



January 22, 2014

The Honorable Eric Holder
Attorney General of the United States
Department of Justice
950 Pennsylvania Ave
Washington, DC 20530

Re: Preventing fraudulent transactions and protecting consumers

Dear Attorney General Holder:

On behalf of The Leadership Conference on Civil and Human Rights and Americans for Financial Reform, we write to express our support for the Department of Justice's ongoing efforts to ensure that parties involved in electronic consumer financial transactions are working together to prevent fraud and to protect consumers. The Department's recent complaint against Four Oaks Bank & Trust demonstrated the extent to which fraudsters can abuse consumers when key safeguards designed to protect these payment networks are ignored – and the troubling facts in this case provide ample justification for the Department to continue devoting significant resources to enforcement in this area.

Consumers receive considerable benefit from the ability to conduct transactions electronically. Millions of Americans pay their mortgages, car payments, utility bills, and other payments using electronic payment networks such as the ACH system. The integrity of this system, however, hinges on a series of safeguards that are designed to make sure that when a merchant seeks to take money out of a consumer's account, the correct authorizations are in place to debit the correct amount at the correct time.

In most cases, the financial institutions that process payments on behalf of third-party payment processors and interface with the bank where a consumer's account is held are responsible actors, as they closely monitor the behavior of payment processors and the merchants that contract with them. In these circumstances, the necessary safeguards are in place to ensure that the recipient of a consumer's funds is an honest business, and that all applicable state and federal laws are being followed.

Yet when required safeguards are ignored, consumers' bank accounts are left exposed to transactions initiated as part of internet scams, abusive debt settlement fees, online gambling, illegal online payday loans, or other practices that are prohibited under federal and state law. Perpetrators of these frauds do not need a physical check to access a consumer's wages, retirement income, or other income; they simply need a routing number and an account number.

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In the case of Four Oaks Bank & Trust, the bank demonstrated a shocking disregard for its legal obligations to prevent fraud. The complaint showed how the bank allowed a payment processor to bypass bank internal controls, which resulted in abnormally high return rates. The complaint also showed that the bank disregarded knowledge that some merchants were changing names or operating off shore in an effort to avoid scrutiny or to evade consumer protection laws. Even after being notified by NACHA that some transactions violated payments rules, Four Oaks Bank & Trust continued to process payments for the processor involved.

While the vast majority of transactions processed through national payment networks are legitimate, continued scrutiny of payments networks and the payment processors and banks that use them is critical to preventing money laundering, fraud, and abusive transactions. We strongly support the ongoing efforts at the Department of Justice to ensure that fraudsters are prevented from gaining unfettered access to consumers' bank accounts, and we look forward to vigorous enforcement actions by the Department in the future.

If you have any questions, please feel free to contact any of us, or Senior Counsel Rob Randhava, at (202) 466-3311.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President



Lisa Donner
Executive Director
Americans for Financial Reform