") is issuing this advisory letter to alert national banks to the OCC's concerns regarding certain credit card marketing and account management practices. These practices may entail unfair or deceptive acts or practices and may expose a bank to compliance and reputation risks.

Three practices, in particular, have come to the OCC's attention and are addressed in this guidance. The first practice is soliciting for credit cards that advertise credit limits "up to" a maximum dollar amount, when that credit limit is, in fact, seldom extended. The second practice is using promotional rates in credit card solicitations without clearly disclosing the significant restrictions on the applicability of those rates. The third practice is increasing a cardholder's annual percentage rate or otherwise increasing a cardholder's cost of credit when the circumstances triggering the increase, or the creditor's right to effectuate the increase, have not been disclosed fully or prominently.

## DISCUSSION

### "Up to" Marketing

Promotions for credit cards with credit limits "up to" a specified dollar amount are common in the credit card industry, and such marketing can be appropriate and beneficial to customers when the "up to" amount of credit offered is not essentially illusory,<sup>1</sup> a meaningful number of applicants receive a significant credit line,<sup>2</sup> material information about the cost and usefulness of

<sup>1</sup> In a recent advisory letter, the OCC noted the compliance and safety and soundness risks and concerns presented by credit card programs under which a nominal credit line is consumed by fees. See OCC Advisory Letter 2004-1, "Secured Credit Cards," at 4 (April 28, 2004). The OCC advised that banks should not "offer unsecured credit cards if the amount of fees charged to the card upon issuance substantially reduces the amount of initial available credit and card utility." *Id.* at 6.

<sup>2</sup> Credit lines should be established commensurate with a borrower's creditworthiness and ability to repay the assigned limit in accordance with the terms of the card. "Credit Card Lending, Account Management and Loss Allowance Guidance" at 2, attached to OCC Bulletin 2003-1 (January 8, 2003).

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the card is clearly and conspicuously presented, and disclosures are made in accordance with Regulation Z, 12 CFR part 226. On the other hand, certain practices present high compliance and reputation risks. Accordingly, national banks should not:

- Target consumers who have limited or poor credit histories with solicitations for credit cards with a maximum, or "up to," credit limit that is far greater than most of these applicants are likely to receive.
- Provide most applicants with a "default credit line" (the lowest credit line available) that is significantly lower than the maximum amount advertised, while failing to disclose fully and prominently in the promotional materials the default credit line and the possibility that the consumer will receive it
- Advertise the possible uses of the card when the initial available credit line is likely to be so limited that the advertised possible uses are substantially illusory.

To further mitigate associated risks, national banks should strongly consider providing and disclosing readily exercisable mechanisms for consumers to cancel the card at little or no cost when they learn the actual credit limit granted.

#### *Promotional Rate Marketing*

Another common industry practice is to use a promotional rate to attract customers and to induce new and existing customers to transfer balances from other credit cards. A typical promotional rate solicitation involves representations that an applicant or current cardholder may for a limited time receive a reduced annual percentage rate ("APR") on certain credit card charges or transactions. The reduced APR generally will be in effect only for a specified number of months. Additionally, the low APR may be subject to other material limitations, and other features of the promotion may limit the consumer's ability to benefit from the program. For example, the promotional rate may apply only to transferred balances and not to new purchases during the promotional rate period, or the borrower's payments during the promotional rate period may be applied first to balances transferred pursuant to the promotional rate solicitation, and only after such transferred balances are paid off are payments applied to balances that are accruing interest at the ordinarily applicable (and higher) APR. In addition, consumer benefits from low initial APRs may be offset by the imposition of fees on any balances that are transferred.

Promotional rate offers may be beneficial to consumers, and the typical limitations and features described above are not, taken alone, contrary to law. Problems may arise, however, if material terms are not appropriately disclosed in promotional materials. Accordingly, national banks should not:

- Fail to disclose fully and prominently in promotional materials and credit agreements any material limitations on the applicability of the promotional rate, such as the time period for which the rate will be in effect, any circumstances that could shorten the promotional rate period or cause the promotional rate to increase, the categories of balances or charges

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to which the rate will not apply, and if applicable, that payments will be applied to promotional rate balances first.

- Make representations that create the impression that material limitations regarding the applicability of the promotional rate do not exist.
- Fail to disclose fully and prominently in promotional materials and credit agreements any fees that may apply (e.g., balance transfer fees) in connection with the promotional terms.



#### *Repricing of Accounts and Other Changes in Credit Terms*

Credit card issuers may increase a consumer's APR to address credit risks that arise when a consumer fails to make timely payments on the account, and some credit card issuers may increase the APR when a consumer fails to make timely payments on other accounts, including accounts with other creditors. Some credit card issuers also may raise the consumer's APR for other reasons, such as the consumer's increased use of credit, failure to make more than the minimum monthly payment on the account with the issuer, or other behavior that reflects adversely on the consumer's credit rating. Credit card issuers may take other actions that also effectively increase the cost of credit for some consumers, such as shortening the due date for receipt of payment or raising the amount of fees for late payment, exceeding a credit limit, or obtaining a cash advance.<sup>3</sup>

These practices may well be appropriate measures for managing credit risk on the part of the credit card issuer. However, certain practices in connection with repricing credit card accounts and changing terms of credit card agreements may raise heightened compliance and reputation risks. Accordingly, national banks should not:



- Fail to disclose fully and prominently in promotional materials the circumstances under which the credit card agreement permits the bank to increase the consumer's APR (other than due to a variable rate feature), increase fees, or take other action to increase the cost of credit, such as, if applicable, failure to make timely payments to another creditor
- Fail to disclose fully and prominently in marketing materials and credit agreements, as applicable, that the bank reserves the right to change the APR (other than due to a variable rate feature), fees, or other credit terms unilaterally.

#### CONCLUSION

The practices described in this advisory letter may involve unfair or deceptive acts or practices, or other violations of laws or regulations. These practices also can damage a bank's reputation and good name, and are contrary to the standards under which the OCC expects national banks to operate. Accordingly, in the OCC's view, a national bank should take steps necessary to avoid

<sup>3</sup> In some circumstances, the credit agreement specifies when the credit card issuer may increase the APR, increase fees, or otherwise change the applicable credit terms. In other circumstances, the credit agreement permits the credit card issuer to make unilateral changes in terms.

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engaging in such practices. In the event the OCC finds a national bank to be engaged in the practices identified in this advisory letter, it will take all appropriate supervisory action necessary to address the matter.

Questions concerning this advisory letter may be directed to the Community and Consumer Law Division at (202) 874-5750, the Credit Risk Division at (202) 874-5170, the Compliance Division at (202) 874-4428, or the appropriate supervisory office.

\_\_\_\_\_  
Julie L. Williams  
First Senior Deputy Comptroller and  
Chief Counsel

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Emory W. Rushton  
Senior Deputy Comptroller and  
Chief National Bank Examiner

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EX-18  
(1 page)

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Stephen, your last point is the most salient. The primary difficulty in pursuing claims for you, since you have now relocated out of California (which has struck down arbitration clauses in credit card agreements), has been the uniform existence of arbitration clauses in the agreements. These clauses make it impossible for lawyers to handle any claims, because the claims are too small to cover the costs and fees of the case and because the clauses preclude class actions. Thus, because all of the agreements include the clauses, no one can really challenge the violations by the credit card companies, and they continue on without any penalty or deterrent. The point of this case is to destroy the clauses so that the substantive cases may then be pursued on a representative basis. Whether a particular card issuer has or has not breached its agreement with you is wholly irrelevant. The point of this case is that they all conspired, during identified meetings and in specific emails, to include arbitration clauses which they knew would act as an unfair and deceptive restraint on cardholders' ability to resolve legitimate claims of breach and the imposition of unlawful or unfair fees, charges and terms. Thus, the claim is an antitrust claim, which outlaws conspiracies among competitors to set and agree upon market impacting terms. There is no doubt that such a conspiracy happened, because I witnessed some of the meetings at ABA conventions and otherwise where the credit card issuers all agreed to basically do the same thing. So, this is indeed a stepping stone case. That said, however, I think you may have a very interesting point concerning antitrust injury. To the extent your credit score has been lowered because you have been unable to challenge unlawful change in terms provisions and other aspects of certain credit card practices, it may be that that is an antitrust injury. Of course, Fair Issacs doesn't know why the score is lower, so it wouldn't be a defendant, but I think we might be able to construct an economic analysis to show that the arbitration clauses have had an indirect effect on credit scores, because they prevent people from challenging charges, fees, etc. they otherwise would challenge. I would want to talk to an economics expert, but I definitely see some potential there. I will call you later today.

Rec  
09/03/05

Arbitration  
Elimination

Michael D. Donovan

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