

**SHINING A LIGHT ON FRAUD: THE
FINANCIAL FRAUD INSTITUTE,
WHITE COLLAR CRIME OFFENDER
REGISTRY, AND DATA BREACH LAWS**

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The views expressed during this presentation are those of the speaker, and do not necessarily represent the official positions of the Office of the Utah Attorney General. Nothing in this presentation is intended to be legal or investment advice.

THE UTAH ATTORNEY GENERAL'S OFFICE



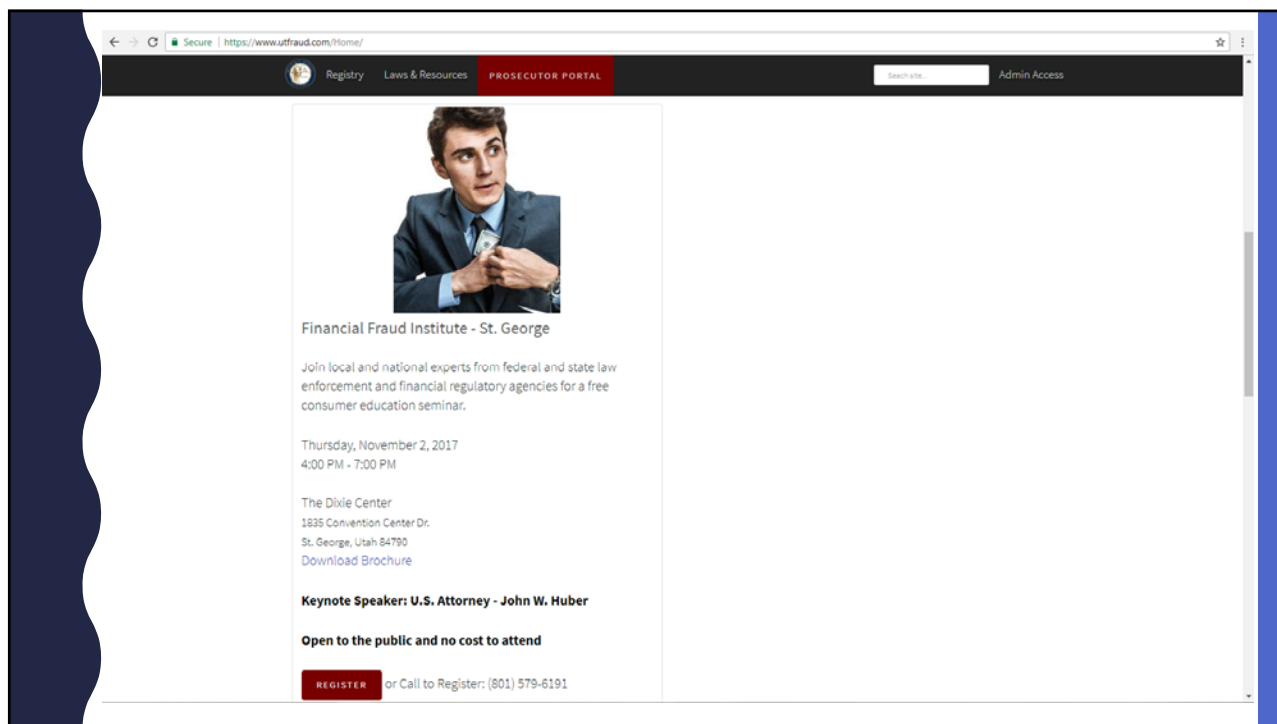
- Prosecutes a wide variety of frauds and financial crimes
- Most are investigated by other agencies – we do some in-house financial crime investigation
- Enforces Utah's data breach and credit protection laws
- Works closely with many federal, state, and local agencies to fight fraud

THE FINANCIAL FRAUD INSTITUTE

THE FINANCIAL FRAUD INSTITUTE

- Umbrella name for a joint initiative of federal, state and local law enforcement
- Hosts live seminars to educate consumers and law enforcement
- Hosts the “Stop Fraud Utah” website, www.utfraud.com
 - Hosts the Utah White Collar Crime Offender Registry
 - Used for live seminar registration and information
 - Has links to information about fraud
 - Vision is to eventually create a “one stop shopping” site for fraud reporting and information





The screenshot shows a web browser window with the URL <https://www.utfraud.com/home/>. The navigation bar includes "Registry", "Laws & Resources", "PROSECUTOR PORTAL", a search box, and "Admin Access". The main content area features a photograph of a man in a suit, identified as John W. Huber, the keynote speaker. Below the photo, the text reads: "Financial Fraud Institute - St. George", "Join local and national experts from federal and state law enforcement and financial regulatory agencies for a free consumer education seminar.", "Thursday, November 2, 2017", "4:00 PM - 7:00 PM", "The Dixie Center", "1835 Convention Center Dr.", "St. George, Utah 84790", and a link to "Download Brochure". It also states "Keynote Speaker: U.S. Attorney - John W. Huber" and "Open to the public and no cost to attend". At the bottom, there is a red "REGISTER" button and the text "or Call to Register: (801) 579-6191".

FINANCIAL FRAUD INSTITUTE SOME CURRENT PARTNERS

Federal:

- Securities and Exchange Commission
 - Salt Lake Regional Office
 - Office of Investor Education and Advocacy
- Financial Industry Regulatory Authority (FINRA)
- Commodities and Futures Trading Commission
- United States Attorney's Office
- Federal Bureau of Investigation
- Internal Revenue Service

State:

- Utah Attorney General's Office
- Utah Department of Commerce
 - Utah Division of Securities
 - Utah Division of Consumer Protection

Local:

- Salt Lake District Attorney's Office
- Utah County Attorney's Office
- Washington County Attorney's Office



THE WHITE COLLAR CRIME OFFENDERS REGISTRY

THE UTAH WHITE COLLAR CRIME OFFENDER REGISTRY BENEFITS AND LIMITATIONS

Utah Code §§ 77-42-101 et. seq.

<p>BENEFITS</p> <ul style="list-style-type: none">• Quick & Easy: www.utfraud.com• Free• Includes a description of the specific crime• Focused: Only 8 serious financial crimes	<p>LIMITATIONS</p> <ul style="list-style-type: none">• Only includes Utah State Court convictions• Doesn't cover all financial crimes• Only serious second degree felonies are included – doesn't cover lesser crimes
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OFFENSES COVERED BY THE UTAH WHITE COLLAR CRIME OFFENDER REGISTRY

www.utfraud.com

Utah Code §77-42-105. Registerable Offenses
Only Includes Second Degree Felony Convictions

- Securities / Investment Advisor Fraud
- Theft by Deception
- Unlawful Dealing of Property by a Fiduciary
- Insurance Fraud
- Mortgage Fraud
- Communications Fraud
- Money Laundering
- Criminal Racketeering, involving at least one of the above offenses

SECURITIES / INVESTMENT ADVISOR FRAUD

Utah Code §§16-1-1
Second Degree: Value must equal or exceed \$10,000

Utah Code §61-1-1. Fraud unlawful.

It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly to:

- (1) employ any device, scheme, or artifice to defraud;
- (2) make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
- (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

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Utah Code §61-1-2. Investment adviser – Unlawful acts.

- However: This is a Third Degree Felony under Utah Code §61-1-21

## THEFT BY DECEPTION

**Utah Code §76-6-405**

**Second Degree: Value must equal or exceed \$5,000**

Utah Code §76-6-405. Theft by deception.

(1) As used in this section, "puffing" means an exaggerated commendation of wares or worth in a communication addressed to an individual, group, or the public.

(2) (a) A person commits theft if the person obtains or exercises control over property of another person:  
(i) by deception; and  
(ii) with a purpose to deprive the other person of property.

(b) The deception described in Subsection (2)(a)(i) and the deprivation described in Subsection (2)(a)(ii) may occur at separate times.

(3) Theft by deception does not occur when there is only:

- (a) falsity as to matters having no pecuniary significance; or
- (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

## UNLAWFUL DEALING OF PROPERTY BY A FIDUCIARY

**Utah Code §76-6-513**

**Second Degree: Value must equal or exceed \$5,000**

- A fiduciary of anyone's property, public money, or a financial institution,
- Deals with the property "in a manner which the person knows is a violation of the person's duty and which involves substantial risk of loss or detriment to the owner or to a person for whose benefit the property was entrusted."
- Specifically includes pledging property as collateral for a loan for the benefit of someone other than the owner, without the owner's permission.

## INSURANCE FRAUD

**Utah Code §76-6-541**  
**Second Degree: Value must equal or exceed \$5,000**

Utah Code §76-6-521. Fraudulent insurance act.

- (1) A person commits a fraudulent insurance act if that person with intent to defraud:
- (a) presents or causes to be presented any oral or written statement or representation knowing that the statement or representation contains false or fraudulent information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract; **[Note: This is only a Class B misdemeanor.]**
  - (b) presents, or causes to be presented, any oral or written statement or representation:
    - (i)(A) as part of or in support of a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or
    - (B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and
    - (ii) knowing that the statement or representation contains false or fraudulent information concerning any fact or thing material to the claim;
  - (c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;
  - (d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;
  - (e) knowingly employs, uses, or acts as a runner; as defined in Section 31A-31-102, for the purpose of committing a fraudulent insurance act;
  - (f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act; or
  - (g) knowingly supplies false or fraudulent material information in any document or statement required by the Department of Insurance.

## MORTGAGE FRAUD

**Utah Code §76-6-541**  
**Second Degree: Value must equal or exceed \$5,000**  
**or involve “the obtaining of sensitive personal identifying information”**

Utah Code §76-6-1203. Mortgage fraud.

A person commits the offense of mortgage fraud if the person does any of the following with the intent to defraud:

- (1) knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
- (2) knowingly uses or facilitates the use of any material misstatement, misrepresentation, or omission, during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
- (3) files or causes to be filed with any county recorder in Utah any document that the person knows contains a material misstatement, misrepresentation, or omission; or
- (4) receives any proceeds or any compensation in connection with a mortgage loan that the person knows resulted from a violation of this section.



## COMMUNICATIONS FRAUD

**Utah Code §76-10-1801**

**Second Degree: Value must equal or exceed \$5,000  
or involve “the obtaining of sensitive personal identifying information”**

Utah Code §76-10-1801. Communications fraud -- Elements -- Penalties.

(1) Any person who has devised any scheme or artifice to defraud another or to obtain from another money, property, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions, and who communicates directly or indirectly with any person by any means for the purpose of executing or concealing the scheme or artifice is guilty ...

## MONEY LAUNDERING

**Utah Code §76-10-1903**

**Violations, Except Subsection (d) Are Always Second Degree**

Utah Code §76-10-1903. Money laundering.

- (1) A person commits the offense of money laundering who:
- (a) transports, receives, or acquires the property which is in fact proceeds of the specified unlawful activity, knowing that the property involved represents the proceeds of some form of unlawful activity;
  - (b) makes proceeds of unlawful activity available to another by transaction, transportation, or other means, knowing that the proceeds are intended to be used for the purpose of continuing or furthering the commission of specified unlawful activity;
  - (c) conducts a transaction knowing the property involved in the transaction represents the proceeds of some form of unlawful activity with the intent:
    - (i) to promote the unlawful activity;
    - (ii) to conceal or disguise the nature, location, source, ownership, or control of the property; or
    - (iii) to avoid a transaction reporting requirement under this chapter or under federal law; or
  - (d) knowingly accepts or receives property which is represented to be proceeds of unlawful activity.

## CRIMINAL RACKETERING

### Pattern of Unlawful Activity Act, Utah Code §76-10-1601

#### Violations Are Always Second Degree

- PULA, our state RICO law, prohibits using proceeds from a “pattern of unlawful activity” to invest in, acquire ownership in, or conduct the business of, any enterprise.
- “Pattern of unlawful activity” is at least three related “unlawful activities,” with the most recent occurring within five years of the preceding act.
- There are dozens of listed “unlawful activities,” many unrelated to white collar crime, ranging from murder to gambling to unlawful trade in wildlife.
- Must be one of the preceding seven crimes to count for White Collar Crime Offender Registry purposes.
- **Why include PULA? Plea bargains often result in dismissal of the underlying fraudulent offenses.**

## HOW LONG DOES AN OFFENDER REMAIN ON THE REGISTRY?

- First Offense: 10 years
- Second Offense: An Additional 10 years, total of 20 years
- Third Offense: Lifetime
  - Utah Code §77-42-106(1)
- Unless removed earlier using one of two avenues:
  - The “Judicial Petition” avenue under Utah Code §77-42-108(1) – (11)
  - The “AG Petition” avenue under Utah Code §77-42-108(12)

## EARLY REMOVAL VIA JUDICIAL PETITION

- Requires at least 5 years from completion of the sentence
- “Offender has paid all restitution ordered by the court”
- Must meet other requirements and be certified as eligible by the Bureau of Criminal Identification of the Department of Public Safety
- Offender files petition
- Prosecutor provides notice to victims, and information to court
- Victims may object; there may be a judicial hearing
- The process is lengthy
- **Granting the petition is discretionary with the court** – “not contrary to the interest of the public” to remove offender

## EARLY REMOVAL VIA AG PETITION

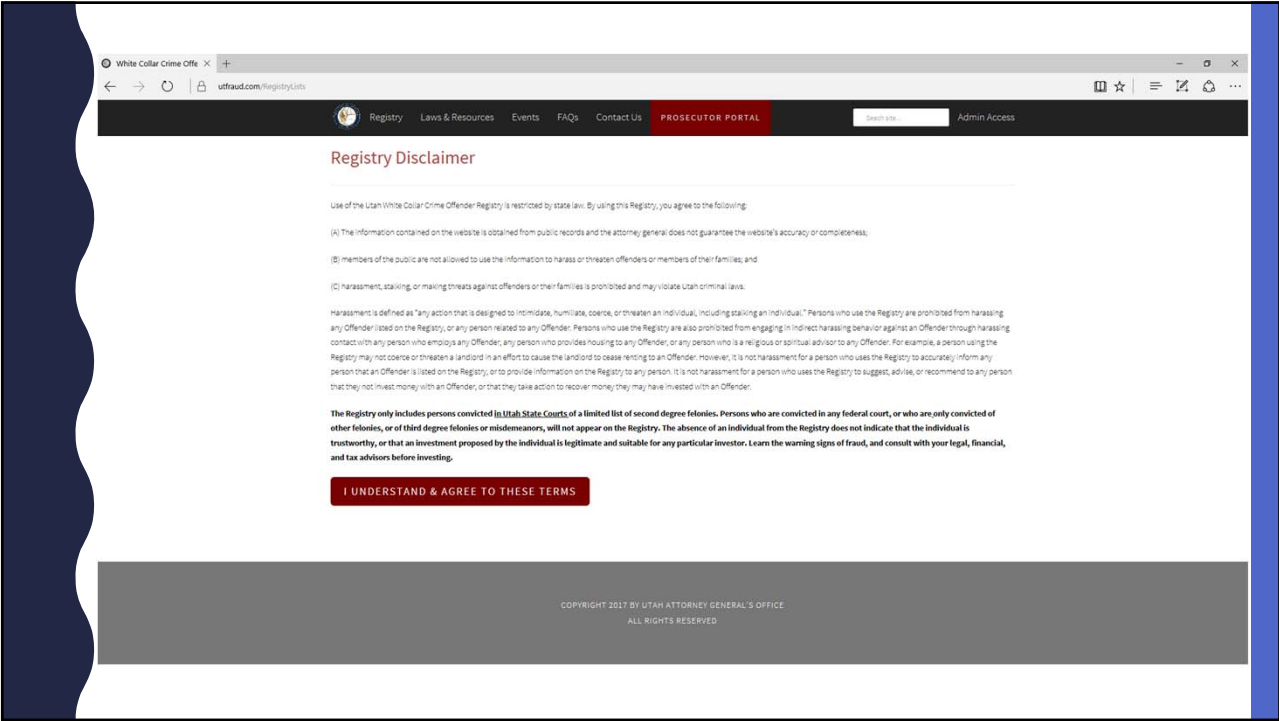
- Each qualifying offense has been expunged or reduced below a second degree felony
- “Offender has paid all court-ordered restitution to victims”
- No minimum time requirement
- Removal is mandatory “upon the offender providing satisfactory evidence to the attorney general”
- The key evidentiary issue is whether court-ordered restitution has been fully paid
- Difference between “total restitution” and “court-ordered restitution”

## INFORMATION THAT GOES ON THE REGISTRY

- Under Utah Code § 77-42-104(4):
  - All names and aliases by which the offender is or has been known, but not including any online or Internet identifiers;
  - A physical description, including the offender's date of birth, height, weight, and eye and hair color;
  - A recent photograph of the offender (can be a booking photo or driver's license photo); and
  - The crimes listed in Section 77-42-105 of which the offender has been convicted.

## INFORMATION THAT GOES ON THE REGISTRY

- Additional Information Under Utah Code § 77-42-103(3):
- The Attorney General shall include “when available”
  - The crimes for which the offender has been convicted;
  - A description of the offender's targets; and
  - Any other relevant identifying information as determined by the attorney general.



White Collar Crime Offender Registry

Search names:  Search last name:

| Profile Image | Full Name             | Date of Birth | Qualifying Convictions                         | Alias(es) | Details           |
|---------------|-----------------------|---------------|------------------------------------------------|-----------|-------------------|
|               | Melissa Lynn Acorn    | 4/17/1981     | Communications Fraud                           |           | <a href="#">→</a> |
|               | Ashley Adams          | 4/25/1994     | Communications Fraud                           |           | <a href="#">→</a> |
|               | Benjamin Kory Alberts | 3/21/1983     | Communications Fraud                           |           | <a href="#">→</a> |
|               | Jennifer G. Allen     | 8/7/1978      | Insurance Fraud                                |           | <a href="#">→</a> |
|               | Lori Ann Anderson     | 2/5/1962      | Securities Fraud, Pattern of Unlawful Activity |           | <a href="#">→</a> |
|               | Shelley Ann Anderson  | 11/26/1977    | Communications Fraud                           |           | <a href="#">→</a> |

White Collar Crime Offender Registry

Search names:  Search last name:


| Profile Image | Full Name                | Date of Birth | Qualifying Convictions                         | Alias(es) | Details           |
|---------------|--------------------------|---------------|------------------------------------------------|-----------|-------------------|
|               | Lori Ann Anderson        | 2/5/1962      | Securities Fraud, Pattern of Unlawful Activity |           | <a href="#">→</a> |
|               | Blair Steven Arneil      | 2/26/1955     | Securities Fraud                               |           | <a href="#">→</a> |
|               | Shawn David Benson       | 6/17/1973     | Securities Fraud                               |           | <a href="#">→</a> |
|               | Sherrell Kimball Bennett | 11/23/1938    | Securities Fraud                               |           | <a href="#">→</a> |
|               | Lane Durant Bird         | 1/21/1966     | Securities Fraud                               |           | <a href="#">→</a> |
|               | Roger S. Bliss           | 8/24/1959     | Securities Fraud, Pattern of Unlawful Activity |           | <a href="#">→</a> |

The screenshot shows a web browser window with the URL `utrfraud.com/Registry/Lists/ShowList?regid=1`. The page title is "White Collar Crime Offender Registry". At the top, there is a navigation bar with links for "Registry", "Laws & Resources", "Events", "FAQs", "Contact Us", and "PROSECUTOR PORTAL". A search bar contains the text "Secur". Below the search bar is a table of offender records. The table has columns for "Profile Image", "Full Name", "Date of Birth", "Qualifying Convictions", "Alias(es)", and "Details".

| Profile Image | Full Name                | Date of Birth | Qualifying Convictions                         | Alias(es) | Details           |
|---------------|--------------------------|---------------|------------------------------------------------|-----------|-------------------|
|               | Lori Ann Anderson        | 2/5/1962      | Securities Fraud, Pattern of Unlawful Activity |           | <a href="#">→</a> |
|               | Blair Steven Arnell      | 2/26/1955     | Securities Fraud                               |           | <a href="#">→</a> |
|               | Shawn David Benson       | 6/17/1973     | Securities Fraud                               |           | <a href="#">→</a> |
|               | Sherrell Kimball Bennett | 11/23/1938    | Securities Fraud                               |           | <a href="#">→</a> |
|               | Lane Durant Bird         | 1/21/1966     | Securities Fraud                               |           | <a href="#">→</a> |
|               | Roger S. Bliss           | 8/24/1958     | Securities Fraud, Pattern of Unlawful Activity |           | <a href="#">→</a> |

The screenshot shows the "Offender details for: Roger S. Bliss" page. The URL is `utrfraud.com/Registry/Lists/Details?regid=18`. The page is divided into two main sections: "Profile" and "Conviction Details".

**Profile**



**Alias(s):**  
**Date of Birth:** 8/24/1958  
**Height:** 5ft 10in  
**Weight:** 210 lbs  
**Eye Color:**  
**Hair Color:**

**Conviction Details**

**Conviction #:** 1  
**Conviction:** Securities Fraud, Pattern of Unlawful Activity  
**Conviction Date:** 12/11/2015  
**Court of Conviction:** 3rd District - Salt Lake City  
**Targets:** Family members, Friends & Acquaintances, Members of a specific religious group  
**Conviction Details:** Solicited individuals to invest money in his trading club. Promised huge returns of over 100% a year, and generated false statements demonstrating these returns. Actually lost millions trading over a period of 3 years, and spent millions on personal expenses. Investor losses were significant.

[BACK TO LIST](#)


Details - White Collar X

ufraud.com/Registry/Info/Details?regOffid=18

Registry Laws & Resources Events FAQs Contact Us PROSECUTOR PORTAL Search Admin Access

### Offender details for: Roger S. Bliss

**Profile**



**Alias(s):**  
**Date of Birth:** 8/24/1958  
**Height:** 5ft 10in  
**Weight:** 210 lbs  
**Eye Color:**  
**Hair Color:**

**Conviction Details**

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[BACK TO LIST](#)

# WHAT IS AFFINITY FRAUD?



- A scheme that targets members of any specific group
- Religious, Professional, Ethnic, Political, Hobby, etc.
- Sometimes start as legitimate business ventures – the promotor doesn't want to "loose face" with the group
- Often the perpetrator within an affinity group is also a victim of a larger fraud



## HOW THE FFI AND THE WCCOR FIGHT AFFINITY FRAUD



- Educating potential victims
- Empowering friends and relatives
- Tools for professionals, such as tax and legal advisors
- Reversing affinity fraud: The airline pilot example

## IDENTITY THEFT FRAUDS AND UTAH DATA BREACH LAWS

## IDENTITY THEFT FRAUDS



## WHAT IS IDENTITY THEFT FRAUD?



- Someone using someone else's "personal identifying information" to fraudulently obtain credit, goods, services, employment, medical information, or other things of value.
  - Utah Code §76-6-1102(2)(a)
- "Personal identifying information" includes numbers or other information that can be used to access a person's financial resources or medical information.
  - Utah Code §76-6-1102(1)

## TRADITIONAL IDENTITY THEFT FRAUD



- Personal identifying information is stolen from mail, purse, off an ID (such as a credit card or driver's license), or a check
  - Avoid checks wherever possible
  - Don't leave purses in cars
- Mail theft is the biggest risk; banking and paying bills on-line reduces the risk!
- Victims are targeted individually
- The most common goal is to access the victim's existing accounts:
  - Make purchases with victim's credit card
  - Withdraw funds from victim's bank account

## MODERN IDENTITY THEFT FRAUD



- Phishing and spoofing schemes to try to get victims to provide personal identifying information on-line
  - Is the request legitimate?
  - Go to the entity's web site, don't respond to an email
- Classified ad sites (such as KSL), online dating sites
- Unsecured Wi-Fi interception
- Skimmers and other high-tech theft devices
- Still mainly targeting individual accounts for the primary purpose of gaining access to those accounts

## MASS DATA BREACHES

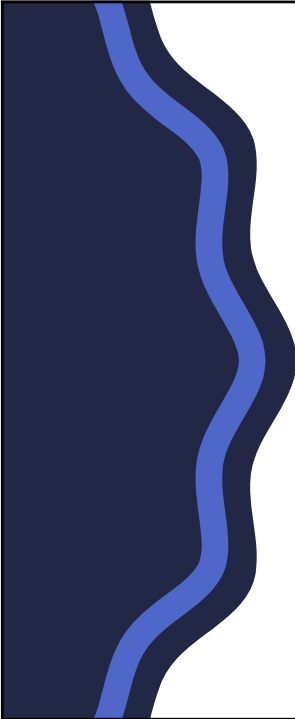


- [Yahoo](#) 2013 – 2014 = 3 billion users
- [Adult Friend Finder](#) 2016 = 412 million users
- [eBay](#) 2014 = 145 million users
- [Equifax](#) 2017 = Over 143 million Americans
- [Heartland Payment Systems](#) 2008 = 134 million credit cards
- [Target](#) 2013 = Up to 110 million people
- [JP Morgan Chase](#) 2014 = 76 million US households, plus 7 million small businesses
- [Anthem / WellPoint](#) 2015 = 79 million customers
- [US Office of Personnel Management](#) 2012 – 2014 = 22 million, mainly federal employees
- [Sony PlayStation Network](#) 2011 = 77 million

## MASS DATA BREACHES



- Obviously, not targeting individuals
- Usually not attempting to control existing accounts
- Frequently linked to state actors
- Mass data breach  $\neq$  identity theft fraud *per se*
- Often the data appears to not be used years later
- Often used to create false new accounts
- Often used to create false tax returns




# DATA BREACHES UNDER UTAH LAW

UTAH PROTECTION OF PERSONAL INFORMATION ACT  
UTAH CODE §13-44-101, ET. SEQ.

UTAH CONSUMER CREDIT PROTECTION ACT  
UTAH CODE §13-45-101, ET. SEQ.

## UTAH PROTECTION OF PERSONAL INFORMATION ACT

Utah Code §13-44-101 et. seq.



### SCOPE

- Applies to a “breach of system security” that compromises “personal information.”
- “Personal information” requires both
  - First name, or first initial and last name, and
  - SSN, driver’s license number, or financial account number plus the password
- “Personal information” does not include information in government records or widely distributed media available to the general public

# UTAH PROTECTION OF PERSONAL INFORMATION ACT

Utah Code §13-44-101 et. seq.



## DUTIES

- Maintain reasonable procedures to
  - Prevent unlawful use or disclosure of personal information collected in regular course of business
  - Destroy personal information when not to be retained
- Disclose security breach to Utah victim ASAP after
  - Determining that identify theft is reasonably likely
  - Any request by law enforcement to delay notice
  - Determining the scope of the breach
  - Restoring the integrity of the system
- Not required to inform government of the breach

# UTAH PROTECTION OF PERSONAL INFORMATION ACT

Utah Code §13-44-101 et. seq.



## ENFORCEMENT

- Utah Attorney General's Office only
- No private right of action
- Maximum civil penalty of \$2,500 per consumer, \$100,000 per incident, plus injunctions & legal fees
- Duty to allow us to inspect your records
- We can enter into confidentiality agreements

## UTAH CONSUMER CREDIT PROTECTION ACT

Utah Code §13-45-101 et. seq.



### CONSUMER SECURITY FREEZES

- Consumers request, may take up to 5 days
- Allows for temporary and permanent lifting of freeze
- Requires payment of a fee each time, unless
  - You are a victim of actual identity fraud, and
  - You have filed a police report
- Doesn't apply to many types of credit checks
- Doesn't keep identity thieves from using existing credit
- Can cause difficulties when your credit is checked

## UTAH CONSUMER CREDIT PROTECTION ACT

Utah Code §13-45-101 et. seq.



### ENFORCEMENT

- Utah Attorney General's Office only
- No private right of action
- Maximum civil penalty of \$2,500 per consumer, \$100,000 per incident, plus injunctions & legal fees
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**THANK YOU!**