

STATEMENT FOR THE RECORD

**HEARING BEFORE THE
COMMITTEE ON GOVERNMENTAL AFFAIRS**

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

UNITED STATES SENATE

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**JAMES G. HUSE, JR.
ACTING INSPECTOR GENERAL
SOCIAL SECURITY ADMINISTRATION**

Thank you for the opportunity to provide this Subcommittee with a Statement for the record on the topic of deceptive solicitations. I want to highlight the Office of the Inspector General's (OIG) efforts to fight misleading Social Security-related solicitations, and the need for additional legislative tools in this area, specifically, the passage of S.335, the "Deceptive Mail Prevention and Enforcement Act."

Companies Who Offer Social Security Number "Services"

Securing a new or replacement Social Security card from the Social Security Administration (SSA) is fast, simple, and free. On average, the paperwork takes less than 10 minutes to complete. Ninety six percent of new parents secure a Social Security number (SSN) for their newborns right in the hospital by consenting to an electronic transfer of information from their State's Department of Vital Records to the SSA.

Unfortunately, we have identified companies that have managed to exploit and profit off this straightforward, free service offered by SSA. These companies have designed deceptive SSN-related mailings that give the false impression of approval, endorsement, or authorization from the SSA. They also time their mailings to arrive when individuals are most susceptible to their misleading contents. For example, these company mailings frequently target new brides around their wedding date, by offering name change "services." Additionally, these mailings target new parents shortly after the birth of a child and offer newborn SSN "services," even though a SSN application has most likely been accomplished in the hospital. These solicitations frequently misuse the terms "Social Security" or "Social Security Administration" to create the false impression of official Government sanction or approval. Meanwhile, the companies charge up to \$16 for this alleged "SSN-assistance service."

OIG Efforts to Combat Misleading Mailings

The SSA/OIG has dedicated significant resources to striking back against such deceptive SSA-related mailings. We monitor and track all allegations of deceptive mailings. We immediately notify companies about possible violations of section 1140 of the Social Security Act -- the statute that provides for the imposition of civil monetary penalties against violators. In the majority of cases, we achieve voluntary compliance. We also work jointly with other Federal law enforcement agencies, such as the U.S. Postal Inspection Service and the Department of Justice, as well as State Attorney Generals, to advance governmentwide strategies against such deceptive practices. These coordinated efforts have been highly effective in fighting consumer fraud. Nonetheless, there have been on occasion, companies that refuse to immediately cease and desist from such deceptive practices.

Civil Case Example

The Federal Record Services Corporation (FRSC) was the subject of four separate State actions due to its deceptive SSA-related advertisements. In February, we initiated a civil monetary penalty proceeding against FRSC under the Social Security Act. Shortly thereafter, the Department of Justice moved for a preliminary injunction, which sought nationwide relief from FRSC's deceptive practices.

FRSC is in the business of assisting individuals in filling out Social Security Form SS-5, the form used to apply for a Social Security number card or to change one's name on the card. The company sends direct-mail solicitations to consumers that appear either to be from, or endorsed by, the SSA. Unsuspecting consumers then forward sensitive personal information about themselves to this company. The service, in its entirety, consists of copying this personal information onto SSA Form SS-5. For this clerical service, the company charges consumers \$15. FRSC direct mails over 2 million solicitations each year, and over 90,000 people use the company's service annually. Gross revenues for the company's service top \$1.5 million per year.

On May 21, a Federal Judge in the Southern District of New York took a big step towards ending this company's deceptive practices. At the request of Mary Jo White, U.S. Attorney for the Southern District of New York, U.S. District Judge Barbara S. Jones granted a preliminary injunction against FRSC. Under the terms of the preliminary injunction, the company's assets have been frozen and its mail has been detained pending the outcome of OIG's civil monetary penalty proceedings. Judge Jones also enjoined FRSC from sending solicitations without disclosing:

- in prominent bold typeface, on the initial solicitation page, that its mailings are not approved, endorsed, or authorized by SSA;
- in mailings concerning registration of newborn children with the SSA, that registration of the newborn child with SSA has likely occurred already by the hospital where the child was born;
- that there is no charge to obtain an SSN from SSA; and
- that the form to obtain an SSN or a revised card is available for free at any SSA office or by calling SSA's toll-free 800 number.

Further litigation is pending in this case.

Criminal Case Example

Deceptive SSA-related mailings occasionally rise to the level of criminality. In September 1998, our office investigated Anthony David Williams (Williams) who ran a nationwide scam that targeted the elderly of our country.

Williams, a.k.a. Donald Jenkins, contacted SSA beneficiaries by telephone and through the U.S. mails alleging to be a SSA employee. Williams sent correspondence to these individuals bearing the words "Social Security Administration" and the official SSA seal. Williams advised these beneficiaries that they had been approved to receive an additional SSA benefit check, and that in order to initiate the disbursement of the check, they would have to pay a processing fee that ranging from \$9 to \$99. In some cases, Williams would request banking information from the beneficiaries. After receiving the requested information, Williams created bank drafts whereby he withdrew additional sums directly from their checking accounts.

In other related fraudulent schemes, Williams would contact individuals by mail and telephone to inform them they were part of a group that could participate in pooled lottery winnings upon payment of a processing fee. When individuals responded to Williams' solicitations by mailing him checks, Williams would create fictitious authorization forms. With signature and related information from the victim's checks, Williams would create bank drafts, withdrawing sums of money directly from their checking accounts.

On December 24, 1998, Williams appeared in the United States District Court, Phoenix, Arizona before United States District Judge Earl H. Carroll. Williams agreed to waive indictment and pleaded guilty to a one count information charging him with a violation of Title 18 U.S.C. § 1341, Mail Fraud. The information charged Williams with devising telemarketing schemes to defraud SSA beneficiaries, as well as other fraudulent lottery schemes using the U.S. mails, for a loss to the victims of approximately \$1.3 million.

Potential Legislative Remedies

No legislation can prevent the type of outrageous criminal activity demonstrated in the Williams case. However, S. 335 provides a common sense approach to advance the fight against the more typical scenario – the mailing of deceptive solicitations by "SSN-assistance" companies. We feel that consumers are entitled to important information about the free nature of SSA's services. Specifically, that a Social Security card, and assistance in securing such card, is provided free of charge. Thus, we strongly endorse section 2 of S.335, which would require notification by "SSN-assistance" companies that an SSN can be obtained without cost from SSA.

Again, I would like to thank the Subcommittee for allowing me the opportunity to address this problem that impacts on hundreds of thousands of Americans each year.