Battling the Credit Bureaus

by Aleksandra Todorova

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AS THE DIRECTOR of finance at a Brooksville, Fla., auto dealership, Marvin Hendrick, 52, reviews consumer credit reports on a daily basis to determine his customers' auto loan rates. So it was a sore day back in 2004 when, amid scores of 0% APR financing promotions, he had to grant himself a car loan at a whopping 13.74%.

He didn't have a choice. Because of a serious mistake in his credit report, Hendrick's credit score was 445 out of a possible 850: a score low enough that most lenders would refuse to grant him any credit at all. "I had to pull strings with the banks I'm associated with to get myself a car loan," he explains.

The culprit: a tax lien that Experian, one of the three major credit reporting bureaus, incorrectly listed as unpaid. Over a three-year period, Hendrick disputed the error numerous times, sending the bureau the IRS-issued certificate of discharge. He also pointed out that the fact that he sold his house in 2002 was proof that the tax lien, which was attached to the mortgage, had been satisfied. "It's kind of a no-brainer," he says. "When you sell a piece of property, you have to satisfy any liens or judgments on it." Much to his frustration, Experian continued to list the lien as unpaid, citing courthouse documents. (He found out that the certificate of discharge never made its way to the public record, so his file wasn't updated.)

Two-Digit Codes

When it comes to disputing errors in your credit report, "no-brainers" don't matter: The process is entirely automated. In fact, consumers are often forced to take the credit bureaus to court so they can have their case heard by a human being, explains Evan Hendricks, author of "Credit Scores and Credit Reports." "It gets very frustrating when people have genuine disputes and do everything they're supposed to do and can't do anything to correct it," he says.

Here's how it works: When consumers file a dispute with the credit bureau, they are asked to describe the error, and can opt to send any supporting paperwork or information separately. The bureaus then conduct an investigation, which basically involves notifying the creditor about the disputed information so the creditor can confirm whether it's wrong. Problem is, the bureaus report errors by choosing from a list of two-digit codes that describe the most common types of complaints, such as "account not his/hers" or "claims account closed." That, consumer advocates say, may solve some problems. But it doesn't solve those that fall outside the box.

"They try to automate things to make it cheaper, but in the process they lose a lot of detail," says Chi Chi Wu, staff attorney, National Consumer Law Center. "People send these long letters that explain what happens, a lot of documentation, and all of that gets reduced to two-digit codes which the agency sends to the lender, the furnisher of the information." (A TransUnion spokesman says its practice is to scan the documents and include a link in the consumer's credit file, so it can be accessible to the creditors who pull the consumer's file, while Experian said it copies and mails the supporting documentation to the creditor. Equifax did not return our calls for comment.)

Even the data furnishers — the creditors themselves — aren't entirely happy with the two-digit code system. In a report issued by the Federal Trade Commission earlier this month, the Coalition to Implement the FACT Act, which represents financial-services companies, reported to the FTC about 30% to 40% of disputes are, in fact, assigned a generic code such as "other" or "consumer complains data inaccurate; no specific dispute," which makes investigations time-consuming and costly. The Coalition recommended that more specific codes be used.

The credit bureaus, on their part, say the automation has increased the speed by which some problems can be resolved. But "for the subgroup of people for whom it doesn't work, it causes great harm," says Rob Treinen, an attorney with Feferman & Warren in Albuquerque, N.M.

Hendrick, the finance director, says it took complaining to the FTC and the Florida Attorney General's office to get his problem heard. Eventually, "someone really, really high up [at Experian] actually took the time to listen to me," he says. Since the error was corrected in December 2005, his credit score has increased to 677, his new car loan carries a favorable 6.24%, and in March he bought a new house with a 6.5% mortgage.

Unable to get erroneous information out of your report? Here's what you can do:

1. Take it to the source. While disputing with the credit bureaus, contact the creditor responsible for the error directly, as well. Send all supporting documentation to make sure they get more than the two-digit code. But keep in mind: According to the FACT Act, consumers do not have legal recourse against creditors.
2. Complain. Under the FACT Act, the FTC is required to transmit complaints to the three major credit bureaus. Send a copy to your state's Attorney General's office, as well.
3. Keep a paper trail. Send all correspondence certified mail, return receipt requested and keep copies of everything.
4. Get legal help. Most lawyers typically require that consumers have tried to resolve the issue with the credit bureaus directly. For help finding a lawyer, check the National Association of Consumer Advocates (NACA) web site. For more information on lawsuits, go to MyFairCredit.com, a web site created by a group of attorneys who specialize in credit-related litigation.

Growing lawsuits

While there aren't any statistics on the number of lawsuits filed against the credit bureaus, consumer litigation attorneys say it's growing exponentially. "We frankly have more work than any of us can handle here," says Leonard Bennett, an attorney with Consumer Litigation Associates in Newport News, Va., who specializes in Fair Credit Reporting Act (FCRA) litigation. "As the [dispute] system has become entirely automated, that has spurred more litigation and it continues to grow every day."

Credit report errors are much too common. According to a 2004 study by the Public Interest Research Groups — the latest available — as many as 79% of credit reports have errors, 25% of which are serious enough to potentially result in a credit denial. As more consumers take advantage of free annual credit reports and become educated about the effect of a low credit score on their lives, Treinen says, the number of disputes will likely continue to increase. "The credit agencies just need to spend a little more time and money to make real investigations," he says.

Inconclusive evidence

The FTC doesn't think so. In its report, it says the evidence presented by consumer advocates is "inconclusive" and recommends that no legislative action be taken for the time being to change the process. That's better than nothing, according to Bennett. "The FTC didn't say there is no problem," he says. "They implicitly acknowledged there's a problem, but said, let's take some time and see if FACTA can fix it." (FACTA, a common name for the FACT Act, is an amendment to the Fair Credit Reporting Act that, among other things, requires the credit bureaus to "conduct a reasonable reinvestigation" of disputed information to determine if it is inaccurate.)

This is little consolation 33-year-old Samantha Murphy of Blackwood, N.J., who is suing Experian for reporting six negative accounts that are not hers. When American Express pulled her report in a routine account review, they decided to cut her credit limits in half, bringing her to 100% of credit utilization on one of her AmEx cards. When the change is reported to the bureaus, her credit score will drop and likely cause her other creditors to hike their interest rates. With a seven-week-old baby, that's the last thing Murphy needs. And although she sent the court documents to American Express, along with copies of her Equifax and TransUnion reports that show no fraudulent accounts, "[AmEx] said they were going with Experian and 'to us, that's the true stuff,'" Murphy says. (American Express does not comment on individual cases, but a company spokeswoman confirmed: "Once a cardmember works with the bureau to correct any inaccuracies and we receive a corrected version, we are able to re-evaluate any decisions that may have been impacted by erroneous information.")

As someone who grants consumer credit, Hendrick grudgingly agrees. "In the credit reporting world, if it's on your credit report and it's bad, you're guilty until you prove yourself innocent," he says. "I know it because I deal with it every day, and I give credit to people based on their credit file. And to me, if it's in there, it's the truth."