
CLIENT BULLETIN

**COMPANY TARGETS ELDERLY FOR LIVING TRUSTS
IN VIOLATION OF OHIO LAW**

On October 14, 2009, the Ohio Supreme Court issued a decision regarding the unauthorized practice of law involving American Family Prepaid Legal Corporation and Heritage Marketing Insurance Services, Inc. Between March 2003 and March 2005, American Family targeted older Ohioans by purchasing lists identifying customers over the age of 65. Initially, many individuals received information through the mail, while some received cold calls from telemarketers. Ultimately, usually in in-home sales presentations, American Family agents focused on convincing consumers that they needed living trusts, for which they charged \$1,995. During the relevant time frame, 3,202 living trust documents were purchased in Ohio at a fee of \$1,995 each.

The Ohio Supreme Court found that American Family used misleading mailers, including cites to purported studies done by the AARP, which, in fact, were not valid representations from the AARP. Furthermore, information was disseminated with respect to the probate/estate administration process, again which was false and/or misleading. The individuals who would come into the customers' homes were not attorneys. Nevertheless, they generally gave a detailed, and often incorrect, explanation of the probate process and legal advice with respect to living trusts. The individuals were well trained in how to "sell" living trusts.

The Court found American Family guilty of the unauthorized practice of law and imposed a civil penalty of \$6,387,990 against American Family Prepaid Legal Corporation, representing the totality of the fees that it received. Certain individuals were also cited by the Court.

In addition, the Court ordered American Family to disclose the names of all Ohio customers to the complaining party, the Columbus Bar Association. The intent behind the disclosure is to allow the Columbus Bar Association to communicate with each one of the Ohio clients, in writing, informing them of the unauthorized practice of law and suggesting that they may want to consult with an attorney of their own choice, at their own expense, to confirm that the documents they received were adequate and appropriate for them. (According to an October 22, 2009 news report, American Family has not yet complied with this disclosure requirement.)

This decision by the Ohio Supreme Court serves as an important reminder regarding the source of professional advice that we often receive. It is a good reminder that simply because someone is charging a lot of money, here \$1,995 by non-professionals, does not always equate to quality service. It is important to seek quality professional services when considering your estate planning. Unfortunately, there are individuals who target and prey on members of our society who are more vulnerable.

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DELAWARE COUNTY REAL ESTATE TAX PRE-PAYMENT (ESCROW) PROGRAM ADOPTED

The Delaware County Treasurer has adopted a program to permit real estate taxes to be paid (actually, prepaid) in monthly installments. The monthly installments are paid with respect to taxes not yet due and payable (that is, taxes that have not yet been the subject of a tax bill from the Treasurer), and the monthly installments paid are placed in an escrow account and credited to the next tax bill issued by the Treasurer. If you are interested in prepaying your Delaware County real estate taxes into an escrow with the Treasurer's office, contact the Treasurer's office at 740-833-2480 for further information or to sign up.

“RED FLAGS” IDENTITY THEFT ENFORCEMENT AGAIN DELAYED BY THE FTC

The Federal Trade Commission (FTC) website advises that, at the request of members of Congress, the FTC has extended enforcement of the Red Flag rules until June 1, 2010.

Obviously, this gives more time for determination as to coverage and for writing and developing a Program. The law firm can provide assistance in determining if your business is a creditor and, therefore, subject to the Rule (and can provide a formal written legal opinion if it is determined that your business is not subject to the Rule), and can draft a Program tailored to your business.

NEW “FURNISHER” RULES UNDER THE FAIR CREDIT REPORTING ACT (FCRA) TO BE EFFECTIVE JULY 1, 2010

The FTC and various federal agencies that regulate financial institutions have just promulgated two new rules that apply to companies that “furnish” (report) credit information to credit bureaus. The rules, effective July 1, 2010, require “furnishers” to do certain risk assessments (the risk of furnishing inaccurate information to credit bureaus) and develop policies and procedures. The rule regarding development of policies and procedures requires said policies and procedures in order to ensure the integrity and accuracy of the information being furnished to credit bureaus. The other rule requires “furnishers” to investigate specific types of disputes they receive directly from consumers.

If your company reports information to credit bureaus, you need to follow the rule and develop policies and procedures. We can assist you in drafting and implementing such policies and procedures. Even if your company is not a “furnisher,” but receives disputes directly from consumers (such as after your company has turned its former customer's debt over to a collection agency), it may need to have procedures for investigating and replying to such complaints/disputes. We can assist you in this also.

****NOTICE****

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.