

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2040

2007 SENATE JUDICIARY

SB 2040

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2040**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 9, 2007

Recorder Job Number: 801

Committee Clerk Signature

Mona L. Solberg

Minutes: Relating to facilitating and assisting deceptive acts or practices.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Bill:

Vonette Richter – Legislative Council Interim Committee (meter (:15) Reviewed the bill.

Handed out Final Report – Att. # 1 Page 5, Second paragraph. Knowingly in civil context.

Attorney General Wayne Stenehjem – (meter 4:04) Introduced in support of the bill. Most contacts you will have with my office will be through your constituents with a problem they have had by being taken advantage of either by internet and its ready availability to the transfer of data. Handed out new brochure produced from their office – Att. #2. This bill has to do with the “third” party payment of some of these scams.

Perrell Grossman, Dir. Consumer Protection & Antitrust Div. Office of Attorney General (meter 5:57) Gave Testimony – Att #3a Submitted and amendment – Att. #3b

Marilyn Foss, General Council for the ND Bankers Assoc. Stated that they have had concerns with ND law not matching Federal Law in the Federal National Telemarketing Statute. We also are in agreement to this bill and the additional amendment.

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

Sen. Lyson made the motion to DO PASS Amend-Att. #3b, **Sen. Nelson** seconded the motion. All members were in favor and motion passé.

Sen. Lyson made the motion to DO PASS SB 2040 as amended and **Sen. Nelson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Olafson**

Senator David Nething, Chairman closed the hearing

AH # 3b
1-9-07

PROPOSED AMENDMENTS TO SENATE BILL NO. 2040
SENATE JUDICIARY COMMITTEE
DAVE NETHING, CHAIRMAN
JANUARY 9, 2007

PRESENTED BY
PARRELL D. GROSSMAN, DIRECTOR
CONSUMER PROTECTION & ANTITRUST DIVISION
OFFICE OF ATTORNEY GENERAL

Page 1, line 8, replace "should know" with "consciously avoids knowing"

Renumber accordingly

Date: 1-9-07

Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2040

Senate _____ Judiciary _____ Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amend - Att # 3b

Motion Made By Sen Lyson Seconded By Sen Nelson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-9-07
Roll Call Vote # 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2040

Senate _____ Judiciary _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Sen. Lyson Seconded By Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Olafson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 10, 2007 12:34 p.m.

Module No: SR-06-0399
Carrier: Olafson
Insert LC: 70175.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2040: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2040 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "should know" with "consciously avoids knowing"

Renumber accordingly

2007 HOUSE JUDICIARY

SB 2040

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2040

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/21/07

Recorder Job Number: 3538, 3546

Committee Clerk Signature

W. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on SB 2040.

Wayne Stenehjem, Attorney General: Explained the bill. This bill was actually the product of an interim study, and eight of you were on that interim committee and passed this measure out unanimously. I want to tell you that as things are progressing, this bill has not achieved a whole lot of attention up until now, but is probably the most important consumer and business protection measure that this legislature will be looking at. It deals with an increasing problem that we're seeing in the area of trying to deal with consumer fraud. What we are seeing with consumer fraud, whether by email, telemarketing, or by regular US postal service, is the situation where fraudsters are segmenting their operations, where you will have somebody who is doing the telemarketing, or sending out the fraudulent letters and then the payments don't go to the person perpetrating the fraud, not the person who sent the email, not the person who is making the calls, but to a third party processor, the checks go to somebody else. Frequently, the actual perpetrators aren't even in the US. They are in the Bahamas, Britain, Nigeria and efforts by my office to go after these international operations turns out to be just about impossible. But when you make a payment to many of these operations, the payments don't go directly to the perpetrators of the fraud; they use these third party

processors. The checks go to a segmented operation. Frequently, located here in the United States, who are part and parcel, who are involved or arguably involved with the actual fraud? The problem is that we go after these, under the current law, these third party processors, they typically will say we had no idea that this was going on, when somebody had sent out of a mail saying you had won the Spanish lottery. We are simply the operation that accepts the checks and then we send the money on to Madrid, Spain or to whoever is perpetrating the fraud. This is, of course, totally unacceptable and the only way that we can, in my opinion, perhaps be able to obtain some restitution for people who are victims of these crimes is through the enactment of legislation like you see in SB 2040, which permits my office to go after individual's who are actively assisting, aiding, and abetting in the perpetration of the fraud, if we can show that the third party processor, or the person who was aiding and abetting, knew or consciously avoided knowing that there was a fraud being perpetrated. That term, consciously avoid knowing, is something that was the subject of great discussion with our friends in the ND Bankers Association. The bill as it came in; provided that you simply had to prove that they either knew or should have known. That was a difficult standard for the banks. I understand why they took that position. They preferred to use the term that the person provided assistance or support, and knows or consciously avoids knowing. That is a term of art that was specifically adopted because there is considerable case law regarding the interpretation of that term. It's used in the federal Fair Credit Reporting Act; it's used in the Federal Telephone Sales Solicitation Act. It is a term that is used in the criminal law, so there is ample reason and case law that will elucidate exactly what that term means. The banks were concerned and I think appropriately so, because banks typically will process billions of checks or billions and billions of credit card transactions, and unless they are specifically made aware that there is a problem, they want to avoid any problem under this statute. So we made

that amendment and in exchange for that, they have agreed to support the bill, and they do support the bill, and frankly they should. Part of the problem, to be fair, the banks are very often the victims. They are the ones left holding the bag for the actual cash when the product that was delivered isn't what was promised. You can notify your bank or credit card company and you won't have to pay for it, when you indicate that you have a dispute with them. I think the banks will be well satisfied with this provision in the bill as well. The bill will say that "It is a deceptive act or practice in violation of this chapter for any person to provide assistance or support to any person engaged in any act or practice in violation of this chapter when the person providing assistance or support knows or consciously avoids knowing that the other person is engaged in an act or practice in violation of this chapter.

Rep. Delmore: Will this bill help us catch the middle guy and lead us to the big guy.

Obviously you said we have had bills in other sessions that tried to address the issue. Can we use this as a tool so we can get the bad actors?

Wayne Stenehjem: It may not be able to help us get the big guy, because we often know who the big guy is, but the problem is that they are off shore. But going after them, requires international activity which is far beyond the ability of the staff, as efficient as they are in my office to go after them. But if we can find some of these operations who are here in the US, then we can perhaps stop the activity, use this statute and maybe go after them and get some restitution to get some of the money back. We can always issue cease and desist orders to prohibit further solicitation and we do that. But then what we find is that we have a lot of citizens in ND, who've already lost the money, and it's gone to one of these third party processors and then off to a foreign country and we're limited in what we can do. This bill will at least give us a tool to attempt to obtain some restitution. Once we show, we have to go into

court and show that the person knew or consciously avoided knowing, which is not all that easy. But at least it will give us a tool that we need.

Rep. Delmore: Are you aware of anything that they are looking at on the federal level; you've said that this isn't anything that ND can go over and solve. It certainly is affecting people in the state.

Wayne Stenehjem: My counterparts and I have come up with things all the time on these kinds of consumer fraud issues. We worked on a case at the national level, YP.com, yellow pages online. That was a group that sent out letters to ND citizens and they send them out by the hundreds of thousands, along with it came a check and that check was for \$3.50. When you turned the check over for deposit, in the fine print it stated that when you endorse this check, you are agreeing to have your business listed in an internet yellow page directory at a cost of \$29.99/month and we had a lot of complaints. We had hundreds of complaints from ND businesses and churches, who said they got checks by the stacks and the stamp them, and deposit them. We were seeing ND businesses becoming a victim of this fraud, and then in the national action that we took, we went after one of the third party processors, and I think we got about \$2 million dollars from them, nationwide, not just in ND. But we went after that third party billing company, as well as the YP.com. This bill probably won't help us too much going after the international operators, but it will give us a tool to try to find somebody here in the US who is taking that money, claims they are ignorant about what is going on, and then keeps their share of the money and sends the rest on to these fraudulent operators.

Rep. Koppelman: Are there any long standing legal standards, is that covered.

Wayne Stenehjem: It would make it easier for my office, but I think that it's fair to put in the standard that you have in the amended bill. Because banks, with all sincerity need to be careful. They are not people who's the bulk of their revenue is coming from these fraudulent

operators, if something happened, it might be a minor problem. Then typically if we call the bank and tell them, or a credit card company with this operator, they are happy to work with us. We don't want to catch them in the net that we want to go after the people who are actually fraudulently operating.

Rep. Koppelman: I understand that, and I'm not suggesting that they should be ensnared by this either. I'm just wondering if there might be a standard, it seems to me that some of the bad guys are still going to fall between the cracks with this. Is there a way to hold harmless the folks like banks that are merely facilitating the pass through funds, but still make sure you get these folks, because it seems to me that you have to prove that they consciously avoid knowing? That might be harder to prove than that they knew it.

Wayne Stenehjem: I appreciate your question. I think the bill with the amendment in it will serve the purposes that we have. In fairness, I think this is something that makes the comfort level of our friends in the banking industry much higher and this is something we're happy to live with.

Rep. Klemin: If you were prosecuting someone who is assisting in this crime, you've got a jury who is looking at the evidence; they are smart enough to know.

Wayne Stenehjem: This is not a criminal statute; this is a civil action under the Consumer Protection chapter of our statutes. But you are absolutely right, we have to present information to the court, jury, or to the judge and the judge will give jury instructions to the jury as you know, and one of those will be the definition of what consciously avoid knowing means. That's something that has to be proved by my office. I mentioned that this was a bill somewhat under the radar screen before today, since then I have learned that there is some concern from the ND Chamber of Commerce and I think some tobacco companies, that this bill is to far ranging to the extent that it permits a private cause of action. This does not just provide authority for

my office to proceed against people under this chapter. Any individual with their lawyer would be authorized to do that. These groups that I mentioned prefer an amendment to the bill that would prohibit a private cause of action under this chapter; and provide that only my office would be authorized to use the tool that is provided in this statute. That's fine with me. I think as a practical matter it is likely that only the attorney general and the staff that we have is going to be able to prosecute one of these actions. But they will have an amendment that is before you, if you choose as a matter of policy to accept it, that is fine with me. I do know that if that amendment passes, they will support the bill. As a practical matter, probably only my office is going to have the resources and the expertise to prosecute one of these. If you choose to adopt the amendment, I don't have any objection to it.

Rep. Klemin: Regardless of this type, wouldn't someone have a civil claim against someone who is knowingly involved in this.

Wayne Stenehjem: You could be absolutely right, under traditional agency legal phase, that's entirely possible.

Rep. Klemin: And if you say there's no private cause of action under this, is that going to eliminate this other kind of action under this.

Wayne Stenehjem: I don't know if that is the intent. My suggestion is that you might want to ask those people.

Chairman DeKrey: Thank you. Further testimony in support.

Vonette Richter, LC staff: I am neutral and am here to present the final report from the Judicial Process Committee, which I staffed during the Interim. Someone had asked what the penalty would be; it would be a civil penalty of not more than \$5,000 for each violation of the chapter. That penalty would apply to this section.

Rep. Meyer: How does this apply to eBay situation, where you order a product and it comes in and it's not representative of what they thought that they had purchased? Under this section, if we put this in, would they be liable.

Vonette Richter: The way I understand how eBay works, it is a contract between the bidder and the seller. You may have some claim against the seller, I don't believe that eBay handles the funds, they do it through PayPal.

Chairman DeKrey: Thank you. Further testimony in support.

Parrell Grossman, Consumer Fraud Division, AG's office: (see attached testimony and two exhibits).

Rep. Klemin: There is another section in this chapter that we would be adding, 51-15-09, on claims not barred. I am going to read it just to make sure that we're not taking away the right under this section by putting this amendment in (read the section).

Parrell Grossman: I am aware of that statute, and I believe in this case, that the statute will continue to apply to everything else that is included under 51-15. However, it would be my opinion that this specific statute which creates in effect, a new cause of action in this section, would not permit a private cause of action. But it would be the AG's clear intention, that eliminating a private cause of action for an act of facilitation and assistance, would not in any way affect an individual's private cause of action for any other consumer fraud claim that is brought under chapter 51-15, including 51-15-09.

Rep. Klemin: Well we have, under your typical civil claims, if someone is jointly participating in someone else's fraud, would they be facilitating or assisting, or are they a joint participant.

Parrell Grossman: I think that would depend on the circumstances. I think there has always been a potential claim for an individuals that are involved in the fraud to allege that those individuals are part of the fraud. I think this statute makes it more clear, and I don't really think

it is possible for me to necessarily distinguish between the two, except to say that this creates a new cause of action for doing what the court concludes is facilitating and assisting. Yes, that may already be occurring in some regard and that's exactly the reason that the AG approached the PA third party payment processor and said we think you are involved in this, because you are aware of what's occurring and if you don't make these refunds, it would be out intent to initiate a cause of action alleging that you are responsible for that conduct.

Rep. Klemin: My only concern with this amendment, it could be argued that it takes away an important right that a consumer has now under another section.

Rep. Griffin: I heard you say that there is a \$5,000 cap for actions under this section. If we didn't adopt this amendment would that \$5,000 cap apply?

Parrell Grossman: That \$5,000 cap is really a cap for an individual sale, for an individual transaction. The court can impose up to \$5,000 as the maximum penalty for a fraudulent act or transaction. I believe there is sufficient case law that would say multiple sales, multiple advertisements, and multiple occurrences, may be construed as separate acts. So it isn't necessarily a cap to say that the maximum amount that the AG could recover for someone facilitating and assisting would be \$5,000. I think the argument would be that it might be \$5,000 per transaction, so if you were a third party payment processor and you withdrew 50 payments from ND consumers that could be considered by the court as 50 separate violations all subject to that maximum of civil penalties up to \$5,000.

Rep. Klemin: I contacted you recently on behalf of a client that held funds from what appeared to be a prime bank scam.

Parrell Grossman: I clearly recall that.

Rep. Klemin: Just for the committee, without going into a lot of detail, there was a chiropractor/lawyer set up an account at a bank in Minneapolis and was soliciting funds to help

pay for bank fees at the Bank of Panama. It sounded like it was going to be a loan from the Bank of Panama but it was actually not through the Bank of Panama, but a bank in England, and this particular transaction was going through a bank located in Pakistan and the company that had set up the account at a bank in Indianapolis, was a Canadian company owned by a person located in Mexico. There were actually people in ND that sent money in and hoped to get back more than they paid in the way it was structured. That person who was doing that, the person who was interacting through that chiropractor who had a law degree in MN, would he be considered as facilitating and assisting under this section.

Parrell Grossman: I think a good argument could be made that the ND individual was facilitating and assisting and in violation of statute, as long as he met that standard of knows or consciously avoids knowing. I think in this circumstance, during our investigation, we contacted that individual located in a small ND community, and explained what was going on, it became obvious to us that he knew what was going on. We weren't sure that he was trying to steal the money from the good people in ND, but he clearly knew this was quite a convoluted scheme and had a high probability of causing ND individuals to lose money.

Rep. Klemin: In that scenario, there is no way that the AG's office would be able to trace the individuals in Mexico or the Bank in Panama or bank in Pakistan. They were really operating through these others that were receiving the money. Those kinds of people would be called third party processors.

Parrell Grossman: I think that could be one view if the AG chose to take that view in those particular circumstances. However, I'm not sure that I agree that there isn't any way we could go after those. We work closely with the US Postal Inspector, with the Dept. of Justice, so in many instances, including in these government grant scams, the federal authorities working jointly with the states have prosecuted these individuals and obtained some recovery. I think

in your particular circumstance, yes, I would imagine that this statute could be applied. Now if that individual doesn't have the money, the AG isn't going to be able to recover those proceeds for 8 or 10 ND consumers who invested thousands of dollars. But it gives the AG some ability to stop that individual, issue a cease and desist, or bring an action for injunctive relief and at least attempt to obtain penalties if necessary.

Rep. Klemin: If someone gets somebody else to assist and they are told you don't know, and we don't want you to know, is that consciously avoiding.

Parrell Grossman: I think that could be construed as consciously avoiding, when they say they don't want to know. I think in many instances, that really is what occurs. In my testimony there is a paragraph devoted to an individual in the US, who sets up call centers over in India, and we've investigated three grant scams that were all traced back to her. She arranged the telephone lines for all these companies in all three instances. We were working with her attorney, who was a former federal trade commission lawyer, now in CO defending her. Yet she continues to say, despite that we provided her with overwhelming evidence, that what her clients are doing is fraudulent, she continues to act as a matchmaker and line those fraudulent telemarketers up with telephone service here in the US. We've contacted her, attempted to get her cooperation, we haven't done so. She clearly could be a target under this particular statute.

Rep. Koppelman: With respect to the amendment, I understand why legitimate businesses in the ND want to be assured that they aren't ensnared unintentionally by this and get into trouble when they are acting in good faith in the normal course of business. I am wondering, if we continue to amend the bill, talks about not allowing a private right of action. I can envision circumstances where an AG several years from now, might say, well this isn't worth pursuing, or I don't think it has a good potential outcome and I'm not going to devote the resources of my

office to this or that. But you still have an individual out there who's been defrauded. Do we really want to close off the potential for that individual to hire an attorney to go after this. Even if the AG decides, for whatever reason, not to pursue it. Is there a huge unintended consequence to this kind of amendment that could hurt people. Is there another way to keep the honest businesses in ND from being wrongfully ensnared and at the same time protect the rights of the consumer.

Parrell Grossman: That's an interesting point. I don't think the AG intends to substitute our judgment. We're offering the amendment. I think there are always circumstances in which you could foreclose some private individual from bringing a cause of action. More often than not, it is suggested to our office, that the authority should be limited to the AG's office to avoid those kinds of nuisance suits from some consumers. You are correct, you may foreclose some individual. In my experiences, that has rarely ever happened because consumers just simply don't have the resources in most cases to pursue these kinds of claims, to get involved in the investigations as AG Stenehjem indicated. We would never discourage consumers from seeking the services of private attorneys and we often advise them to do that. In many instances they come back and say, we can't afford to bring this action and this is why we need your help. Yet, I would say on the other side of the coin, that there are consumers with unreasonable expectations who will believe that someone facilitated and assisted that crime and now will say that the AG's office should be responsible, and it's always been nice to say if you think you have a good case, you can certainly pursue that case. I don't have an absolute correct answer. That's really up to this committee to decide. We took a look at it, it's one way to assure businesses that this particular authority will be used most judiciously.

Rep. Koppelman: In this case, you'd have to say, we don't think you've got a good case. Normally we would advise you to pursue it privately, but the law says we can't.

Parrell Grossman: You are correct. That could be an outcome in this particular case. You know the difficulty is really in trying to find something that you referred to that will take care of those legitimate interests. I think under the circumstances there is a meeting of the minds that this is probably the best we can do and I don't think the AG intends to suggest that the judicial process interim committee was not on the right track. I think they are. It just comes down to can we accommodate those particular concerns, and that amendment is one way of doing that.

Chairman DeKrey: Thank you. Further testimony in support.

Marilyn Foss, ND Bankers Association: We are in support of this bill as it was amended with the wording of consciously avoid knowing. This term is used in other statutes, and does have a body of case law. Our members understand its requirements and obligations. We have no opinion on the private right of action amendment.

Rep. Delmore: Banks aren't always scandal free. Are you aware of any bank officials that have been involved on a national level where they have been willing participants.

Marilyn Foss: Actually, it's not something I've focused on, no, I'm not. Which isn't to say that there aren't people out there. I am not aware of anything that I can recall.

Chairman DeKrey: Thank you. Further testimony in support.

Wade Mann, ND Chamber of Commerce: We support the bill with the proposed amendments offered by the AG's office.

Rep. Delmore: What exactly are your fears that someone is going to go after in this way. I guess I don't really see somebody necessarily beside the AG actually doing that. What's your fear, what do you think someone is going to go after.

Wade Mann: The concern is that this would open up small businesses to potential frivolous lawsuits. If somebody gets defrauded or ripped off by one of these companies, a lot of them are international and overseas. If somebody goes and represents an attorney, it's pretty

apparent that the small business who wasn't in any way involved, that's local, is going to be named every time just because it is easier to get jurisdiction. They are probably going to have money, whereas the actual bad actor isn't going to. With the amendment, the small businesses will be protected, as well as the individuals. If there are bad actors out there, the AG is going to go after them and shut them down. At the same time, there are remedies in 51-15 that can make them whole. I guess it's the best of both worlds. It protects the small businesses from frivolous lawsuits, at the same time protecting the individuals.

Rep. Delmore: When you are looking at small businesses, are you talking cable companies, phone companies.

Wade Mann: Mr. Grossman, mentioned not only banks but there's also ISP's, phone companies, anybody who could be considered to be involved in any manner, they could go ahead and list them on the lawsuit, and that person is going to go out and hire an attorney, go through discovery, pay potentially thousands of dollars, when, if they are a bad actor, the AG could do the same thing and these good and honest businesses would cooperate with the AG's office, spend considerably less and we'd have the same effect.

Chairman DeKrey: Thank you. Further testimony in support of SB 2040. Testimony in opposition. We will close the hearing.

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to SB 2040.

Rep. Klemin: I guess I have a concern about the way the amendment reads right now. We do have this other section in the statute which talks about other parties. If we limited that so we don't authorize a private right of action for a civil penalty, which is part of this chapter. That may clarify it so that's not a conflict with that other section. We don't want to have it say you

have a private right of action and then in this section say you don't have a private right of action.

Rep. Koppelman: Just a comment, after hearing the testimony of the ND Chamber of Commerce, I think their concern is avoiding frivolous lawsuits, and I understand that and am sympathetic to that. In trying to deal with your issue, because you make a good point. Is there a way to craft the amendment so that it makes clear that provision except for whatever section this becomes, and maybe that has to be added to that section, along if we adopt this amendment.

Chairman DeKrey: Let's let Rep. Klemin work on an amendment and run it passed the AG and work on it later.

Rep. Meyer: Along those same lines, how many frivolous lawsuits are you going to have, when you're recoverable amount is \$5,000. I just don't believe that there will be a huge amount of frivolous lawsuits going on, and I think you can see that in ND. If that's their concern, you totally take away your private cause of action in this, I just don't see that.

Rep. Koppelman: I agree with your point. But though, I think they are talking about frivolous lawsuits the way it was explained, it wasn't so much that someone would just up and sue a ND entity for the fun of it. It was more so that they would name everybody on the face of the earth and if a transaction was processed through ABC local bank, they would be named in the action. It's not so much that there isn't accountability, but it's the fact that they are going to have to hire an attorney and spend the money to defend it, I think that's what they testimony was.

Rep. Griffin: One thing with the frivolous lawsuits, the courts do have authority to handle these already. They can award costs, they can award attorneys fees, and their claim can be dismissed. The court has the authority to handle them.