CREDIT CARDS IN AMERICA

By David A. Szwak

The United States credit industry is rapidly moving toward replacing cash with a credit and debit card system which would electronically transact our financial affairs and track our every move. Smart cards, the financial information superhighway and complete absence of privacy appear to be in our future. It is estimated that each American possesses an average of six (6) credit card accounts. Determining liability is largely misunderstood. Attorneys must have a working knowledge of the credit system and its rapidly changing face. This article presents an overview of the credit cards, their usage, the liability of cardholder and card bearers, as well as related topics.

WHAT IS A CREDIT CARD?

As a general concept, credit is merely a contract between the cardholder and the credit issuer. It results from an offer and acceptance. A "credit card" is merely an indication to merchants that the person who received the card or template has a satisfactory credit rating and if credit is extended, the issuer of the card will pay or insure that the merchant receives payment for the merchandise delivered, and that the debtor intends to pay the card issuer.[1] The issuance of credit constitutes an offer of credit which may be withdrawn by the issuer at any time prior to the acceptance of the offer through the use of the card by the cardholder.[2] Further, use of a credit card by the cardholder is an implied, if not actual, representation that debtor intends to pay for the charges.[3]

NECESSARY INVESTIGATION BY CREDIT ISSUER

Credit issuers usually rely upon applications to perpetuate their business. Credit issuers may receive anywhere from a few to thousands of credit applications a day. In the high volume setting one can only wonder what procedures are in place to insure that the application is truthful and not fraudulent. American courts have consistently held that credit issuers have a duty to exercise reasonable care and diligence in performing a "necessary investigation" of each credit application received and the investigation of each application must occur prior to the issuance of credit.[4] As part of the investigation the issuer must verify the underlying information on the application, including the applicant's identity and authority, prior to the issuance of credit.[5] After all, credit issuers are in a superior position to prevent and stop credit fraud, particularly, "application fraud," where the cardholder listed on the application never applied for or received the charge card or template.[6] In Humble Oil & Ref. Co. v. Waters,[7] the Court found the credit issuer liable for carelessly sending a credit card through the mail on the authority of an

anonymous telephone caller. The credit issuer failed to use any reasonable procedures to verify the identity of the caller.

In resulting fraud instances, courts have not held credit issuers strictly liable for approving fraudulent applications but issuers must exercise reasonable diligence and care to prevent such losses as it adversely affects all consumers and, specifically, the targeted victim of fraud.[8] Credit card issuers frequently have meager, automated procedures to investigate and evaluate applications and place greater emphasis on collection. Still others have procedures in place but employee incentive or laxity results in routine deviation from the guidelines. At least one court has held that a credit issuer's failure to follow its own proclaimed standards does not, of itself, prove negligence of the credit issuer, unless the erroneous information in the application would have placed a reasonably prudent credit issuer on notice that the credit application was fraudulent.[9]

INVESTIGATION AT THE POINT OF SALE

One can only wonder why retailers and other merchants do not verify the identity of credit card users at the point of sale. Some have suggested a myth created by the credit industry caused this problem. It is a myth that it is illegal to ask a card user to present identification at the point of sale. It is outright reckless conduct to tender merchandise to a card bearer without any verification or recordation of personal identification. In fact, courts have ruled that retailers have a duty to exercise reasonable care to inquire about the identity of a purchaser using a charge card, to examine the charge card or template and only extend credit as the card or template authorizes and not merely disregard responsibility for resulting fraud.[10]

WHO IS A CARDHOLDER?

A "cardholder" is generally defined as the person whose identity is listed on the credit application made to the issuer. The cardholder is not liable for fraud perpetrated through the use his identifiers.[11] The Truth-In-Lending Act defines "cardholder" as "any person to whom a credit card is issued or any person who has agreed with the card-issuer to pay obligations arising from the issuance of a credit card to another person."[12] Further, the cardholder is not liable for fraud committed through the misuse of his account number, card or template. The cardholder, as a party to the contract with the issuer, is solely responsible for charges and users and holders of related cards are not liable for charges made on the account.[13]

Only cardholders are contractually liable for debts incurred by use of credit card. Mere card users, bearers or holders of related cards, even if authorized to use the card, are not liable for such debts.[14] The same may not be true for co-applicants or subsequently added cardholders on the account, which result in the

creation of a joint account.[15] Attempts to argue that a cardholder does not have authority to use the account have been unsuccessful. One court held that a corporation's liability was not limited based upon alleged unauthorized use by an individual where the individual was the cardholder to whom card was issued. A cardholder always has actual authority.[16] This holding blurred the distinction between cardholder and card bearer and may have been more properly decided upon a failure by cardholder (corporation) to provide adequate notice of potential or real misuse of the account by a formerly authorized card bearer. The blurred distinction has also occurred in cases where the person who received a credit card in their name, used the card, and received the billings for charge later argued they were not a cardholder. At least one court found such a person to be a cardholder and imposed liability for charges.[17]

TRUTH-IN-LENDING ACT DOES NOT APPLY IF AUTHORITY FOR USE EXISTED

The Truth-In-Lending Act provides the consumer certain protections when fraud or unauthorized use of their credit card(s) occurs. If the court finds that the card bearer has "actual, implied or apparent authority" then the Truth-In-Lending Act has no application, per **15 U.S.C. 1602(o), 1643**, and the cardholder's contract with the credit issuer and state law applies.[18] The defense of unauthorized use may be used in situations where the issuer sues the cardholder in an attempt to collect. In such situations, the credit issuer has the burden of proving that the particular use of the card was "authorized".[19]

"AUTHORIZED USE" VERSUS "MISUSE" VERSUS "UNAUTHORIZED USE"

As a general principle, when a cardholder, under no compulsion by fraud, duress or otherwise, voluntarily permits the use of his credit card or account by another person, cardholder has "authorized use" of that card and account and is thereby liable for charges resulting, even if the cardholder verbally told the other person not to charge over a certain limit. As to the creditor, once you give authority to the third person, regardless of the scope, you are liable under agency principles.[20] "Misuse" occurs when the card bearer exceeds the authority granted by the cardholder and particular charges are eventually made which were not contemplated by the cardholder.[21] "Unauthorized use," for purposes of determining liability of a credit cardholder, is use of a credit card by a person, other than the cardholder, who does not have actual, implied or apparent authority for such use and from which the cardholder receives no benefit.[22] Unauthorized use of a credit card occurs when a card bearer is not authorized and where there is no proof that the bearer was cardholder's agent or that cardholder ratified bearer's conduct.[23]

Courts are split on whether a cardholder can "after the fact"

limit his exposure for charges attributable to a card bearer, who has gone astray and begun to misuse the card. The use was initially "authorized" with actual authority granted. One court has responded that the user of a credit card to whom the cardholder has voluntarily given permission to use the card has "apparent authority" to use the card even after actual authority ceases to exist.[24]

THE IMPORTANCE OF NOTIFICATION TO THE CREDIT ISSUER IF MISUSE OCCURS

There is conflicting jurisprudence as to whether notice to the credit issuer, that a card bearer has exceeded the authority granted and is in possession of a charge card, will terminate responsibility for the charges occurring thereafter.[25] The dissent in Walker Bank & Trust Co. v. Jones,[26] argued that notification should cut off liability for three (3) main reasons: (1) credit issuers are in a superior position, once notified of potential misuse, to limit losses to the cardholder, itself (credit issuer) and third parties (retailers, etc.); (2) **15 U.S.C. 1643** and state laws of "agency" dictate that agency ends upon termination of authority by cardholder as to the card bearer and apparent authority vis-a-vis the credit issuer cannot be argued once the credit issuer is on notice; and (3) holding the cardholder liable is unrealistic and promotes a divorcing spouse to usurp the other spouse's credit cards or account numbers for misuse with the knowledge that the law would hold the cardholder (other spouse) liable.

Once the credit issuer receives notice of potential misuse of an account, the issuer has the sole power to terminate the existing account, refuse to pay any charges on the account, list the credit card as stolen or lost on national/regional warning bulletins, transfer all existing, valid charges to a new account and send the cardholder a new card bearing his new account number.[27] The credit issuer's situation is far better as a result of notification that a card has been lost, stolen of misused, as opposed to situations where the card is stolen without notice, because the issuer is on notice of possible problems and may even be alerted as to the whereabouts and identity of the card bearer.[28]

Some courts have addressed situations where the misuser (card bearer) was still in possession of the card and no notice was provided to the credit issuer. One court found the charges made by cardholder's ex-husband were authorized. The husband was still in possession of one of the cards and, at all times, was ostensibly authorized to make charges. But for the failure of cardholder to explain the situation, the credit issuer would have prevented further misuse.[29] Yet another court applied an estoppel theory to preclude an employer's defense to liability for charges, where the employer had provided charge cards to his employees for use and then failed to notify the credit issuer when he transferred the company.[30] On the other hand, one court has held that where the

husband (cardholder) notified the creditor to close his account and that his ex-wife had a charge card and the creditor knew the exact location where ex-wife continued to make purchases and that ex-wife was the person charging, yet the creditor failed to act, the husband was not liable. [31]

IMPLIED OR APPARENT AUTHORITY:

Courts have also imposed liability upon cardholder who clothe another with apparent authority to use cardholder's account or charge template. Generally, "apparent authority" exists where a person has created such an appearance of things that it causes third party reasonably and prudently to believe that second party has power to act on behalf of first person.[32] Prior, unrelated occasions where cardholder allowed third party to use credit card had no bearing on specific subsequent circumstance of unauthorized use.[33]

Courts have tended to find apparent authority when a cardholder requests a credit card, in a spouse's name and bearing a spouse's signature on the card. Such a representation to third persons such as merchants, to whom the card might be presented, is tantamount to apparent authority that the spouse is authorized to use the card and make charges.[34] Some courts have held that mere transfer of the charge template to a spouse or other third party created apparent authority and the cardholder was estopped to deny liability.[35] One court has questioned the existence of apparent authority if a credit issuer has been notified of potential misuse of a credit account. How can any apparent authority exist between the cardholder and ultimate retailer, to whom the card is presented, vis-a-vis the credit issuer? The credit issuer has been placed on notice of the card theft or loss.[36]

CARDHOLDER'S LIABILITY FOR UNAUTHORIZED USE

As a general rule, a cardholder is not liable for unauthorized use. There is no liability for unauthorized use of a credit card, except where the card is an "accepted credit card" then liability is not in excess of $50.00 and $50.00 is due only when and if: (1) the issuer provided the cardholder with adequate notice of the limited liability; (2) the issuer provided the cardholder with a description of means by which the issuer may be notified of the loss or theft of the activated card; (3) unauthorized use occurred before the card issuer had been notified that the cardholder no longer possessed the card or template; and (4) the issuer provided a method whereby the user of such card can be identified as a person authorized to use the charge template.[37]

FORGERY AND FRAUD

A cardholder is not liable for charges where another person forged cardholder's name on a credit card application and cardholder knew nothing about the credit card until he received

bills.[38] Courts have acknowledged that cardholders have little or no control over the fraudulent conduct of third persons who come into possession of charge cards bearing the cardholder's identity and cardholder is not liable for fraud-related charges unless fault of cardholder is proven.[39]

One court has held that defendant, to whom an unsolicited bank card was issued but never used by defendant, was not liable for purchases made with the card by a woman that the defendant subsequently married and who took the card without his knowledge when they separated several weeks later. Defendant never expressly or impliedly authorized her use of the card.[40] It appears the issuer would have violated **15 U.S.C. 1642**, if it had been in effect at the time the card was sent to defendant.

DISSOLUTION OF MARITAL PROPERTY REGIMES AND JOINT ACCOUNTS

When joint credit account holders divorce, they should obtain consent of their creditors before attempting to enter dissolution of property decree wherein one spouse accepts responsibility for former joint account. Both spouses remain liable on the account.[41] At least one court has rejected claims by joint cardholder against creditor, where the joint cardholder, a divorced woman, whose report listed bad joint debt by a credit bureau on the basis of her ex-husband's credit rating, attempted to recover against creditor on the basis that the dissolution of property decree freed her from liability for the joint credit charge account debts which ex-husband agreed to assume in the dissolution.[42]

FAIR CREDIT BILLING ACT: A WEAK EFFORT TO ASSIST CONSUMERS IN RESOLVING CHARGE DISPUTES

The Fair Credit Billing Act [FCBA], **15 U.S.C. 1666, et seq.**, sets forth an orderly procedure for identifying and resolving disputes between a cardholder and a card issuer as to the amount due at any time.[43] The Fair Credit Billing Act only applies to transactions under open-end credit plans.[44] The consumer has a right to challenge a creditor's statement of an account in consumer's name.[45] The FCBA provides protection to the consumer from the "shrinking billing period" which is the time within which to avoid the imposition of finance charges by payment of the balance or portion of the debt.[46] The consumer has a right to make the creditor promptly post payments and credits to his account.[47] If the creditor fails to comply with **15 U.S.C. 1666 and 1666a**, the creditor is subject to forfeiture of their right to collect the disputed amount.[48] The consumer has the right to assert all claims and defenses against the credit card issuer which the cardholder has against the merchant honoring the card.[49] The FCBA applies to credit cards.[50]

The consumer has an action for actual damages sustained from the creditor who violates FCBA and the creditor must pay a civil

penalty of twice the finance charge (minimum of $100.00, maximum of $1,000.00), plus court costs and a reasonable attorney's fees.[51] Class actions are may be instituted under **15 U.S.C. 1640.**

Ordinarily, a consumer must notify creditor of alleged billing error before bring action under FCBA.[52] The consumer is not required to send written notice of billing error to creditor where the creditor continues to report the account as delinquent, when in fact it had been satisfied and the creditor had failed to ever send a periodic statement to consumer.[53] In cases where the creditor must be notified, the sixty (60) days notice period commences to run from the date the disputed statement is received by the debtor. Debtor must make written dispute within sixty (60) days.[54]

LIMITATIONS OF PROTECTION OF FCBA:

The FCBA has certain limitations which may apply under various circumstances. The consumer must provide the creditor with written notice within sixty (60) days of the date the consumer receives the erroneous (disputed) billing.[55] The notification must contain certain items of information (completely identify yourself and the account, bill and/or charges in question) and a clear dispute (explain to the best of your ability why you think the bill is in error).[56]

Tort claims may not be asserted under FCBA.[57] The consumer (obligor) must make a "good faith attempt" to satisfactorily resolve the disagreement with the person honoring the card.[58] The amount of the transaction must exceed $50.00.[59] The transaction must occur in the same state as the cardholder's mailing address, or must occur within 100 miles of the cardholder's mailing address.[60] The amount of the claims or defenses asserted may not exceed "the amount of credit outstanding with respect to such transaction at the time the cardholder first notified the card issuer or person honoring the credit card.[61] Note that payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of:

(a) late charges in the order of their entry to the account;
(b) finance charges in order of their entry to the account;
(c) debits to the account (other than those above) in the order in which each debit entry to the account was made.[62]

The above mentioned limitations have an exception that exists when: (1) the amount of the transaction must exceed $50.00; and (2) the transaction must occur in the same state as the cardholder's mailing address, or must occur within 100 miles of the cardholder's mailing address. In essence, those restrictions do not apply when the person honoring the credit card (retailer):

(a) is the same person as the card issuer;
(b) is controlled by the card issuer;
(c) is under direct or indirect common control with the card issuer;

(d) is a franchised dealer in the card issuer's products or services;
(e) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer; or
(f) where the defense or claim can be classified as a "billing error" rather than an assertion of a claim or defense.[63]

TIGHTENING THE SCREWS ON THE CUSTOMER

Courts have recognized that a credit issuer's "ability to report on the credit habits of its customers is a powerful tool designed, in part, to wrench compliance with payment terms from its cardholder." Thus, a creditor's "refusal to correct mistaken information can only be seen as an attempt to tighten the screws on a non-paying customer."[64] Further, an erroneous or careless report serves no purpose but to substantially damage the target of the report, who after publication can do little to correct the damage caused by the report.[65]

CONCLUDING REMARKS

Credit cards, smart card and other electronic transactions will replace the cash medium in our near future. As attorneys we must understand the current state of the laws governing credit and be ready to improve our laws in order to protect the general public while assisting industry. Few Americans have ever seen their credit report(s) and do not realize the impact that trade line reporting has on their ability to utilize their property rights in their reputation and creditworthiness. Protection of credit rights is an element of damage often overlooked by attorneys. It is an invaluable service to the client.

ENDNOTES

1. In re Cloud, 107 B.R. 156 (U.S.D.C. N.D. Ill. 1989); Williams v. U.S., 192 F.Supp. 97 (U.S.D.C. S.D. Cal. 1961).

2. Feder v. Fortunoff, Inc., 494 N.Y.S.2d 42 (N.Y. Super. 2d Dept. 1985).

3. In re Cloud, 107 B.R. 156 (U.S.D.C. N.D. Ill. 1989); In re Brawner, 124 B.R. 762 (B.C. N.D. Ill. 1991).

4. TransAmerica Insurance Co. v. Standard Oil Co. [Indianal, 325 N.W.2d 210 (N.D. 1982); Beard v. Goodyear Tire & Rubber Co., 587 A.2d 195 (D.C. App. 1991); First National City Bank v. Mullarkey, 385 N.Y.S.2d 473, 87 Misc.2d 1 (N.Y. Cir. Ct. 1976); Humble Oil & Ref. Co. v. Waters, 159 So.2d 408 (La. App. 1963).

5. See, e.g., TransAmerica Insurance Co. v. Standard Oil Co. [Indianal, 325 N.W.2d 210 (N.D. 1982); Beard v. Goodyear Tire & Rubber Co., 587 A.2d 195 (D.C. App. 1991).

6. American Airlines, Inc. v. Remis Industries, Inc., 494 F.2d 196, 201 (2d Cir. 1974); First National Bank of Mobile v. Roddenberry, 701 F.2d 927 (11th Cir. 1983); Humble Oil & Ref. Co. v. Waters, 159 So.2d 408 (La. App. 1963); Walker Bank & Trust Co. v. Jones, 672 P.2d 73, 76 (Utah 1983), (dissent); Weistart, "**Consumer Protection in the Credit Card Industry: Federal Legislative Controls**," 70 Mich.L.Rev. 1475, 1509-10 (1972).

7. 159 So.2d 408 (La. App. 1963).

8. TransAmerica Ins. Co. v. Standard Oil Co. [Indiana], 325 N.W.2d 210 (N.D. 1982); Beard v. Goodyear Tire & Rubber Co., 587 A.2d 195 (D.C. App. 1991).

9. Beard v. Goodyear Tire & Rubber Co., 587 A.2d 195 (D.C. App. 1991).

10. Union Oil Co. v. Lull, 349 P.2d 243 (Or. 1960); Gulf Ref. Co. v. Williams Roofing Co., 186 S.W.2d 790 (Ark. 1945).

11. First Nat. Bank of Commerce v. Ordoyne, 528 So.2d 1068 (La. App. 5th Cir. 1988), w.d., 532 So.2d 179 (La. 1988); Union Oil Co. v. Lull, 349 P.2d 243 (Or. 1960).

12. **15 U.S.C. 1602(m)**.

13. First Nat. Bank of Findlay v. Fulk, 566 N.E.2d 1270 (Ohio App. 1989); State Home Sav. Card Ctr. v. Pinks, 540 N.E.2d 338 (Ohio Mun. 1988).

14. First National Bank of Findlay v. Fulk, 566 N.E.2d 1270 (Ohio App. 1989); State Home Sav. Card Ctr. v. Pinks, 540 N.E.2d 338 (Ohio Mun. 1988).

15. Bank One, Columbus, N.A., v. Palmer, 63 Ohio App.3d 491, 579 N.E.2d 284 (1989).

16. Web, Inc. v. American Express TRS Co., Inc., 399 S.E.2d 513 (Ga. App. 1990), reversed on other grounds, 405 S.E.2d 652 (Ga. 1990).

17. State Home Sav. Card Ctr. v. Pinks, 540 N.E.2d 338 (Ohio Mun. 1988).

18. Walker Bank & Trust Co. v. Jones, 672 P.2d 73, 76 (Utah 1983); American Express TRS Co., Inc. v. Web, Inc., 405 S.E.2d 652 (Ga. 1991); Harlan v. First Interstate Bank of Utah, 672 P.2d 73 (Utah 1983), cert. den., 104 S.Ct. 1911, 466 U.S. 937, 80 L.Ed.2d 460 (1983).

19. **15 U.S.C. 1643(b)**; Fifth Third Bank/Visa v. Gilbert, 478 N.E.2d 1324 (Ohio App. 1984); Cities Services v. Pailet, 452 So.2d 319 (La. App. 4th Cir. 1984); Michigan Nat. Bank v. Olsen, 723 P.2d 438 (Wash. App. 1986).

20. Martin v. American Express, Inc., 361 So.2d 597 (Ala. Civ. App. 1978).

21. Michigan Nat. Bank v. Olsen, 723 P.2d 438 (Wash. App. 1986); Tower World Airways, Inc. v. PHE Aviation Systems, Inc., 933 F.2d 174 (2d Cir. 1991), cert. denied, 112 S.Ct. 87, 116 L.Ed. 2d 59 (1991); Mastercard, Consumer Credit Division of First Wisconsin National Bank of Milwaukee v. Town of Newport, 396 N.W.2d 345 (Wis. App. 1986).

22. **15 U.S.C. 1602(o), 1643(a)(1)**; Michigan Nat. Bank v. Olsen, 723 P.2d 438 (Wash. App. 1986); Standard Oil Co. v. Steele, 489 N.E.2d 842, 22 Ohio Misc.2d 27 (1985); Elder-Beerman v. Nagucki, 561 N.E.2d 553 (Ohio App. 1988); Harlan v. First Interstate Bank of Utah, 672 P.2d 73 (Utah 1983), cert. denied, 104 S.Ct. 1911, 466 U.S. 937, 80 L.Ed.2d 460 (1983).

23. **15 U.S.C. 1643**; Society Nat. Bank v. Kienzle, 463 N.E.2d 1261, 11 Ohio App.3d 178 (Ohio App. 1983); Fifth Third Bank/Visa v. Gilbert, 478 N.E.2d 1324, 17 Ohio Misc.2d 14 (1984); Elder-Beerman v. Nagucki, 561 N.E.2d 553 (Ohio App. 1988).

24. **15 U.S.C. 1602(o)**; Standard Oil Co. v. Steele, 489 N.E.2d 842, 22 Ohio Misc.2d 27 (1985); Selber Bros., Inc. v. Bryant, 406 So.2d 251 (La. App. 1981).

25. Tower World Airways, Inc. v. PHE Aviation Systems, Inc., 933 F.2d 174 (2d Cir. 1991), cert. denied, 112 S.Ct. 87, 116 L.Ed. 2d 59 (1991), (notice to issuer is ineffective); American Express TRS Co., Inc. v. Web, Inc., 405 S.E.2d 652 (Ga. 1991), (notice does not convert misuse into unauthorized use); Walker Bank & Trust Co. v. Jones, 672 P.2d 73 (Utah 1983) and Harlan v. First Interstate Bank of Utah, 672 P.2d 73 (Utah 1983), cert. den., 104 S.Ct. 1911, 466 U.S. 937, 80 L.Ed.2d 460 (1983), (notice to issuer is ineffective); Martin v. American Express, Inc., 361 So.2d 597 (Ala. Civ. App. 1978), (notice to issuer may cut off future liability); Cities Services v. Pailet, 452 So.2d 319 (La. App. 4th Cir. 1984) (Louisiana follows Martin v. American Express, notice cuts off liability); Standard Oil Co. v. Steele, 489 N.E.2d 842, 22 Ohio Misc.2d 27 (1985), (cardholder not liable for unauthorized use of the card after the credit issuer has been notified).

26. 672 P.2d 73, 76 (Utah 1983) (dissent).

27. Walker Bank & Trust Co. v. Jones, 672 P.2d 73, 77 (Utah 1983), (dissent); Standard Oil Co. v. State Neon Co., 171 S.E.2d 777 (Ga. App. 1969); Weistart, "**Consumer Protection in the Credit Card Industry: Federal Legislative Controls**," 70 Mich.L.Rev. 1475, 1509-10 (1972).

28. Socony Mobile Oil Co. v. Greif, 197 N.Y.S.2d 522, 523-24 (1960) (decided prior to enactment of 15 U.S.C. 1643).

29. Oclander v. First Nat. Bank of Louisville, 700 S.W.2d 804 (Ky. App. 1985).

30. Sinclair Ref. Co. v. Consolidated Van & Storage Cos., 192 F.Supp. 87 (U.S.D.C. Ga. 1960).

31. Socony Mobil Oil Co. v. Greif, 197 N.Y.S.2d 522 (1960).

32. Walker Bank & Trust Co. v. Jones, 672 P.2d 73 (Utah 1983); Wynn v. McMahon Ford Co., 414 S.W.2d 330,336 (Mo. App. 1967); Tower World Airways, Inc. v. PHE Aviation Systems, Inc., 933 F.2d 174 (2d Cir. 1991), cert. denied, 112 S.Ct. 87, 116 L.Ed. 2d 59 (1991).

33. Vaughn v. U.S. Nat. Bank of Oregon, 718 P.2d 769 (Or. App. 1986).

34. **15 U.S.C. 1643**; Harlan v. First Interstate Bank of Utah, 672 P.2d 73 (Utah 1983), cert. den., 104 S.Ct. 1911, 466 U.S. 937, 80 L.Ed.2d 460 (1983); Walker Bank & Trust Co. v. Jones, 672 P.2d 73, 75 (Utah 1983).

35. Neiman-Marcus Co. v. Viser, 140 So.2d 762 (La. App. 1962).

36. Walker Bank & Trust Co. v. Jones, 672 P.2d 73, 78 (Utah 1983) (dissent).

37. **15 U.S.C. 1643(a)(1)**; Fifth Third Bank/Visa v. Gilbert, 478 N.E.2d 1324 (Ohio App. 1984).

38. First Nat. Bank of Commerce v. Ordoyne, 528 So.2d 1068 (La. App. 5th Cir. 1988), writ denied, 532 So.2d 179 (La. 1988).

39. Union Oil Co. v. Lull, 349 P.2d 243 (Or. 1960).

40. American National Bank v. Rathburn, 264 S.2d 360 (La. App. 1972).

41. Moore v. Credit Info. Corp., 673 F.2d 208 (8th Cir. 1982) [Mo.].

42. Id.

43. Gray v. American Express Co., 743 F.2d 10, 240 U.S.App.D.C. 10 (1984).

44. **15 U.S.C. 1602(i)**; Jacobs v. Marine Midland Bank, N.A., 475 N.Y.S.2d 1003, 124 Misc.2d 162 (1984).

45. **15 U.S.C. 1666a.**

46. **15 U.S.C. 1666b.**

47. **15 U.S.C. 1666c-1666e.**

48. **15 U.S.C. 1666(e).**

49. **12 C.F.R. 226.12; 15 U.S.C. 1666i; 15 U.S.C. 1666j.**

50. **12 C.F.R. 226.13.**

51. **15 U.S.C. 1640(a).**

52. See, e.g., Payne v. Diner's Club International, 696 F.Supp. 1153 (U.S.D.C. Ohio).

53. **15 U.S.C. 1637(b), 1666(a), 1666(b)(6);** Saunders v. Ameritrust of Cincinnati, 587 F.Supp. 896 (U.S.D.C. Ohio 1984).

54. Pinner v. Schmidt, 805 F.2d 1258 (5th Cir. 1986).

55. **15 U.S.C. 1666(a).**

56. **15 U.S.C. 1666(a)(1)-(3);** Himelfarb v. American Express Co., 484 A.2d 1013 (Md. 1984); Saunders v. Ameritrust of Cincinnati, 587 F.Supp. 896 (U.S.D.C. Ohio 1984).

57. **15 U.S.C. 1666i(a).**

58. **15 U.S.C. 1666i(a).**

59. **15 U.S.C. 1666i(a).**

60. Cf., Plutchok v. European American Bank, 540 N.Y.S.2d 135 (U.S.D.C. N.Y. 1989).

61. **15 U.S.C. 1666(b).**

62. **15 U.S.C. 1666i(b).**

63. **15 U.S.C. 1666i(a)(3);** Izraelewitz v. Manufacturers Hanover Trust Co., 465 N.Y.S.2d 486 (1980); Gray v. American Express Co., 743 F.2d 10 (D.C. Cir. 1984); Lachman v. Bank of Louisiana, 510 F.Supp. 753 (U.S.D.C. Ohio 1981); Lincoln Nat. Bank, N.A. v. Carlson, 426 N.Y.S.2d 433 (1980).

64. Miranda-Riviera v. Bank One, --- F.R.D. ---, 1993 W.L. 30681 (U.S.D.C. Puerto Rico 1993).

65. Bartels v. Retail Credit Co., 175 N.W.2d 292 (Neb. 1970).