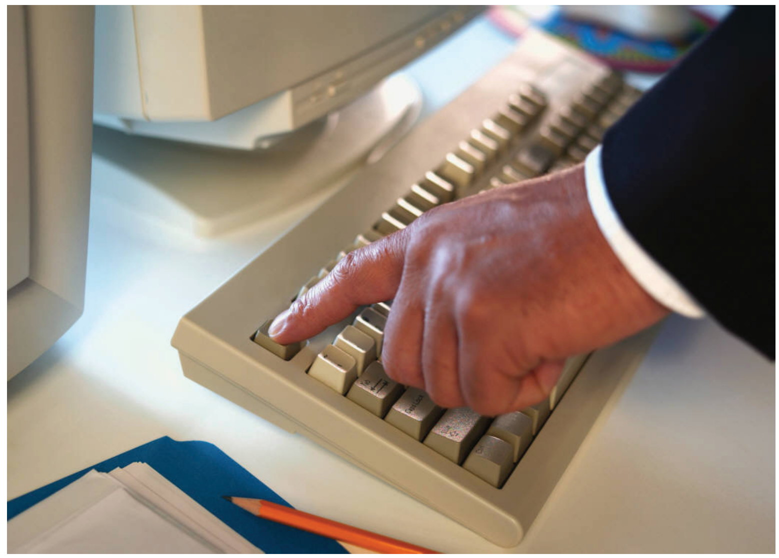
The Credit Professional

October 2014 **Volume 24**

Contents



Additional copies of *The Credit Professional* are $5.00 each for members and $10.00 each for non-members. To order, contact Credit Education Resources Foundation, 10726 Manchester Road, Suite 210, St. Louis, MO 63122. Phone: 314/821-9393. Fax: 314/821-7171. Email: creditpro@creditprofessionals.org. Web Site: www.creditprofessionals.org. Payment, by check or PayPal, must accompany order.

Identity Theft 101: Basic Techniques To Avoid Identity Theft

By Cameron Ohlendorf

While identity theft has been a problem for many years, its prevalence in mainstream society has become more prominent in recent months. With multiple data breaches at a number of major retailers, the general public has been forced to pay more attention to how their personal information is handled. In the following paragraphs, you will learn what identity theft is, how it can happen, and some preventive measures that you can take to help protect yourself. If you are looking for additional information on any of these topics, the following resources are very useful and much more detailed: the Federal Trade Commission; the Identity Theft Resource Center; the Internal Revenue Service; and the United States Secret Service.

Identity theft is the fraudulent acquisition and use of a person's private identifying information, usually for financial gain. Identity theft can happen through a variety of means, including pretext calling, phishing, and spear phishing. Pretext calling was more prevalent in years past and was generally targeted at senior citizens. A thief will call

continued on page 4

continued from page 3

posing as a family member or someone of authority. The thief will then ask questions that may seem innocent, such as about your grandkids or pets. The thief is never trying to gather all your information at one time. They glean pieces a little at a time until they have everything they need to open accounts in your name.

Not all encounters will be so subtle, however. There has been a recent increase in calls targeting seniors and it involves their grandchildren. The ploy follows this general pattern: one thief will call the senior, posing as a law enforcement officer from a foreign country, like Mexico. The “officer” will say that they caught the grandchild on spring break with drugs or any other illegal activity. A second thief will then get on the call posing as the grandchild asking them not to talk to mom and dad but to instead wire money so they can post bail.

In too many cases, the senior will rush to the bank to wire the money to “help” their grandchild. What you should do is hang up immediately and call your grandchild. It’s a pretty safe bet that their cell phone isn’t too far away from them and they will answer, very confused as to why you think they are in Mexico.

Another option for identity thieves is to use phishing or spear phishing emails. These are fraudulent emails that appear to be legitimate and try to get you to click on a link or send them personal information. When you receive an email that looks suspicious, there are a few items to check before clicking on any links. The first is who the email is from. While this may seem simple, hackers can make the email look like it came from a legitimate source very easily. To make sure the email is legitimate, click on the name in the “from” field to show the underlying email address. If the address doesn’t match who the email should’ve been coming from or contains a non-US country code, delete the email immediately. The safest thing to do is always to delete any email that you don’t believe is genuine.

Spear phishing is a targeted version of a phishing attack. Hackers have been using spear phishing attacks following a number of the recent corporate data breaches over the past six months. Rather than sending emails to as many people as possible, hackers using a spear phishing attack will send messages to individuals that have something in common. The attacks will use logos and data from the corporations from which the information was stolen to appear legitimate to the victim. Unsuspecting victims then click on the embedded links and often fill out forms that request personal and private information that the thieves use to defraud their targeted consumers.

Now that you know the ways in which identity thieves will attempt to steal your personal information, the question becomes: what can you do to protect it?

There are a variety of ways to protect your identity. While this list has only a few of them, remember, the goal is to not

continued on page 5

continued from page 4
become the low hanging fruit for a thief.

The more of these steps you put into place, the harder it will be for a thief to steal your identifying information.

The first is to monitor your credit through **annualcreditreport.com** or call (877) 322-8228. This is a free service set up by the federal government for consumers to check their credit. By checking one of the three credit agencies every four months, you can keep a constant eye on your credit.

The next step is to monitor your statements. Identity thieves rely on the fact that few people ever check their bank or credit card statements. If your information has been compromised, a thief will start by putting through a few small transactions to see if they get caught. If not, they will continue to make larger and larger purchases until you notice something is wrong.

Beyond checking your monthly statements, you should monitor your statements online. This way, you can call your bank or credit card company immediately when you notice a suspicious and potentially fraudulent transaction. What do you do with your statements after you've reviewed them? Use a cross cut shredder to dispose of them. You've all seen the movies where a thief will tape back together a document from ribbons of shredded paper.

Don't let that happen to your personal information. A cross cut shredder will cut your documents into tiny pieces of confetti, making it nearly impossible for anyone to put it back together again.

Another vulnerability resides in your mailbox, especially for rural consumers with a mailbox outside their home. When you send mail or receive bills through the US Postal Service, you provide an opportunity for an identity thief to get your information. An identity thief could use your actual mailing address to open a fraudulent account and then beat you to the mailbox each month to receive the statement. A good way to prevent this is to get your bills sent to you electronically either through email or your bank's online bill pay service.

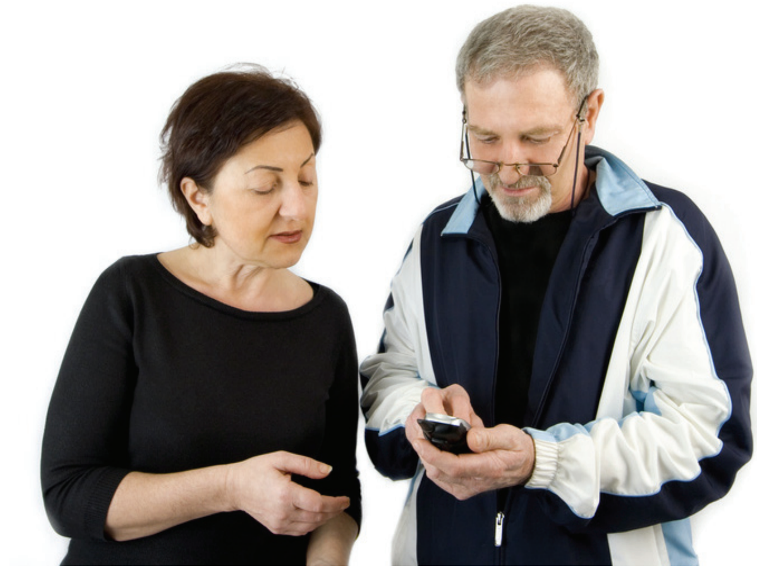
The next few steps are slightly more technical in their nature and may require some help from a friend or family member with technical skills. The first of these is to keep your firewall and antivirus software up to date on all your computers. This is a basic protection step that many people neglect to do because it's time consuming or they believe that they are safe from viruses because "I don't go to those kind of sites and it will never happen to me."

You can receive a computer virus from just about anywhere and, by keeping your software up to date, you can avoid many of the worst kinds of bugs.

continued on page 6

continued from page 5

This can also apply to operating systems. Now that Microsoft has discontinued support for Windows XP, all consumers need to move away from that operating system as bugs and defects with it are no longer being corrected. In the same light, keeping your smartphone secure is just as important as protecting your computer. A recent poll showed that only 43% of the population put a passcode on their smartphone.



Think of how much personal information you have on your smartphone. A thief can steal your cell phone and use that information to impersonate you for pretext calls or use the information to open fraudulent accounts.

The final tip is to protect and hide your home wifi network. Make your network hidden and protected with *at least* WPA2 encryption. Why WPA2? If you were to search YouTube right now, you would find dozens of videos that would show you how to hack WPA or WEP encryption in under fifteen minutes. The danger to your identity is that, once inside your network, a hacker can easily gain access to your personal computer and anything saved on that computer. Remember, a hacker is looking for the easiest targets and, by hiding your network and using higher levels of encryption technology, you make a much tougher target.

The next important topic is password security. This will start with what not to use as a password, followed by some tips to create strong passwords and a way to remember them all. So what shouldn't you use as a password? Well the obvious are birthdays, anniversaries, pet's names, home address, or the names of children or grandchildren. Additionally, you also need to avoid using your favorite places or anything that is Google, Twitter, or Facebook searchable. So what does Google, Twitter, or Facebook searchable mean?

Take a second and do a Google search on your name and see what comes up. If you're like many, you'll find your social media accounts, where you work, activities you've been involved in, and where you went to school. All of this is available to the entire world. If you use any of that information as part of your password, it makes it very easy for a hacker to crack.

Now that the easy to remember things are eliminated, what's left? To create a secure password you need to use mixed characters in your passwords (i.e. UPPER CASE, lower case, numbers 12345, and special characters !@#$%^). Your password should be at least eight characters in length, preferably more. However, it should not be an English sentence such as: mypasswordrocks. Sentences are as easy for a hacker to crack as a password like abc123. And many people use the word "password" as their password. That's a really bad idea!

So how do you create a password that uses all of these rules yet is still easy to remember? The easiest way is to make a passphrase. Take a sentence like: my password for work is number one! Now turn it into the variety of characters we described above to create: mPw4Wi#1! An even better way to create and remember difficult passwords is to use a password manager application such as SplashID, iCloud, LastPass, or 1Password. These applications use strong encryption technology to protect the data you enter into them. Additionally, they can help suggest strong passwords for you to use.

Continued on page 7

continued from page 6

As noted above, social media can be an easy way for identity thieves to find information on your family, pets, and favorite things. If you aren't careful, it can also provide robbers information as to when you are out of town for vacations or dinners, giving someone the perfect opportunity to break into your home. The best way to prevent this is to check your privacy settings constantly so that you are only sharing your posts with people you trust and to only post things about your adventures after you return home.

Again, the goal of this article is to prevent you from becoming the low hanging fruit for an identity thief. This is not an all-encompassing list of best practices, but it should provide you with some easy steps to implement to help you protect your identity. The resources mentioned in the opening paragraph have many other tips and tricks for you to use as well.

About the author:

Cameron Ohlendorf is a credit analyst and security officer for First Community Bank and Trust in Beecher, IL. He received his Bachelor of Arts from Illinois Wesleyan University in 2012 and is currently working on his Masters of Business Administration from Lewis University. He is also currently enrolled in the Community Bankers School in Bloomington, Illinois. He has recently presented this subject matter on computer security issues and ways to protect your personal information to a number of senior and community groups.

Credit Professionals International

2015 Conference

June 10-14, 2014

Marietta, Georgia

Hosted by CPI District 3&4

7 Strategies I Learned From Self-Made Millionaires About Achieving Personal and Professional Success

By Colleen Kettenhofen

*"Imagination is everything.
It is the preview of life's
coming attractions."*
Albert Einstein

After attending a seminar in Las Vegas this past weekend on personal and professional success, I walked away with a plethora of time-tested tools that can be applied immediately. Many of the presenters were self-made millionaires. I emphasize the term "self-made" as I'm not talking about someone who inherited it or married into it. These individuals, through grit, determination and calculated risk did it on their own. Here are the seven proven strategies guaranteed to dramatically improve your happiness and success in any area of your life if you apply them:

One: Wherever you are today, is a result of what you've done in the past. Take responsibility for the choices you've made. Learn from them and move on. Let go of the mistake but don't lose the lesson. This frame of mind alone can turn your life around.

Two: "You become what you think about all day," Earl Nightengale once said. Have you ever noticed while driving your car that, if you keep looking to the right you eventually go to the right? Keep looking to the left and your car veers left? What you think about and focus on becomes reality.

Three: The books you read and the people you interact with most determine 90% of your success. So surround yourself with successful positive people. Join a mastermind group. It can consist of like-minded individuals all around the country where you talk by phone once a week. Attend business and personal development seminars to find the right people. Who are the people you spend the most time with? What about their goals, values and priorities? Do they have any goals? You are an average of the five people you spend the most time with. Try this exercise: Add up their yearly income. Now divide by

Continued on page 9

continued from page 8

five. Most likely your income is within 10% of that sum. You can spend time with people less successful than you and feel like a big fish but, as you discover your passion and climb the ladder of success, those same people will drag you down and discourage your dreams.

Four: The books you read. Invest at least three percent of your yearly income in personal and professional development books, CD's, e-books, teleseminars, webinars and the like. If you're pressed for time, listen to motivational CD's in your car. The average person spends 500 to 1000 hours per year in their cars. Turn your car into a virtual mobile classroom. *"Fill your mind with rich mental protein."*

Brian Tracy

Five: Reprogram your mind. You've heard the phrase "stinkin' thinkin'." To reprogram your mind with positive thoughts, spend a few minutes upon awakening reading inspirational literature or something related to your field you are passionate about. Do the same thing within that last hour before bedtime. The subconscious mind is most amenable to suggestion the first hour upon awakening, and that last hour before retiring.

Six: The mirror exercise. Every morning when you get up and every evening before going to bed, give yourself pep talks. At first you will feel embarrassed and ridiculous but this technique is very powerful. Ruben Gonzalez, three time Olympian in the luge, was the keynote speaker this weekend. He told how his friend used to make him stand in front of a mirror and say to himself (with emotion), "No matter how terrible it gets I am going to make it happen!" He would say this over and over until he believed it. Saying it with emotion will help your dream manifest itself more quickly.

Seven: Learn to overcome procrastination. Most people procrastinate doing something because they fear it. For example, if you're procrastinating learning a new software program, take classes or hire a tutor. Because, if that skill is necessary in helping you achieve an important goal, you *must* do it. Also, do the thing you like least first. The more you just think about what you "should" do and procrastinate, the harder it is to get started and your anxiety is compounded. Think how much better, lighter (and more confident) you'll feel when it's complete.

Celebrate your successes and reward yourself for even small accomplishments. All work and no play serves as a de-motivator. And the larger the success, the larger the reward. Have you ever noticed how much you accomplish

continued on page 10

continued from page 9

right before a vacation? This is because you're looking forward to that reward and you don't want to think about a task when you're on vacation. Do the same thing with these simple steps. Apply them. Work them. Focus on your dreams not the fear. The price of success is huge, but the price of regret is worse. Increase your self-belief and increase your desire. Ask yourself, "Who am I?" "What do I want to be?" And go do that. Good luck.

"*Hesitation, when one is confronted with a great business idea, is without a doubt the single largest obstacle to wealth. It is only through dynamic action and financial risk that great fortunes are amassed and multiplied.*"

J.P. Morgan

The above information sets the foundation for the following additional strategies, which I also learned from self-made millionaires.

You need to first take responsibility for the choices you've made in life. No matter where you're at, accept that you are where you are as a result of your choices. Then you can effectively move on to finding your passion, fulfilling your dreams and earning multiple streams of income. I know of highly intelligent, highly educated people who will not take that first simple step. They are "stuck" in jobs they can't stand, emotionally bankrupt, and in some cases financially bankrupt, too. Mired in self-pity and constantly blaming others, they will never achieve their dreams. So, let's move on to more strategies from self-made millionaires.

First: Burning desire and personal motivation. Whether you want to achieve overall career success or small business success, you must have a burning desire for whatever it is you want to achieve. Because there will be too many roadblocks and detours along your path. And unless you're fueled by passion, it's too easy to experience overwhelm, lose focus and just plain give up. I love coffee (as I write this I'm sitting outside Starbucks!) but as I do more and more of the work I enjoy, i.e., producing CD's and writing an e-book, my need for caffeine has diminished. I'm fueled by passion, purpose and helping others. It's easy for me to work late into the night. Of course, it's also easier when you have a cat and dog and no small children. But you get the point. Ask yourself, if you won $50 million in the lottery, what would you do for work even 10 hours per week. Assume you've already traveled everywhere and bought everything you could want.

Second: Hire a motivation or success coach. One of the main reasons small businesses fail is lack of planning and lack of focus. Another reason is procrastination. Procrastination is the result of fear. If you're

continued on page 11

continued from page 10

having difficulty getting started, hire a motivation coach to push you past the pain of procrastination and into facing your fears. The investment can cost money in the short term but be well worth it once you start seeing results. Every one of the self-made millionaires said early on in their career that they hired a success team of coaches, tutors, accountants, attorneys and others who could assist them. The message was "don't try to do everything on your own." You will feel overwhelmed, procrastinate and fail. So where do you find the finances to hire these experts?

Third: Offload your stuff. Get rid of the "things" and frivolous expenses that are holding you back. If you're objecting to hiring a team of experts because you don't know where the money will come from, what can you sell? Many people have items they want to get rid of but aren't sure how to post these items with online websites like eBay or Craig's List. Again, enlist the help of a friend or expert in this area. And must I say it? Find a way fast to get rid of your credit card debt if you have any. The percentage of Americans with debt is shocking.

Fourth: Your comfort zone is your money zone. Be willing to be terrified. To make it easier, find out where you are weakest and grow in those areas. Again, surround yourself with positive supportive people who've already made it, who can advise you on how to overcome your obstacles.

Fifth: Take action. Goals are nothing without action. Write them down. Make them specific, measurable and realistic. Keep them in your wallet. Write affirmations and tape them to your bathroom and living room mirror, bulletin board and refrigerator. Look at them daily. Tape positive affirmations and play them briefly in your car, upon arising in the morning, and just before going to bed. One gentleman at the conference went from being $90,000 in debt (which he paid off) to earning hundreds of thousands a year with this technique. Bombard yourself with positive messages until you believe them.

The main thing to do is get started. Do something. Do anything that will bring you closer to the personal and professional success you desire. These proven techniques will work for you in achieving greater happiness and fulfillment in *any* area of your life—if you apply them.

Read the right books; spend the majority of your time with people more successful than you. Hire a success team of experts. Learn the new skills you will have to learn in order to make your dream happen. To stretch into a new money zone, remember you must stretch out of your comfort zone.

About the author:

Colleen Kettenhofen is a Phoenix, Arizona motivational speaker, trainer, & co-author of "The Masters of Success ," featured on NBC's Today Show, along with Ken Blanchard and Jack Canfield. For free articles, video clips, and e-newsletter, visit www.ColleenSpeaks.com.

Colleen's areas of expertise are leadership, managing people, life balance, difficult people, presentation skills. Colleen is available for keynotes, breakout sessions and seminars.

She can be reached at contact information listed below:
Colleen Kettenhofen
(623) 340-7690

Website: http://www.ColleenSpeaks.com

email:
colleen@colleenspeaks.com

Consumer Financial Protection Bureau

A Watchdog with Teeth

By Elise Lievois

The Consumer Financial Protection Bureau (CFPB) is a central part of President Obama's historic Wall Street Reform. The CFPB is responsible for making sure that markets for financial products and services actually work ***for*** consumers. One primary goal of the legislation is to ensure that the public understands their rights and obligations by the use of plain language to describe the terms, conditions and the risks for such financial products as checking and savings accounts, credit cards, as well as loans to purchase homes and pay for college.

Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act in July, 2010. Supported by 250 consumer, labor, civil rights and other activist organizations, the CFPB was entrusted to enforce the consumer protection legislation commonly referred to as "Dodd-Frank" and began operation on July 21, 2011. Former Ohio Attorney General Richard Cordray was appointed its first director.

Before the CFPB was created, at least seven different federal agencies were required to oversee different aspects of consumer protection. The financial crisis of 2007-08, an economic crash of epic proportions, had a devastating effect on consumers. Because consumer protection was spread across so many federal agencies, none of those agencies alone had sufficient tools to create rules and regulations or oversee the whole market. Certainly, none of them had "consumer protection" as their primary responsibility.

On December 6, 2011, President Barack Obama stated, in his speech in Osawatomie, Kansas:

"We all know the story by now: Mortgages sold to people who couldn't afford them, or sometimes even understand them. Banks and investors allowed to keep packaging the risk and selling it off. Huge bets, and huge bonuses, made with other peoples' money on the line. Regulators who were supposed to warn us about the dangers of all this, but looked the other way or didn't have the authority to look at all."

The CFPB was designed to consolidate employees and responsibilities from all of these various federal agencies and create a single, consumer-focused regulating authority. One feature of the

Continued on page 13

continued from page 12

CFPB is its expanded authority. Given the trend of consumers to use non-banks for their financial needs, the CFPB was granted regulatory authority over such entities as securities firms, payday lenders, mortgage servicing operations, foreclosure relief services and debt collectors.

The non-bank financial providers that consumers turned to have not been subject to federal regulation and proponents of Dodd-Frank claim that unregulated financial institutions tend to be less clear about costs, terms and penalties than federally regulated institutions. According to Megan Slack, Deputy Director of Digital Content in the Office of Digital Strategy, the following statistics show those consumers most at risk:

- Nearly 20 million Americans use payday lenders. Studies have found that payday lenders charge their clients, on average, $16 for a $100 two-week loan, a 400% annual percentage rate. If borrowers miss payments they begin to accumulate huge penalty fees and can fall into a debt-and-fee spiral that may be hard to escape, and end up with even fewer funds to pay for essentials.
- In the run-up to the financial crisis, unregulated, non-bank lenders were among the largest originators of subprime mortgages. The default rate on subprime mortgages issued in 2006 now exceeds 50%.
- Nearly 50% of claims made against debt collectors cite harassment. Currently there is about $1.2 trillion of delinquent consumer debt, and many people who fall behind on their debt payments lack the resources to protect themselves from predatory collection behavior, which can lead them to make financial decisions without having all the facts.
- One in five Americans over the age of 65 has been the victim of a financial scam.
- 29% of young people between the ages of 22 and 29 report delaying or not pursuing further education because of their debt.

(Source: Megan Slack, Jan. 4, 2012; "Consumer Financial Protection Bureau 101: Why we need a Consumer Watchdog")
After the 2007-08 financial

Continued on page 14

continued from page 13

crisis, the government sought to give consumer protection priority, to protect consumers from "unfair, deceptive or abusive" practices.

What had started as an idea, published in 2007 by Harvard Law School bankruptcy professor Elizabeth Warren, is now a fully built federal agency.

On March 16, 2011, during her address to the House Subcommittee on Financial Institutions and Consumer Credit, Warren stated:
"If there had been just a few basic rules and a cop on the beat to enforce them, we could have avoided or minimized the greatest economic catastrophe since the Great Depression. In the future, the new consumer bureau will be that cop." *(see page 16, note 1)*

The CFPB is not subject to congressional oversight or dependent on congressionally-approved funding. As a result, the CFPB is a very independent and powerful overseer, which has created more than just a few basic rules!

The CFPB, as a watchdog of consumer financial protection, has sharp teeth. In 2012, the CFPB issued its first enforcement action when it required the credit card company, Capital One, to refund **$140 million** to its customers and fined Capital One an additional $25 million to be paid to the CFPB's "Civil Penalty Fund" for deceptive practices in marketing as well as misleading consumers about the benefits of products and their costs. (*see page 16, note 2)*

The CFPB continues to enforce its regulations and assess large fines against entities who have violated those regulations. The following are some enforcement actions taken by the CFPB:

The CFPB's second enforcement action was against Discover in the amount of **$214 million**. The CFPB found that consumers had been sold certain add-on products without the consumer's knowledge and that Discover had misled consumers about their eligibility. *(see page 16, note 3)*

The third action against American Express required them to pay **$85 million** to 250,000 consumers and an additional **$27.5 million** in civil penalties to the CFPB. (*see page 16, note 4)*

Within three months of enforcement, the CFPB had won refunds and restitution for consumers in excess of $425 million. The year 2013 brought more enforcement actions:

Chase Bank USA, N.A. and JPMorgan Chase Bank, N.A. were fined **$309 million,** paid to 2.1 million consumers, for illegal credit card practices. (*see page 16, note 5)*

Cash America (a payday lender) refunded **$14 million** to 14,000 Ohio consumers for robo-signing court documents and illegally over charging service members and their families. (*see page 16, note 6)*

Ally Financial Inc. and Ally Bank have markup policies that resulted in illegal discrimination against over 235,000 African-American, Hispanic, and Asian and Pacific Islander borrowers. "Today, along with the Department of

Continued on page 15

continued from page 14

Justice (DOJ), we're [CFPB] ordering Ally Financial Inc. and Ally Bank to pay **$80 million** in damages to the consumers that were harmed by their discriminatory markup policy between April 2011 and December 2013".(*see page 16, note 7)*

Republic Mortgage agreed to pay a **$100,000** penalty for allegedly providing illegal kickbacks to mortgage lenders. (*see page 16, note 8)*

Ocwen Financial Corporation was ordered to pay for years of systemic misconduct in mortgage servicing. The misconduct included unfair shortcuts, unauthorized fees, deception, illegal foreclosures, and other illegal practices. Ocwen will be required to provide **$2 billion** in loan modification relief to its consumers and **$125 million** in refunds to consumers whose homes were foreclosed. (*see page 16, note 9)*

Genworth Mortgage Insurance Corp., United Guaranty Corp., Radian Guaranty Inc., and Mortgage Guaranty Insurance Corp. were fined in excess of **$15 million** collectively for illegal kickbacks to mortgage lenders in exchange for referrals. (*see page 16, note 10)*

1st Alliance Lending (Connecticut Mortgage Lender) turned itself in to the CFPB for violating federal law which prohibits splitting real estate settlement fees. Even though the lender stopped the practice in 2011, they self-reported the violations to the CFPB, agreed to pay **$83,000** in penalties

and provided information related to the conduct of other actors that has facilitated the CFPB in other enforcement investigations. (*see page 16, note 11)*

As the examples above demonstrate, the CFPB is a powerful agency possessing sweeping oversight. It has the authority to examine and enforce regulations for banks and credit unions with greater than $10 billion in assets, all mortgage-related business (such as lenders, servicers, and mortgage brokers), and large non-bank financial businesses (such as payday lenders, debt collectors and consumer reporting agencies). The CFPB's message is clear: unfair, deceptive or abusive acts or practices (UDAAP) will not be tolerated and hefty fines will be assessed against institutions for their violations.

Recently, there has been pushback to the CFPB's enforcement by eleven State Attorneys General and three private organizations, which have challenged the constitutionality of Dodd-Frank.

The Attorneys General (AG) are concerned with that part of the law pertaining to the liquidation of a troubled financial institution. The AGs allege that the CFPB has created a way to dissolve a troubled financial institution without the necessity of filing bankruptcy. Under the bankruptcy statute, creditors have certain statutory rights and the AG claim that those statutory rights would be compromised if troubled financial institutions were not required to file bankruptcy. Additionally, these opponents allege that there are no checks and balances with the CFPB and that the director is not accountable to anyone. They claim that the director can't be fired, even if a new president is elected with different ideas on how to best protect consumers.

Many of those in the financial industry are

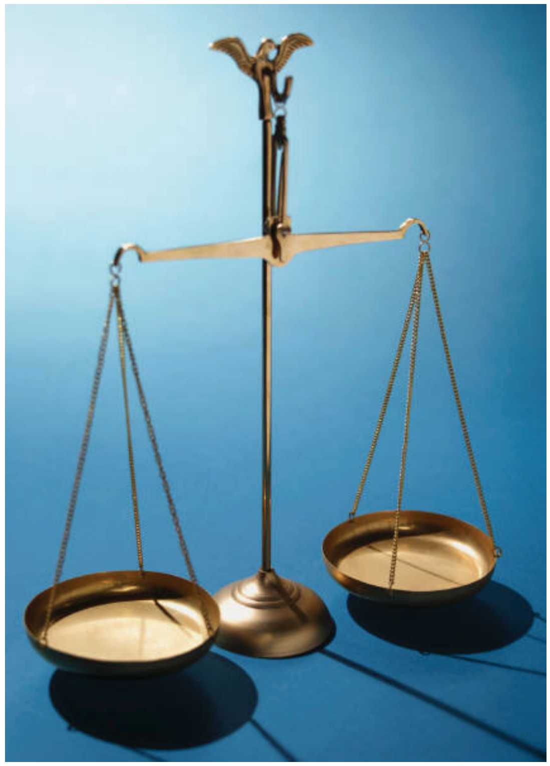
Continued on page 16

continued from page 15

concerned that the cost of compliance with the additional rules and regulations enacted by the CFPB will disproportionately fall on smaller banks and credit unions. Another argument is that the cost will ultimately be passed on to consumers, making it harder for the consumer to take advantage of financial products and services.

Whether the cost to the consumer is outweighed by the protections of the CFPB remains to be seen. In the meantime, the financial industry and its vendors must know that the CFPB is a regulatory force to be reckoned with and diligently

plan and prepare to meet the legislation's requirements.



About the author:

Elise Lievois received her Bachelor of Arts degree at Michigan State University and obtained her law degree from the Detroit College of Law. She has worked as State Counsel for a national title underwriter and is President of Devon Title Agency. Elise has assumed the role of "CFPB Compliance Officer" at Devon and has spent many hours working to ensure that the policies and procedures at Devon Title comply with the title industry's best practices. She lives in Royal Oak, Michigan, with her husband, John, and the youngest of their three daughters, Emma.

Reference notes:

Note 1:
www.consumerfinance.gov/newsroom/testimony-of-elizabeth-warren-before-the-house-financial-services-committee/

Note 2:
files.consumerfinance.gov/f/201207_cfpb_consent_order_0001.pdf

Note 3:
www.consumerfinance.gov/f/201209_cfpb_consent_order_0005.pdf

Note 4:
www.consumerfinance.gov/newsroom/cfpb-orders-american-express-to-pay-85-million-refund-to-consumers-harmed-by-illegal-credit-card-practices/

Note 5:
www.consumerfinance.gov/f/201309_cfpb_jpmc_consent-order.pdf

Note 6:
files.consumerfinance.gov/f/201311_cfpb_cashamerica_consent-order.pdf

Note 7:
files.consumerfinance.gov/f/201312_cfpb_consent-order_ally.pdf

Note 8:
files.consumerfinance.gov/f/201311_cfpb_consent-order_RMIC.pdf

Note 9:
files.consumerfinance.gov/f/201403_cfpb_entered-judgment-with-exhibits_ocwen.pdf

Note: 10:
files.consumerfinance.gov/f/201304_cfpb_Doc5_Genworth-Final-Order.pdf
files.consumerfinance.gov/f/201304_cfpb_Doc5_MGIC-Final-Order.pdf
files.consumerfinance.gov/f/201304_cfpb_Doc5_Radian-Final-Order.pdf
files.consumerfinance.gov/f/201304_cfpb_Doc5_UGI-Final-Order.pdf

Note 11:
files.consumerfinance.gov/f/201402_cfpb_consent-order_first-alliance.pdf

Helen B. Sawyers Credit Industry Pioneer And My Hero

By Sue Heusing, MCE

Every so often, I pull out my copy of a 1999 CPI Education Manual and reread an article by Helen B. Sawyers, a pioneer in the credit industry whose career began in the "Roaring Twenties" and stretched into the 21st century. Reading about her vast career always gives me a boost that I find more powerful than one of Helen's "Stingers." (And if you want to know what a Stinger is, you'll have to keep reading.)

For those of you who haven't had the privilege of knowing Helen, she was an active, involved member of Credit Professionals International from its beginnings in 1937 until her death in 2001. She was a firm believer that our organization's mission is credit education and she provided substantial support to the Credit Education Resources Foundation. Educating consumers on credit matters and providing continuing education for CPI members were her top priorities.

Those of us who did know her relished her spunk—she didn't wait for things to happen. She made things happen. She mentored us. She worked alongside us. And she could kick back and relax with us. Helen's life epitomizes who we CPI members are or aspire to be. So whether her name is new

Continued on page 18

continued from page 17

or familiar to you, take time now to visit or revisit with Helen. I promise, you'll learn something.

Born in Nebraska in 1906, Helen came of age at a time when women were taking their first steps into the business world. She began her career in a print shop but soon moved to the more traditional "women's work world" of teaching. In 1928, however, during a trip to visit family and friends in Texas, she was introduced to the young and growing credit industry. And her life was changed forever.

Settling down in Texas, she worked at a local loan company owned by a Chicago firm that had offices in every state west of the Mississippi. As a collector, skip tracer, and eventually manager, she moved into an audit position and spent time in Houston, Amarillo, Austin, Beaumont, and Port Arthur.

Then, in San Antonio one day, she met a person who claimed to be able to read into the future. The palm reader predicted that Helen would:

- Have a long and very strong lifeline
- Soon be transferred
- Be promoted before the end of the year.
- Be very successful in another line of work.
- Live in the Northwest near water for many years.
- Own a business.
- Be known nationally in her field because of something she would write.
- From that time on, would always have all the money she would need.

What is amazing is that all of these predictions came true for Helen. On Friday the 13th in 1934, Helen landed in Butte, Montana, and began running a credit bureau. Helen and another manager named Rose Shaw were the only women in what was, at the time, considered a man's world.

More women began entering the field and, together, Helen and Rose started a local credit association for them. Then Helen attended the 1937 meeting in Spokane where the Credit Women's Breakfast Clubs of North America (now Credit Professionals International) was established. She also was instrumental in organizing the National Retail Credit Men's Association, which became ICCA.

In December, 1941, Helen had an opportunity to buy the Credit Bureau of Helena, WA, when the owner went into the Navy. Later, in 1949, she acquired the bureau in Everett, WA, which was owned by 17 grocers.

That same year, Helen met Avadana Cochran, who owned the Bremerton (WA) bureau. They discovered they had the same problem in trying to keep all the information in the credit files straight. They came up with a coding system that worked well for them. Until the 1950s, when all credit bureaus adopted the same format, it was difficult to understand the reports being given by some bureaus.

In addition to being a long-standing member of Credit Professionals International, Helen was also a very active member of all trade associations in the credit industry. She belonged to the International Credit Association (ICA) from 1934 onward; the

Continued on page 19

continued from page 18

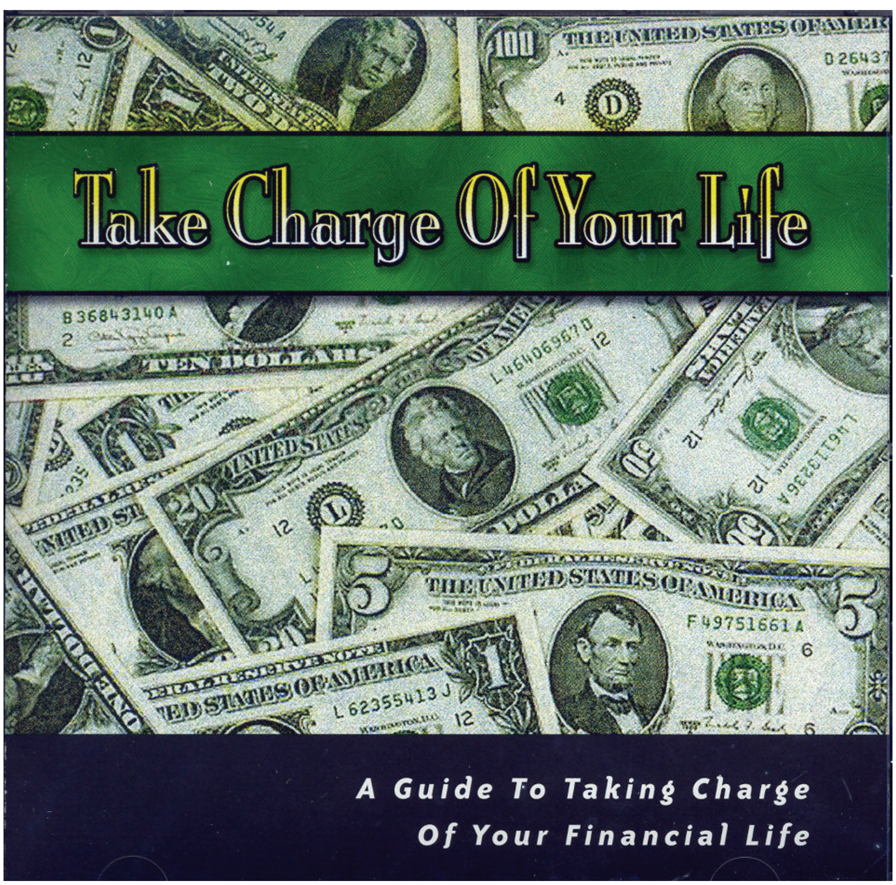
Associated Credit Bureaus, 1932-1964; the Consumer Credit Counseling Service, 1965-1998; and Management Services, Inc., 1971-1998.

Helen became my hero when we worked together on the Education Committee of ICA and spent many weekend trips to St Louis developing the booklet known as "How to Use Consumer Credit Wisely". We did four editions. We also took that educational tool on the road and did workshops for other locals and districts across the United States.

I remember telling Helen that the toughest audience I ever encountered was in Pittsburgh, PA, and I wasn't sure they would ever invite me again. She asked if I told any jokes and I said yes, I had shared a couple of her favorites. She told me not to worry. "They will remember you for your sense of humor." The reviews I received were all excellent!

Having an uncanny sense of humor herself, she always used humor to convince others of important issues. At one CPI International Conference the members were debating "how could we possibly afford to raise our dues by $10.00!"

After several members voiced their opinion about the fact we might lose members, Helen stood up and said, "Ten dollars in one year is not going to break the bank! I saw many of you in the gift shop this morning and you spent more than $10.00 buying souvenirs to take home with you tomorrow!" The vote passed unanimously.



Helen was a wizard and will always be remembered for hosting the "Stinger Club". You were not welcome unless you could tell a good joke. It had to be clean, with no vulgarity. If she laughed, you were invited to stay but, if she didn't, well, you were not invited to the next meeting.

CPI and Foundation Past President Mary Nebeker, CCCE/MPCE, said, "I was fortunate to have been Helen's friend. When I was installed as the CPI International President, I was invited by Helen to be a member of the 'Stinger Club'. She knew I didn't drink alcohol and I couldn't tell jokes (I could never remember the punch line). So she allowed me to choose another stinger member to step in with a good joke and to drink a Stinger. She was always thoughtful of others."

Terry Rowe, CCCE/MPCE, another CPI and Foundation Past President, added, "I, too, was one of the privileged to be invited to the Stinger Club. I will never forget the evening that Helen set her Stinger on the table and, while telling a story, moved her hands in a big gesture and sent her Stinger off the table and into her purse. She laughed and made a joke out of her purse being dry."

Mary also pointed out that the Credit Education Resources Foundation was the recipient of two donations from Helen. The first was a $10,000 donation which, Terry said, Helen explicitly wanted used to provide credit education for masses of people. It was used to produce the "Take Charge of

continued from page 19

Your Life" education program, which included CDs, tapes and a PowerPoint program. Terry was one of the narrators on the recorded program. "Take Charge" has been used by many members as a teaching tool.

The second donation came to The Foundation after Helen passed away in January 2001. This was a Vanguard Fund, in the amount of about $58,000. The Foundation uses it to provide grants to CPI members to conduct credit education programs. This was given, Mary said, with the direction that it be used as a cushion and not to balance the budget. It is not a cash account but rather a stock account. Helen chose Mary and Terry to be the gatekeepers of this fund.

Terry noted that Helen "did not want the funds used willy-nilly. She would have come back from the grave to haunt us had we done so. Helen wanted CPI to always serve as an educational organization."

After Helen's death, The Foundation established the Helen B. Sawyers Hero Award to recognize CPI members who excel in mentoring and leadership; are generous with time and knowledge; practice moral integrity in business and personal life; have a tenacious spirit implemented with compassion; have a wonderful sense of humor; and are considered a role model by others. Helen encompassed all of these attributes. To date, eight persons have received this award, including Mary, Terry and me. The other five are Gail Ottinger, CCCE/MPCE; Martha Philip, CCCE; Ruth Zardezed, CCUE; Nona Ellzey, MPCE; and Linda Bridgeford, CCCE/MPCE.

Helen B. Sawyers did the groundwork and laid the foundation for CPI. She will always be OUR hero.

Sue Heusing, MCE, is the Immediate Past President of Credit Professionals International and a Past President of the Credit Education Resources Foundation. She has also held many appointed positions within the two organizations, including serving as CPI Strategic Planning Committee chairman and as Conference Coordinator.

Sue also is a member of Creditors International and the National Association of Credit Management. She holds the Master Credit Executive designation from the Society of Certified Credit Executives. She is a popular author, speaker and trainer. With a BS degree in Management in Human Resources, she currently serves on a Practice Interview Team.

Her awards include CPI Credit Professional of the Year; the ICA Distinguished Service Award and the Foundation's Helen B. Sawyers Award.

Get the Most Out of Working in Groups

by Mary Horner

You've just heard a rumor that your manager is putting together a group of employees to brainstorm ideas regarding new market trends. Do you :

A. Volunteer
B. Avoid her or him
C. Check the number of vacation days you can use to be out of the office during the next few weeks or
D. Quit your job.

The number of people who choose "A" might surprise you. And not in a good way.

Regardless of whether your office is divided into groups, teams or departments, chances are you work frequently within the confines of a group.

There are many definitions of small groups, but several components must be present to be considered a small group:

1) There are more than two people who communicate with each other
2) members of the group know they are part of the group, and
3) they share a common goal.

Although the format may be highly structured or informal gatherings over lunch or drinks, working together is an essential part of business. Two important benefits of working in groups are that the work load can be spread out and that problems can be solved more quickly by approaching them from different perspectives.

Common complaints about groups are that some members don't have a voice in the decision-making process, while others feel that small subgroups end up doing all the work. Once the problem is identified, a solution can be implemented. Fortunately, both of these problems can be solved by eliminating the negative behaviors and focusing on group and individual goals.

As the Group Gathers

When the pack first meets, members may be vying for their "familiar" roles within the group. It's up to the group leader to make sure everyone has a role, and receives information as to how to proceed with the next step in

Continued on page 22

continued from page 21

order to succeed. If everyone knows what to do, (or what they should do) but doesn't know how to do it or apply the information to get the answers, then the group falls apart and nothing is accomplished.

Everyone brings something to the table. Each has expertise in a particular area, such as technology, communications or negotiations. Each also brings his or her personality. Some may want to take control or compete with others to establish their dominance in a particular area. This causes friction. Others may have a tendency to withdraw in a group and are not likely to contribute to the group discussion.

The group leader, therefore, must strive to balance the level of participation of members in the group.

Recognizing different personality types and making all members feel important will help the group meet its goals.

Palpable tension that flows like a current under the table, resentment and revenge are not strategies to success. To succeed in a group, every member must take the goal into consideration, as well as every OTHER member of the group. Leave your ego behind.

Trust is an essential part of working together and achieving goals. Without trust, the group cannot move forward, because the real issues don't get discussed and problems may never be solved. Admitting mistakes without fear of reprisal, finger-pointing and blame is a necessary component of working successfully in a group.

Moving forward may require some steps backward from time to time if the group is to try new ways of accomplishing goals. Debate can be healthy. Don't think of debate as arguing to get your way, but passionate discourse about a topic that you care about deeply. Removing personalities and egos from the project can open up avenues of information that create a positive and

Continued on page 23

continued from page 22

productive work environment that allows the group to succeed.

A lack of debate may also signal that the group has given up control to one high-level manager or vice-president because bringing up new information is not the norm, and creates an environment whereby it takes everyone out of their comfort zone, which some members may not want to do for fear of failure.

Why Doesn't Everyone Participate?

Corporations with a highly structured hierarchy can intimidate low-level employees. They also may hesitate to express a negative opinion about the topic, fearing that their opinions are not important, or that there may be repercussions for disagreeing with their supervisor or other upper-level employees.

Gender and culture may also affect someone's ability to feel comfortable expressing a negative opinion. It takes only a moment for one negative comment to stop the discussion, and someone may hesitate to offer suggestions for fear of being a target.

Group members who take on negative task roles can do so in many ways. Blocking the ideas of others, carrying on personal conversations, interrupting others or talking so much as to not let anyone else talk, does not contribute to the success of the group.

Leaders or moderators can limit this behavior by communicating the goal of the group, so members are more likely to stay on track and keep comments and criticisms (about the work, not the person) focused on that goal.

Some people are shy or introverted and won't feel comfortable throwing ideas out into the crowd for scrutiny. If the extroverts take over, introverts may feel even more insecure. Just because someone thinks out loud, like some extroverts, doesn't mean his or her ideas will be superior. Letting the introverts retreat from the group, because their personality style makes them more comfortable working alone, isn't what's best for the group.

So perhaps gathering ideas anonymously before the group meets may help increase the number and quality of ideas. There's no pressure on the shy members, who may have productive ideas. Listening to someone and having ideas heard can be a great motivator and bring about change. Let the extroverts talk, of course, but not at the expense of someone who is quiet but may have a new perspective on the topic.

Quantify Your Results

Groups cannot succeed if they don't have the knowledge or decision-making skills to do so. Having someone present who can quantify results or apply the knowledge can mean the difference between success and failure.

As a mediator for a small group charged with selecting a vendor for their company, I faced a variety of challenges. They had several candidates, and made a list of criteria that each one offered. When they finished, they had a chart with five names down the left side, with the services offered listed horizontally across the top. A check mark next to the vendor's name under the service gave them a visual breakdown of

continued on page 24

continued from page 23

who offered which services. But the group could not move forward after this step. They were stuck when it came to making a decision because they didn't know how to make a decision from this information. Three out of the five vendors had the same number of check marks, although they didn't offer the same services.

My suggestion was to quantify the services using a 1-5 scale, with five being the most important. After some lively debate, everyone contributed anonymous information on "secret" ballots. The scale was then applied to each service so the vendors ended up with a number, and the one with the highest number was chosen. That vendor offered more of the most important services. If projects continue to fall apart and disappear once they reach your group, then perhaps some restructuring or reorganizing will help determine the group's ability to cooperate with each other and function productively.

If your group is not able to move forward, or can't stop arguing, then perhaps examining the behaviors may help. If a group has too many people who want to control, but few who will follow through, a reorganization of the group may be necessary. Review the list below to ensure your group has more positive than negative contributors.

Task Roles

Starter: This person opens up the channel of communication so that the group has a handle on why each person has been selected to be in the group and the goals they wish to accomplish. This may be the highest ranking person in the group, but not necessarily.

This person may be charged with providing introductions, and with helping members realize their role and how they fit with the rest of the group. For example: "Judy is our marketing guru, whose expertise has helped us

continued on page 25

continued from page 24

successfully define our markets in the past."

Researcher: This person collects pertinent data and information for the group to use to meet its expectations and goals. This can be done prior to forming the group, and can continue throughout the group's existence.

"I'd like to call attention to the market trends research, which clearly states we need to move in new directions."

Explainer: Explains the "big" picture and the "little" picture, including positive and negative information.

Positive information may include details necessary to achieve the goal. Increasing sales is a great "big" picture topic but, without details and assignments, everyone in the group may be working on different objectives that do not gel with the rest of the group, therefore sabotaging any positive steps to increase sales.

This person may also explain any challenges to achieving any goals, such as market trends and a narrowing customer base. He or she provides or explains "real world" scenarios with valuable information to help the group achieve its goals.

Reviewer: This person has a "big" picture view. He or she analyzes the data and combines it to present a clear and organized view of the next step in meeting the goal, and how to proceed.

Maintenance Roles

Synchronizer: Works to synchronize the group into one cohesive well-oiled machine, keeping everyone on track, reminding members of their important role in the process, while also resolving differences of opinion, offering compromises and working toward consensus.

Cheerleader: Offers unwavering and enthusiastic support for the group, process and goal. This support may be in the form of compliments or encouragement when progress stalls, or a reminder that the goal is worth achieving and that everyone should continue on the current path to accomplish it.

Gatekeeper: monitors the flow of information, which may include asking the more introverted members their thoughts on specific topics to draw them into the process. They may also take some information "off the table" temporarily if it becomes too complex or cumbersome or if there isn't enough background to make informed decisions.

Negative Roles

Obstructionist: Rejects all ideas, justifying his or her opinions with vague recollections of trying them a few years ago, with very specific information of how they failed. May try to reintroduce the idea later as his or her idea and reasons it will succeed.

Antagonist: Stirs up the pot by calling out colleagues on their specific failures, regardless of whether or not they relate to the project at hand.

Narcissist: Likes to discuss his or her success in solving problems in the past that may

Continued on page 26

continued from page 25

or may not have anything to do with the new topic or goal. Talks about his or her success regardless of pertinence to the group.

Retreater: Withdraws from the group by not contributing ideas or physically leaves the room for extended periods. Although group members who retreat may believe they are having no impact on a group, they may be surprised to find out their actions can have a negative impact due to the fact that others may believe they are not pulling their weight, or that they feel they are superior to the group, and therefore do not wish to communicate. However, someone who retreats may have no negative motive, but in fact suffer from communication apprehension, low self-esteem, fear of reprisal if making an unpopular observation, or looking foolish if his or her ideas are not acceptable to the group.

Un-cooperator: May appear to be cooperative and helpful, but never follows through on his or her assignments. Always offers justification for the lack of progress, usually blaming someone else or a heavy workload. This person may bring up unrelated information to take the focus off of his or her lackluster performance, including cat videos, celebrity marriages and sporting events.

Laptop lover: Brings a laptop to "take notes," but uses it to attend to other business, thereby withdrawing from the group by appearing to be too busy to participate.

Support from all levels

Groups will never be successful if the culture doesn't support them. Corporate culture in the U.S. can idolize the lone wolf who acts on his or her own, perhaps making others think he or she saved the day without regard for others. If this behavior is rewarded with promotions and perks for those who exemplify the behavior, then it sends the message that groups are not valued.

So the next time your manager is putting together a special group to solve a problem, go ahead and volunteer, armed with the knowledge that if you keep your eye on the goal, leave your ego behind, and focus on your role, success is easily attainable. And, you might even enjoy the process.

Five Keys to Group Success

1. Focus on the goal
2. Recognize and monitor your behavior
3. Leave your ego behind
4. Address conflicts directly and without blame
5. Have the skills/knowledge to move forward

"Individual commitment to a group effort—that is what makes a team work, a company work, a society work, a civilization work."

Vince Lombardi

Mary Horner is the author of "Strengthen Your Nonfiction Writing." She teaches communications at St. Louis Community College and has written hundreds of articles for magazines, newspapers and newsletters.

Duties of a Trustee Of a Revocable Trust

By W. Robert Leible, J.D.

You have just been named as the trustee of a revocable trust, or as it is sometimes called, a living trust. It could be your own living trust, or perhaps an elderly parent has entrusted those duties to you. Perhaps a young adult child has come into some assets but is not yet ready to manage them, and the child has designated you to manage the funds on his or her behalf. You probably have heard of trusts, but only in the context of those things that the mega-rich use to avoid taxes. What do you do? What, exactly, is a trust?

In simple terms, a trust is a three-way legal arrangement, created by a "grantor" (sometimes called a "settlor" or "trustor"), under which a designated party, called a "trustee," holds legal title to assets that are to be used for the benefit of a person, called the "beneficiary."

If a trust is revocable, the grantor has the right to amend, change, or even to terminate the trust. Beneficiaries, as evidenced by their name, receive all of the benefits from a trust without any administrative responsibilities.

Trustees manage the trust assets, make investment decisions, and are charged with using trust assets for the benefit of the beneficiaries, as directed by and specified under the terms of the trust. It is possible, and in many instances it is the case, that the same single individual serves in all three capacities as grantor, trustee and beneficiary.

Why does a person set up a revocable trust? There are many reasons.

Many people have had first-hand negative experiences with the probate process and use revocable trusts to bypass, or avoid probate altogether. Probate generally provides for the disposition of assets that are titled in a person's individual name at death so, since the assets in a revocable trust are actually legally titled in the name of the trust, the disposition of trust assets at the grantor's death do not have to go through probate. Instead, they are distributed pursuant to the specific provisions of the trust. This is why revocable trusts are sometimes referred to as "will substitutes."

Revocable trusts can also be used to provide asset protection for subsequent generations. Through the use of lifetime trusts, parents can protect and shield their children's

Continued on page 28

continued from page 27

inheritances from divorce claims, creditors' claims, and estate taxes.

How does a revocable trust work? The starting point is for the grantor to execute a written document, called the trust agreement, which spells out how the assets of the trust are to be used, as well as naming the trustee and beneficiaries. The typical revocable trust agreement provides that the assets are to be used for the benefit of the grantor while he is alive (the current beneficiary), and then at his death, the assets remaining after paying final expenses and taxes are distributed to or continue to be held in trust for the benefit of the grantor's spouse or children (the future beneficiaries), as provided under the terms of the trust agreement.

One critical part of any revocable trust arrangement is the actual funding of the trust. This means that the title to the grantor's assets must be transferred to and legally put into the name of the trust, in order for the terms of the trust to apply to those assets. One of the trustee's duties is to inquire and to ensure that the assets have all been properly titled in the name of the trust; without this step, the revocable trust will not operate as designed, and there is a risk that improperly titled assets will have to go through the probate process at the grantor's death, something that the grantor had hoped to avoid.

Trustees are bound by the particular laws of the state where the trust is located. If one is designated as a trustee, the first call should be to an attorney familiar with trust law because a trustee's duties and role in managing the trust can be somewhat complex and can vary, depending on the type, purpose, and location of the trust.

In Missouri, trusts are generally governed by the Uniform Trust Code, as codified in Chapter 456 of the Missouri Revised Statutes. *(see page 31 note 1)* A comprehensive list of trustee duties and powers are located in Chapter 456, and the following gives a brief overview of some of the general duties of a trustee under Missouri law:

1) Administer the trust: Administer in good faith and in strict accordance with the terms of the trust, its purposes, and the interests of the beneficiaries. *(see page 31 note 2)* The trustee should keep trust administrative matters and beneficiary information confidential unless otherwise required or reasonably necessary.

2) Loyalty and impartiality: Solely administer the trust in the interests of the beneficiaries. The trustee's fiduciary duties must not conflict with his personal interests, and the trustee must not participate in self-dealing. *(see page 31 note 3)* Under no circumstances may the trustee use trust assets for his own benefit. In addition, the trustee must abide by the terms of the trust and treat all beneficiaries equally unless otherwise specified by the trust agreement. When making decisions, trustee should be aware of different beneficiaries and different interests among beneficiaries, balancing the loyalty due to and the interests of all beneficiaries. *(see page 31 note 4)* There may be current beneficiaries and future beneficiaries, and these duties are owed to both classes. The trustee

Continued on page 29

continued from page 28

may not make all decisions that benefit current beneficiaries without giving consideration to the impact upon future beneficiaries. The trustee must "balance" those interests accordingly.

3) Prudent administration: Must consider "the purposes, terms, distributional requirements, and other circumstances of the trust. In satisfying this standard, the trustee is required to exercise reasonable care, skill, and caution." *(see page 31 note 5)* This generally includes diversifying the trust assets, the prudent and skillful management of existing investments, avoiding speculative and risky investments, and the continual pursuit of investment strategies designed to account for the best interests of all beneficiaries both in the present and future. For instance, current beneficiaries may support investments that yield the greatest returns immediately whereas future beneficiaries would benefit most from investments made for growth. A trustee must balance these interests while bearing in mind other future financial needs necessary to, for example, allow a future beneficiary to buy a house or attend college. All these factors are also pertinent when determining the amounts of distribution to the beneficiaries. It is advisable for trustees to seek the assistance of professional investment advisors in managing investments and fulfilling the prudent administration duty.

4) Cost of administration: Only incur costs that are reasonable in relation to the trust property, its purpose, and the skill of the trustee himself. *(see page 31 note 6)*

5) Skill: If a trustee has special skills or expertise, especially if the trustee is appointed based upon the trustee's representation of certain skills or expertise, the trustee must use those skills and expertise to further the purposes of the trust and interests of all beneficiaries. *(see page 31 note 7)* The trustee has a duty not to delegate any functions that the trustee could otherwise just as efficiently perform, particularly any decisions that require the judgment of the trustee.

6) Delegation: Take into consideration circumstances and act reasonably in delegating duties and powers to an agent. The trustee must exercise reasonable care, skill, and caution in his delegations and is held to the standard of a prudent trustee of comparable skills under the same circumstances. *(see page 31 note 8)* While a trustee cannot delegate his responsibility as a trustee, he may delegate most of the functions required while maintaining the responsibility of making all discretionary decisions. A good rule of thumb is if it would be reasonable, or more effective and efficient for someone else to perform

Continued on page 31

Credit Education Resources FOUNDATION

Serving CPI members through:

Scholarships for continuing education

Grants to support local association consumer credit education programs

Funds to publish *The Credit Professional* magazine

Recognition of CPI members, via the Helen B. Sawyers HERO Award, for outstanding dedication and achievement to CPI, the credit industry, and consumer education

AND

Serving consumers through:

Sponsorship of credit education programs for consumers

Creation and distribution of *Take Charge of Your Life*, a credit education program created by CPI members for consumers

Financial support of the National Center for Missing & Exploited Children, including NetSmartz®, an Internet safety program.

The Credit Education Resources Foundation is a 501(c)3 tax-exempt, not-for-profit organization. It raises funds through an annual International Walk-A-Thon and other fundraising events. Donations, which are tax deductible, can be sent to Credit Education Resources Foundation, 10726 Manchester Rd., Ste. 210, St. Louis MO 63122.

continued from page 29

a task, then a trustee should delegate the particular function.

7) Account and keep records: *(see page 31 note 9)* Maintain adequate records of the administration of the trust. *(see page31 note 9)* Trustees must also relay this information and keep qualified beneficiaries of the trust reasonably informed about the administration of the trust and any other material facts significant to their interests. This includes a detailed accounting of all income and expenditures as well as note of the trustee's compensation, if any. Strict accounting generally requires separation of income and principal streams. There is also an absolute prohibition against commingling trust assets with the trustee's personal assets. This section also includes a trustee's duty to provide sufficient notice to beneficiaries in significant circumstances, such as changes in trustee powers or the appointment of a co-trustee. *(see page 31 note 10)* Finally, trustees must file necessary tax returns for the trust or delegate the responsibility when appropriate. Maintaining good annual detailed accounting records makes this task easier. Depending on the circumstances, delegating accounting functions, but not any discretion, to a third party could be reasonable.

8) Enforce and defend claims: Evaluate all claims presented against the trust and decide to pay, settle, or defend against claims. Trustees must also pursue claims for the trust against third parties when appropriate. *(see page 31 note 11)* If the trustee is not a lawyer, the trustee should consult with a lawyer when presented with any type of potential claim.

It should also be noted that, with some exceptions, the specific written terms of a trust agreement can override any requirement contained in the Missouri statute. *(see page 31 note 12)* This means that the grantor can, for example, put a provision in the trust agreement that allows the trustee to specifically favor a current beneficiary over a future beneficiary. As an example, a grantor may provide

Continued on page 32

continued from page 31

that while he is living, the trustee shall consider only the grantor's current needs over the needs of any other named future beneficiary. At the grantor's death, the trust may provide that the surviving spouse then becomes the current beneficiary, and her needs outweigh any consideration given to the needs of the future beneficiaries, such as the children. A grantor is given great freedom to put provisions in a trust agreement with terms or restrictions of his own choosing, in the same way that a person is free to manage, invest and spend his own assets in any way he chooses in the absence of a trust.

As discussed earlier, with many revocable trusts, the grantor, the trustee, and the beneficiary are the same person. Many of the duties and powers described above are the same functions that an individual may do with respect to his own assets, so in many ways the individual is performing the same duties that a trustee would do.

Despite the many duties of a trustee, a person's designation as a trustee should not be viewed as a negative. A person should feel proud of his appointment by another as the trustee of a trust, as it speaks volumes about the person's judgment, skill and discretion, and how others perceive that person's abilities and qualifications. It also provides the person selected as a trustee with the opportunity to perform meaningful work that will aid beneficiaries and impact their lives. Designation as a trustee is also a major responsibility and undertaking, which should be taken seriously. If you are designated as a trustee, it is wise to seek the advice of legal counsel prior to acting, to make sure that you are fulfilling all your duties and do not leave grounds for others to pursue claims against you for a breach of your trustee's duties.

1. MO. REV. STAT. § 456.1-101 *et. seq*. (2013).
2. Id. § 456.8-801.
3. Id. § 456.8-802.
4. Id. § 456.8-803.
5. Id. § 456.8-804.
6. Id. § 456.8-805.
7. Id. § 456.8-806.
8. Id. § 456.8-807.
9. Id. § 456.8-810.
10. Id. § 456.8-813.
11. Id. § 456.8-811
12. Id. § 456.1-105.

Bob Leible is a Senior Counsel and a member of the Financial Services Team at the law firm of Husch Blackwell in St. Louis, MO. He has extensive experience in the areas of estate and business succession planning, drafting of wills and trusts, buy-sell redemption agreements and real estate. He has planned and implemented complex estate plans as well as structured and implemented business succession plans for owners of closely held businesses. Bob has also coordinated federal and state estate, gift and income tax audits for numerous clients. In addition, Bob is a frequent speaker on estate planning, charitable planning and business succession planning.

Should I Ditch My Job Now That I Have Subsidized Health Insurance?

By Michael R. King, J.D.

The Congressional Budget Office predicts that many Americans will quit working or reduce the amount they work due to the Affordable Care Act.

The reasoning, according to the Congressional Budget Office, is that the Affordable Care Act "will raise effective tax rates on earnings from labor and thus will reduce the account of labor that some workers choose to supply." *(The Budget and Economic Outlook: 2014-2024, February 2014.) ("CBO 2914 Outlook")*

Economic Impact of the Affordable Care Act.

What does that mean? The government admits that the Affordable Care Act will cause many people to either quit their jobs or work fewer hours. Not only will people work less, but the Joint Committee on Taxation and the Congressional Budget Office estimate that the Affordable Care Act will be a net cost to the federal government of $41 billion in 2014. These agencies estimate that the coverage provisions of the Affordable Care Act will result in a net cost of "$1,487 billion" from 2015—2024. (*CBO 2014 Outlook, Appendix B.*)

The costs "for the government's major health care programs (Medicare, Medicaid, the Children's Health Insurance Program, and subsidies for health insurance purchased through exchanges) are projected to rise by more than 85 percent" between 2014 and 2024. (*An Update to the Budget and Economic Outlook: 2014 to 2024, August 2014.*) ("*CBO August 2014 Update*").

Continued on page 34

continued from page 33

Federal spending for the major health care programs will jump by $67 billion in 2014 (*CBO August 2014 Update*).

The Law of Unintended Consequences?

The Affordable Care Act "will reduce employment," as one "of the inherent trade-offs involved in" the Affordable Care Act. Why? "The health insurance subsidies that the Act provides to some people will be phased out as their income rises—creating an implicit tax on additional earnings—whereas for other people, the act imposes higher taxes on labor income directly."

According to the Congressional Budget Office, some employees will quit working earlier because they will be able to get subsidized health insurance to replace the group medical coverage provided by their employers. Keep in mind that the government subsidies for healthcare insurance decline with rising income, a definite incentive to work less. The subsidies also increase workers' resources (you don't have to spend as much for your medical insurance), so you don't need to work as much to maintain the same standard of living.

Those workers eligible for subsidies through exchanges or eligible for Medicaid who work less than a full year "would tend to work somewhat less because of the ACA's subsidies." The loss of subsidies for low wage workers returning to jobs with health insurance benefits would amount to "an implicit tax on working." The implicit tax resulting from returning to a full-time job with medical insurance would be "equivalent to an average tax rate of roughly 15%".

"That implicit tax will cause some of those workers to lengthen the time they are out of work—similar to the effect of unemployment benefits." (*CBO 2014 Outlook*, Appendix C.)

How Large Will the Impact Be on Employment?

The Congressional Budget Office "estimates that the ACA will cause a reduction of roughly one percent in aggregate labor compensation over the 2017-2024 period, compared with what it would have been otherwise." The report also estimates that the decrease in hours worked due to the Affordable Care Act will equal 2 million full time jobs in 2017! By 2024 there will be the equivalent of 2.5 million jobs lost per year due to the Affordable Care Act.

Another trend noted in the *CBO August 2014 Update* is a decline in the "labor force participation rate." The labor force participation rate is the percentage of people age 16 or older who are "non-institutionalized" civilians either working or actively seeking work. The labor force participation rate in the fourth quarter of 2007, at the beginning of the recession, was 65.9 percent. By the second quarter of 2014 labor force participation had dropped to 62.8 percent. One would expect the labor force participation to increase as the economy improves. Such will not be the case according to the *CBO August 2014 Update*. Workforce participation will fall by another half-percent to

Continued on page 35

continued from page 34

62.3 percent by the fourth quarter of 2017!

Overall employment compensation will be reduced one percent as a result of the Affordable Care Act.

What parts of the Affordable Care Act will cause these decreases in employment and pay?

The Congressional Budget Office says the following aspects of the Affordable Care Act will cause these changes in the labor supply:

1. The subsidies for health insurance purchased through exchanges;
2. The expansion of eligibility for Medicaid;
3. The penalties on employers that fail to offer healthcare insurance; and
4. The new taxes imposed on workers' income.

The *CBO August 2014 Update* elaborates, "In particular, certain aspects of the Affordable Care Act will tend to reduce labor force participation, with the largest effect stemming from the subsidies that reduce the cost of purchasing health insurance through exchanges. Because the subsidies decline with rising income (and increase with falling income) and make some people financially better off, they reduce the incentive for some people to work as much as they would without the subsidies. Also, the structure of the tax code—in which rising income pushes some people into higher tax brackets—will reduce labor force participation slightly."

The Affordable Care Act also discourages employers from creating jobs for those who choose to work!

"Applicable Large Employers" with an average of 50 or more "full-time equivalent" ("FTE") employees per month must either provide health insurance to workers or pay the tax penalties. If you have more than 50 FTE employees, you face taxes of $2,000 for each full-time employee for whom you fail to provide minimum essential health insurance coverage. If your employees obtain a tax credit or subsidy through an Insurance Exchange, you could be charged $3,000 in taxes for each of those employees. Why would I grow my work-force above 49 FTE employees?

"The share of part-time workers who would prefer full-time work is significantly higher than it was before the recession."
CBO August 2014 Update.

Even if your company is an "Applicable Large Employer," as defined in the Affordable Care Act, you do not need to provide healthcare insurance coverage for part-time workers. A "full-time" employee works on average at least 30 hours per week or 130 hours per month. A "part-time" employee is generally 29 hours of work per week or less. Why wouldn't I

Continued on page 36

continued from page 35

save money by cutting everyone from 40 hours down to 29 hours or less per week?

What will these estimates of the effects of the Affordable Care Act mean to me?

Both employers and employees will need to look at their particular situations to determine the impact of the Affordable Care Act and the strategies appropriate to the particular situations. Some employers will decrease the number of full-time workers and increase the number of part-time workers in order to avoid paying either the costs of healthcare insurance or the taxes for not providing the insurance. Other employers will strive to keep their workforces below 50 full-time employees for the same reasons.

Whether the Affordable Care Act is good or bad for you and your business depends upon your unique circumstances and how you prepare for and react to the changes.

If you don't have time to read all 175 pages of the report on *The Budget and Economic Outlook 2014—2024*, plus the appendices to the report, or the 76 pages of the *CBO August 2014 Update*, and you want some advice, please call me. But call soon! Now that this old geezer doesn't need his group health insurance, he may retire to his rocking chair on the front porch!

Michael R. King, is a co-founder of Gammage & Burnham, P.L.C., a Phoenix law firm with diverse areas of emphasis. He has been a construction lawyer since 1979. His practice emphasizes creditors' rights and construction issues, but also includes consulting and supervising throughout the firm's areas of business. These areas include emphasis on creditors' rights, including bankruptcy cases, general litigation, loan documentation, workouts, foreclosures and forcible detainers, as well as deficiency collection and accounts collection. His client list includes banks, mortgage companies, distributors in various industries, and leasing companies. He received a Distinguished Support award from the Construction Management Association of America, Arizona Chapter, in 2010. Mr. King is the author of the chapters entitled "Mechanics' Liens" and "Stop Notices" which is published by the State Bar of Arizona in the Arizona Construction Law Practice Manual.
National Association of Credit Managers (NACM), Former Director, Arizona Chapter Commercial and Financial Development Division (CFDD) of NACM member

Advice for Older Adults On Protecting Their Finances

By The Federal Deposit Insurance Corporation

As many consumers get older, they often face issues such as how to maintain their lifestyle and pay for medical expenses on a fixed income for years into the future. Here are banking and other money-management tips for seniors to consider for their retirement years.

Getting Organized

Make it easier to manage your money and pay the bills. If you've accumulated multiple bank and investment accounts and credit cards over the years, consider whether you can close some you no longer use or need. This can reduce the number of accounts you have to manage.

Also, for payments you are due to receive, including money from pensions or tax refunds, there are benefits to having them automatically deposited into a low-cost or no-cost checking or savings account using direct deposit. If you manage that account well and avoid fees, it's likely to be less expensive and offer you more features than alternatives. You can also have automatic withdrawals from your bank account to routinely put a certain amount of money into a savings account or a U.S. Savings Bond.

Consider additional ways to save time and money. Your bank and the companies you do business with also will likely provide alternatives for you to pay your bills electronically. These options can include online bill paying or having payments automatically transferred from your account. These can save you time and money by avoiding unnecessary trips to pay bills. And, making scheduled payments automatically can help avoid late charges or service interruptions.

Your bank and other financial services providers also may offer incentives if you receive your statements electronically instead of in the mail. It's important, though, that you keep the anti-virus and security software on your computer updated, promptly review each bill for accuracy, and monitor your account balance to avoid the risk of overdrawing your account.

"Be cautious about going paperless if you aren't tech savvy or comfortable going

Continued on page 38

continued from page 37

online to review your statements when they arrive," warned Reynolds. "The law is clear: if an error or a fraudulent item appears on your statement and you promptly report it to the bank, your liability is limited. Likewise, the bank may send you important notices that tell you about changes it plans to make to your account, such as with respect to fees. You will need to decide for yourself what will be the best way for you to review these key communications in a timely manner.

Organize and Protect Important Documents

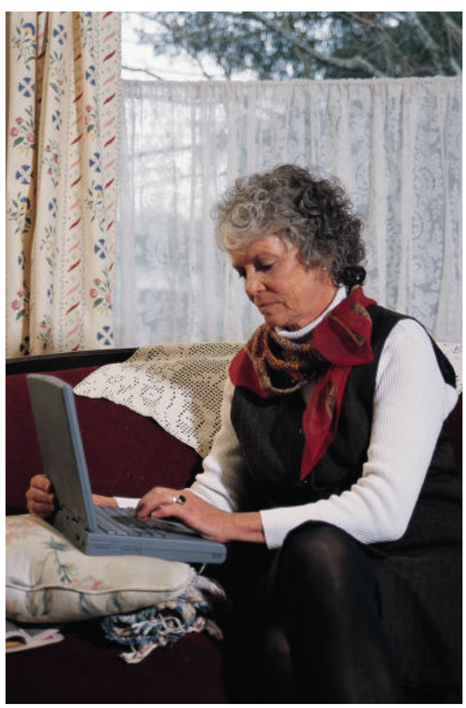
Items to keep at home, in a secure place that's easy for you to get to, may include your bank and brokerage statements, insurance policies, Social Security and pension records, and other personal and financial papers you or your family might need on short notice. If caregivers or others regularly visit you, make sure that your checkbooks, credit cards and other financial records are protected.

A safe deposit box is best for storing documents or valuables that could be difficult or impossible to replace and that you probably won't need access to on a night, weekend or holiday. Good candidates include originals of birth certificates, property deeds and car titles. Think twice before using a safe deposit box for an original of a will or power of attorney because it may not be possible for your loved ones to access them quickly if you become incapacitated or pass away. For guidance on where to store these documents, check with an attorney about what is required or recommended based on state law.

Spending Money

Develop a spending plan for your retirement. Having a plan for your money and limiting expenses in retirement is important. Consider new ways to cut costs, such as by letting your auto insurer know you no longer drive your car to work. "Consider continuing to put some of your income into savings, especially for short-term goals such as holiday gifts, because that can help you avoid a large, sudden withdrawal from your retirement investments," added Luke W. Reynolds, Chief of the FDIC's Outreach and Program Development Section.

Consider limiting the mail and phone calls you received from marketers. Unsolicited offers from unfamiliar companies can result in you overspending your budget or paying for shoddy merchandise or service from vendors who don't stand behind their products. Consider being added to the national Do Not Call Registry (call 1-888-382-1222 or visit www.donotcall.gov). Also review the privacy disclosures that banks and other financial companies you do business with send at least once a year. They explain if and how you can limit certain sharing of your information.



"To protect yourself in general, be wary if someone approaches you unexpectedly to say he or she specializes in helping seniors with home improvements, health cures or financial products. Don't let anyone make you think you need a good or service that you didn't need before," Reynolds said. "In fact, a recent study suggests that many consumers pay hundreds of dollars each year in fees that get automatically charged to their credit card or bank account, often on a monthly basis, for a subscription or other service they probably never really wanted. So closely review your credit card and bank statements to find any charges that you may be able to cancel because they are for products or services you can do without."

Earning Money

Think about ways to turn a hobby or another interest into a part-time job. Other possibilities for supplementing your income in retirement

Continued on page 39

continued from page 38

include a seasonal job or freelance consulting. But consider if this extra money could affect other aspects of your finances tied to your income, such as a potential increase in your Medicare costs or a possible temporary reduction in your Social Security benefits. Also consider any income tax implications.

Saving and Investing

If you're considering an annuity, understand the potential pros, cons and costs. You've probably seen or heard promotions for annuities, which are financial products tied to a contract between a consumer and an insurance company. Insurers sell annuities but so do financial institutions, including banks. You buy an annuity by making either a single payment or a series of payments to the insurance company. In return, the company promises to make payments to you, either as one lump-sum payment or a series of payments for a specified time period.

Because there are different types of annuities and a mix of potential benefits and risks, it's important to learn as much as you can before investing. A good place to start is on the U.S. Securities and Exchange Commission's website at www.sec.gov/investor/pubs/varannty.htm or by calling the SEC toll-free at 1-800-732-0330.

"Remember, even if purchased through an FDIC-insured bank, annuities do not qualify for FDIC deposit insurance or any other comparable protections under federal law," advised Jan Templeman, a FDIC Consumer Affairs Specialist. "So unlike FDIC-insured CDs and other deposits, your right to receive payments on an annuity is likely to depend almost entirely on the stability and strength of the insurance company offering the product."

Know if you've agreed to let your bank cover certain overdrafts. You have a choice whether or not your bank will charge you a fee, perhaps $30

or more, or cover everyday purchases you make with a debit card when you don't have enough money in your bank account to cover the cost of the purchases. And, you can change your mind on this decision at any time. A recent study by the CFPB found that consumers who have "opted in" (agreed) to be covered by an overdraft program are more likely than consumers who don't opt in to pay costly fees and face the possibility of having their bank account closed.

"Not being opted in to an overdraft program would mean that debit card purchases would be declined if you didn't have enough money in your account but, on the other hand, you would avoid paying a sizable fee for making that purchase," said Reynolds. He also noted that your ability, under the law, to decide whether to opt in to an overdraft program only involves everyday debit card payments, such as at a store, and does not apply to checks you write or recurring bills charged to your account.

Another way to avoid overdrafts is to keep tabs on your account balance before using your debit card or writing a check. In addition, you can also ask your bank to link your checking account to savings to cover any overdrafts, perhaps for a small fee.

Look into discounts and other deals. "For consumers over a certain age, some financial institutions may offer breaks on the cost of bank products and services," said Mary Bass, a Senior Community Affairs Specialist with the FDIC.

But even if your bank offers a special deal for seniors, you may be able to do better elsewhere or with another type of account at that bank.

"Comparison shopping is key," Bass added. "Banks and other businesses many negotiate with respect to fees or other account terms, so ask questions and show them what is being offered by competitors. You might be able to get a better deal than what is advertised.

Continued on page 40

continued from page 39

Borrowing Money

Review your credit reports even if you don't plan to apply for a new loan. Why? Mistakes or other errors on your credit reports could make it more costly for you to buy insurance or borrow money (for example, if your credit card company raises your interest rate on future purchases because of a problem tied to a credit report). And, monitoring your credit reports is a way to detect identity theft. Order your free credit report at least once every 12 months from each of the three main credit bureaus at www.annualcreditreport.com or by calling 1-877-322-8228.

Think twice before accepting an offer to "advance" (lend) you a portion of your future pension, Social Security or other retirement income. These offers are similar to payday loans and they likely involve costly fees and interest. You can also find yourself taking out similar loans in the future—paying additional fees and interest charges—to make up for new cash shortages as you repay the original loan. "If you need to borrow money fast, check with your bank and other financial institutions and compare the products they offer based on the Annual Percentage Rate," advised Reynolds.

Use credit cards cautiously. Accumulating debt can be costly, yet many seniors have considerable credit card debt. Before making purchases using your credit card, consider whether you will be able to pay your balance in full when the statement arrives, so you will avoid costly interest charges. Even small purchases can add up to big credit card bills.

Remember that a reverse mortgage will eventually have to be paid back—with interest. Reverse mortgages allow homeowners age 62 or older to borrow against the equity in their homes without having to make monthly payments as long as they meet the terms of their loan agreement, such as staying current on property taxes. However, the money borrowed plus interest must eventually be repaid, usually when you or your heirs sell the house.

"If you do get a reverse mortgage and you live in the home with your spouse, some experts suggest that both of you sign the reverse mortgage agreement to ensure that the surviving spouse can continue to live in the home if one dies before the other," Reynolds added.

Getting Help

Decide if you need financial help from an expert and then choose wisely. A financial advisor could help answer questions such as how quickly to take money from savings and how to invest in your later years.

But FDIC Community Affairs Specialist Ron Jauregui cautions that "before you follow the advice of a 'supposed 'expert" who claims to have special credentials for advising seniors, research what that title may or may not mean and the advisor's background." According to a report by the Consumer Financial Protection Bureau (CFPB), the training, standards and regulatory oversight for more than 50 senior designations used by financial advisors can vary significantly. To learn more about professional designations and for tips on choosing an investment advisor, the Financial Industry Regulatory Authority has a website at www.finra.org/Investors/ToolsCalculators/ProfessionalDesignations/DesignationsLookup.