UNITED STATES POSTAL SERVICE'S REGULATIONS REGARDING COMMERCIAL MAIL RECEIVING AGENCIES (CMRAs)

HEARING

BEFORE THE

SUBCOMMITTEE ON REGULATORY REFORM AND PAPERWORK REDUCTION

OF THE

COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

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U.S. POSTAL SERVICE'S REGULATIONS REGARDING COMMERCIAL MAIL RECEIVING AGENCIES (CMRAs)

TUESDAY, OCTOBER 19, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON REGULATORY REFORM
AND PAPERWORK REDUCTION,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., in room 2360 Rayburn House Office Building, Hon. Sue W. Kelly [Chairwoman of the Subcommittee] presiding.

Chairwoman KELLY. Good morning.

Today the Subcommittee on Regulatory Reform and Paperwork Reduction is meeting to discuss United States Postal Service (USPS) regulations regarding Commercial Mail Receiving Agencies (CMRAs) and their clients, Private Mail Box subscribers. USPS officially issued its initial final rule on March 25, 1999. However, it is my understanding that over the past seven months, USPS either modified, repealed, delayed or clarified most of the initial requirements contained in the final rule.

As I am sure most of my colleagues in Congress would agree, our offices received an influx of constituent opposition to the regulations after USPS enacted the final rule. Personally, I did not realize the severity of the problem until Mr. George Russell, an owner of a HQ Global Workplaces franchise, testified at our subcommittee's field hearing on September 1, 1999, in White Plains, New York, regarding the impact of Federal regulations on small businesses in the Hudson Valley.

Mr. Russell provided insight on how the regulations will affect his fellow CMRAs, as well as the businesses that subscribe to his services.

After hearing Mr. Russell's testimony, upon my return to Washington, I immediately signed on as a cosponsor to Representative Ron Paul's legislation, H.J. Res. 55, that would use the Congressional Review Act to disapprove this rule. In early September, I also discovered that Chairman Talent of the full Committee had an outstanding document request on this issue. It was the second document request sent to USPS by the Committee.

On May 19, 1999, Chairman Talent's first letter to Postmaster General William J. Henderson requested the Postal Service's economic analysis on the impact of the final rule on small business. Almost 2 months later, on July 13, 1999, USPS Government Rela-

tions wrote Mr. Talent a two-page response. The response did not even mention the words "economic," "analysis," "small" nor "business." Chairman Talent sent a second and more detailed document request on August 16, 1999. Due to the urgency of the regulations, he requested the response by August 31, 1999.

On August 31, 1999, USPS Government Relations called Committee staff to ask for an extension. It is my understanding that USPS and the Committee staff agreed on September 9, 1999. However, even after USPS started to enforce the regulations, even after we invited Mr. Henderson to appear before the Committee today, USPS did not deliver its full response until 5 days ago. Once again, the USPS did not address all of Mr. Talent's document and information requests.

I am not sure why Mr. Henderson could not make it here, but I hope the Postal Service officials he sent to replace him will be more forthcoming in responding to Congressional concerns today.

I am looking forward to hearing testimony presented by both panels today. Our first panel will weigh the interests of the stakeholders—the small businesses and domestic violence victims that subscribe to private mail boxes, the small entrepreneurs that run commercial mail receiving agencies, and the coalition consisting of CMRA franchises and franchisees—with the interests that inspired the Postal Service to issue these regulations.

Our second panel will look at the broader issues involved. The balanced panel will debate the public's necessity for the regulations versus the possible costs to the citizens affected. The panel will also address the postal system's role as a "quasi-governmental" agency. We will discuss how USPS operates within its regulatory capacity in some instances and its commercial capacity in others.

I will now yield to my good friend from New Jersey, the ranking member, Mr. Pascrell, for any comments that he may wish to make. However, I do hope that Mr. Pascrell will join me in asking why we have not received information from the USPS in a timely manner.

Mr. Pascrell.

Mr. PASCRELL. Thank you very much.

I would like to begin by thanking Madam Chairwoman Kelly for bringing this important issue to the attention of the Committee, and I would like to thank the distinguished panelists for their participation today. Small businesses are the engines of growth for our Nation's economy. They are indeed the backbone of the economic system.

In examining how regulations affect small business communities, we are then better able to make adjustments to alleviate any undue hardships. That is precisely why we are here today. The Postal Service has issued a final rule regarding Commercial Mail Receiving Agencies and their clients. Under this new rule, customers would be required to write the "Private Mail Box" or the "Pound Sign" followed by the box number on the second line of the mailing address. Those are the mechanics. We are not here about the mechanics today.

The small business community and others have raised concern about the net effect of this rule. Let me say, by definition, small businesses are disproportionately affected by regulations because of

their very size. At the same time, the Postal Service has stated unequivocally the point of the new policy is to combat mail fraud. That certainly is a worthy objective.

They maintain that too often criminals rent mailboxes to use as a front for illegal activities that include credit card fraud, identity theft and schemes to swindle the elderly. A cost-benefit analysis is in order even though the Postal Service does not fall under the Federal law mandating this, and I agree wholeheartedly with the Chairwoman of this Committee that there is absolutely no exception to why even independent agencies cannot provide such information without having to be asked for that information.

I believe that today's hearing represents a prime opportunity to hear from both sides of the issue and hopefully come to some conclusions about what can be done. Small business was not included in the preliminary study until this issue came under congressional scrutiny, and that is my main concern; I will be very frank with you. So when I am looking at the Postal Service authorities, I am looking at every independent agency in the Federal Government that thinks that they can do whatever they wish. I don't accept that.

I can only speak for myself. But until we understand that those independent agencies have some qualifiers and some conditions, even for their very existence—I will repeat, even for their very existence—we are going to continue to have the promulgation of regulations without the input of whatever folks happen to be impacted, be it small business or otherwise in this case.

I am concerned about several aspects of these regulations and how we got here. I think the Postal Service needs to reexamine their rulemaking process. Other independent agencies are doing it. The Post Office should be doing it. The Post Office should include those folks that are going to be immediately impacted early on in the process, not later on when there is some dust arising from the ground.

They need to take into consideration the concerns of all these affected, including small businesses. Regulations should be formulated with full participation from those who will be potentially impacted. All parties should be at the table from the very beginning, and that is how you avoid hearings like this. There is no other shortcut.

Thank you, Madam Chairlady, for bringing us together, and I am anxious to listen.

Chairwoman KELLY. Thank you very much, Mr. Pascrell.

Are there any other opening statements this morning? If not, then we will move on.

Our first panel consists of Mr. Tony Crawford, the Inspector, Mid-Atlantic Division, accompanied by Mr. Mike Spates, Manager of Delivery for the United States Postal Service. We have Rachel Heskin, Communications Director for Mail Boxes Etc.; Ms. Sandi Taylor, Owner/Manager of Strategic Technologies; and we also have with us Juley Fulcher, Public Policy Director, National Coalition Against Domestic Violence.

We welcome all of you here today and we look forward to your testimony.

Let's begin with you, Mr. Crawford.

STATEMENT OF ANTHONY J. CRAWFORD, INSPECTOR IN CHARGE, MID-ATLANTIC DIVISION, ACCOMPANIED BY MIKE SPATES, MANAGER, DELIVERY, U.S. POSTAL SERVICE

Mr. CRAWFORD. Good morning, Chairwoman Kelly and members of the Subcommittee. With your permission, I would like to summarize the lengthy statement I submitted for the record.

Like the Subcommittee, the Postal Service appreciates the role that small businesses play in the success of our Nation. We consider ourselves an important partner of small businesses. We provide low-cost universal postal services and many high-quality programs that help small businesses grow and prosper.

Some observers have tried to portray our revised rules governing commercial mail receiving agencies, or CMRAs, as an effort by the Postal Service to hurt small businesses or even retaliate against the CMRA industry. These charges are unfounded. We have strengthened the CMRA rules for one reason and one reason alone, to help prevent and deter fraud.

CMRAs provide important mailing services to our Nation. All too often, however, CMRAs are unwitting victims of criminals who use their services to defraud and deceive the American people and their organizations. In recent years, a growing number of criminals have made private mailboxes one of the most dangerous weapons in their arsenal of trickery and deceit. It has been all too easy for con artists to hide their true location and identities behind the cloak of anonymity afforded by private mailboxes. The rules have not even required a person to submit a photo ID, making it easy to falsify an identity.

Private mail box customers have also been allowed to use "suite" or "apartment" in their addresses, creating the illusion of a physical presence in a prestigious location.

The Postal Service does not have exact statistics on the number of fraud cases involving CMRA services. Historically, we have tracked investigations by the type of illegal activity such as child pornography or identity theft, not by the tools used to carry out that activity. Still, the Postal Service is convinced, based on our own experiences and those reported to us by the law enforcement community, consumer groups, financial and direct marketing companies and even the CMRA industry itself, that the amount of illegal activities conducted through private mailboxes is significant and warrants closing the regulatory loopholes.

The Inspection Service, for its own part, has seen many serious and diverse crimes taking place through private mailboxes. More than any other illegal activity, we have found unscrupulous individuals using CMRA boxes to misrepresent who they are and take over someone else's identity and accounts.

We have investigated drug pushers who sell illegal narcotics and pedophiles who secretly trade child pornography through CMRA addresses. In fact, the most prolific distributor of child pornography through the mail that we have ever identified used CMRAs.

We have witnessed a number of criminals operating lotteries, sweepstakes and fake billing scams from the safety of a suite that leads nowhere. For 4 years during the 1990s, for example, two foreign nationals used more than 120 CMRA addresses in the United States as fronts for fake Yellow Page listings. They mailed more

than a million fraudulent invoices that could have potentially cheated small businesses, churches and nonprofit organizations out of $160 million.

In another case, a Canadian con artist used private mailboxes to dupe elderly Americans out of more than $100 million. A survey of 880 known victims revealed an average age of 74. Losses for 192 of these individuals ranged from $10,000 to $329,000 each.

The Postal Service's investigations into illegal activities conducted through CMRAs, however, represent just the tip of the iceberg. The Federal Bureau of Investigation, the Federal Trade Commission, various State attorneys general and local district attorneys also investigate and prosecute these crimes. Later today, Mike Mansfield, Assistant District Attorney in Queens, New York, will talk in detail about the illegal practices he has seen involving services offered by CMRAs.

Many State attorneys general have had similar experiences. Elliot Burg, Assistant Attorney General in the State of Vermont, wrote to the Chief Postal Inspector last week on behalf of 22 State attorneys general. He outlined the types of fraud they have seen involving private mailboxes and specifically urged the Postal Service not to implement its recent proposal to allow the use of the pound sign in CMRA addresses. With your permission, I would like to add Mr. Burg's letter to the hearing record. [See p. 244.]

Chairwoman KELLY. So moved.

Mr. CRAWFORD. Still, some voices in the debate say that the CMRA rules should not be implemented because of the burdens they place on small businesses. We understand those concerns, and that is why we have gone to great lengths to be responsive to the issues raised by those impacted by the regulations. Since April, we have held regular meetings with numerous representatives of the small business community, the CMRA industry, and others, and have struck a series of compromises to address issues they have raised.

Given the wide range of views, we may never be able to reach a unanimous agreement. Still we believe that we have struck a fair balance between privacy, business, and consumer needs, without weakening the integrity of the regulations. Over the long term, we believe the revised rules will pay off for the CMRA industry and the Nation as a whole. When crime takes place through a CMRA mail box, it doesn't just hurt the individuals who have been defrauded. It is a black eye for the CMRA owner and the entire industry.

Earlier this year, the Senate unanimously passed a bill to curb deceptive and fraudulent mailings involving sweepstakes and games of chance. The House is sponsoring similar legislation, and both the chairwoman and the ranking minority member of this subcommittee are cosponsors. Clearly just as our Nation deserves to be protected from deceptive sweepstakes mailings, it deserves to be protected from the unscrupulous use of private mailboxes. We have been urged by many different groups to take action and that is what we have done. In the end, we hope that everyone will come to an understanding that the sacrifices we are making are for a greater collective good that transcends our individual interests.

Together, working with small businesses, the CMRA industry, and others, the Postal Service has fashioned a set of rules that will help create a safer and stronger America by reducing fraud and other serious crimes. That is something we all agree is a worthy cause.

This concludes my statement. We would be happy to answer any questions you might have.

[Mr. Crawford's statement may be found in the appendix]

Chairwoman KELLY. Next, we move to Mr. Spates.

Mr. SPATES. I am here to answer any questions that you have. My statement is included with Mr. Crawford's.

Chairwoman KELLY. Thank you.

Ms. Heskin.

STATEMENT OF RACHEL HESKIN, SENIOR COMMUNICATIONS MANAGER, MAIL BOXES ETC.

Ms. HESKIN. Madam Chair, members of the Subcommittee, thank you for the opportunity to testify today before your Subcommittee. I will summarize my written testimony and ask that my written testimony be included in the hearing record.

I am here today representing a group of CMRA owners, including national franchisers, franchisees, and independent store owners. My group includes my company, Mail Boxes Etc., PAK MAIL, Post Net, Postal Annex, and the Associated Mail and Parcel Centers. Together, we represent the vast majority of the over 10,000 Commercial Mail Receiving Agencies in the country. Our group has been active on these regulations since they were originally proposed.

Our initial position was to oppose these regulations. During the initial publication and subsequent comment period in July and November 1997, we actively generated many of the over 8,000 comments opposing these regulations. Nevertheless, the Postal Service put these regulations into effect. Since their publication, we have been working with the Postal Service and Members of Congress to determine if these regulations can be implemented in a manner which is workable for our industry.

I am pleased to tell you that our efforts with the Postal Service seem to be working toward success, and we may soon be in a position to accept the regulations in a modified form. Our group has found the senior management of the Postal Service, particularly retiring Chief Postal Inspector Ken Hunter, his successor, current Chief Postal Inspector Ken Weaver, and Manager of Delivery Michael Spates, willing to work with us to solve most of the problems created by the current regulations. We intend to continue this effort with the Postal Service until all outstanding issues have been solved.

In our working group, convened and chaired first by Ken Hunter and now by Ken Weaver of the Postal Inspection Service, we have tackled all of the tough issues. Attached to my testimony is a description of various solutions which we have discussed. At this point, I would like to highlight some of the more important issues.

As members of the Committee know, the PMB designation is one of the most emotional issues for our customers and has resulted in a great deal of communications to Congress by our owners and customers. At our last meeting, the Postal Service agreed to a solution

to this issue which we believe is highly workable: An address designator must be provided on line 2 or 3 of the mail for a CMRA customer. The approved designator may be PMB or simply the pound sign. All other designators would be prohibited, including suite and apartment. There would be no grandfathering of the use of suite for any box holder and the mail to the CMRA owner would remain unaffected by the regulations.

Most of our stores already urge their box holders not to use any designator other than the pound sign. This will not disrupt the mail or create a stigma for our box holders and is acceptable to our group.

In addition, the USPS and CMRA industry will establish a joint task force to develop a joint protocol by which CMRA owners can better identify potential fraud and notify the Postal Inspection Service, to develop a training regime to be incorporated in training of CMRA owners and staff as part of establishing new CMRAs and for retraining, and to develop a list of CMRA addresses which will be posted and available through the USPS Web site and their toll-free telephone number. This would permit any customer to check an address to determine if it is a CMRA.

We firmly believe that the best way to attack this issue is with a joint effort combining the skills of the Inspection Service with our everyday knowledge of the CMRA industry. Termination of service to CMRAs remains the area in which work must be done. The current CMRA regulations contain a provision by which a postal manager can order termination of mail service to a CMRA for all customers if the CMRA owner is not in compliance with the regulations. The Postal Service has assured us this will not be misused by overzealous local postmasters, and the regulations do include a requirement that any termination order be approved by a higher Postal Service official.

Unfortunately, some overzealous postal officials have already sent out some termination notices, even though we were assured no such notices would be sent while we continue to work on these issues. Postal Service management has rescinded these notices, but that showed us a firm policy on termination needs to be established on a uniform basis throughout the country.

We have proposed the following to the Postal Service:

The Domestic Mail Manual would contain instructions regarding termination of mail service to ACMRA as follows:

One, mail delivery to a CMRA would not be terminated because a box holder or box holders have refused to fill out a form 1583. Mail delivery would be terminated only for those box holders.

Two, the USPS would provide specific notice to a CMRA if it feels that it is not in compliance with the regulations. The notice would provide specific direction as to how to cure the deficiency.

Three, no notice of potential termination would be sent unless previously reviewed by the authorized superior of the postal manager. The notice of termination shall list the party who reviewed the notice.

This remains a work in progress, but we are hopeful that we can resolve this issue soon with the Postal Service. We have proposed that these changes in regulations be included in the Domestic Mail Manual. This is the bible for postal employees and users. It states

firmly what postal policy is on these matters. So many changes are being made to the regulations and their implementation that it is important that they be included in the DMM.

Congress deserves a lot of credit for moving these changes along. Many Members of Congress have contacted the Postal Service and urged that these regulations be fixed.

Most notably, we would like to thank Congressman Todd Tiahrt, who sponsored a critical amendment in the House appropriations process, and Congressman Ron Paul, sponsor of H.J. Res. 55, who first brought this matter to the attention of Congress. The fact is that Congress rallied to this issue early and often, which has been tremendously helpful.

This has been a painful process for our owners and their customers, but we think that we have established a solid working relationship with the Postal Service on this issue and we are dedicated to making the revised regulations work and to developing a successful joint task force on fraud.

Thank you for the opportunity to testify, and I would be happy to answer any questions that you have on my testimony.

[Ms. Heskin's statement may be found in the appendix.]

Chairwoman KELLY. Thank you very much. We have been called to the floor for a vote. Because of my interest in having continuity, we will break here and go to the floor and vote; and we will come back and as soon as possible resume the hearing, because I would like to have as much of this—I would like to give Ms. Taylor and Ms. Fulcher as much time as they need to testify as well. So we will be right back.

[Recess.]

Chairwoman KELLY. We will resume the hearing and thank you for waiting. Let's start with you, Ms. Taylor.

STATEMENT OF SANDI TAYLOR, OWNER, STRATEGIC TECHNOLOGIES

Ms. TAYLOR. Madam Chairwoman and fellow House subcommittee members'. Thank you for giving me the opportunity to speak to you today, so that I can address the real-world commercial impossibility, huge financial burden, and irreparable damage to my business that the U.S. Postal Service's rule on customers of CMRAs (Commercial Mail Receiving Agencies) imposes upon my business.

While I support the USPS and law enforcement agencies in their efforts to protect the public from mail fraud and other illegal activities, they must not be allowed to have carte blanche to impose rules and regulations that destroy the livelihoods and the rights of thousands of law-abiding citizens like myself in the process. In their sincere efforts to protect the public, the USPS has failed thus far to factor into their equation how these draconian measures affect thousands of legitimate small business owners.

I am a self-employed executive search consultant who has earned my living in this profession since 1978. I have been a single parent of three children, with my office in my home, for most of the past 20 years. Since 1988, I have used the same Mail Boxes, Etc. address of Strategic Technologies, 2183 Buckingham Road, Suite 232, Richardson, Texas 75081, as my business address, for very sound business reasons:

One, as a single female, I do not desire to publicize my home address across the country, much less around the world. My clientele, both clients and candidates, is 99 percent male. A large part of the service my clients require of me is to screen out candidates who do not meet their requirements, for any number of reasons. Historically, some of these passed over individuals have become disgruntled, and it could be very dangerous for them to know where I reside.

Two, if the USPS is allowed to refuse to deliver my business mail, returning it to the sender based solely on the wording "Suite 232," it will result in a substantial loss of my income, cause an onerous expense to me, drastically impact my business for years to come, and inflict an unwarranted stigma upon my professionalism. The business address I use, "Suite 232," presents a professional, image which is very important to small business owners like myself—and causes absolutely no harm to anyone.

I am in a very competitive industry, and I have worked very hard over the years to earn, build and maintain an impeccable reputation. I cannot afford to allow anything to result in even the slightest lessening of my professionalism—which is exactly what the enforcement of this rule will do.

On Thursday, October 7, 1999, I spoke with Richard Hallabrin, Executive Director of Public Relations at Mail Boxes Etc.'s corporate office, at which time he told me that the incoming postal inspector and the CMRAs had "accepted a compromise with the USPS" that they considered to be the best alternative—to give customers the option to use PMB or the pound sign in their mailing address, but than they absolutely could not use "suite".

I explained to him that this compromise did not solve my problem, as I had used "Suite 232" as my business address for almost 12 years. Further, Mr. Hallabrin told me that MBE's policy has always been that customers should not use the latter wording in their business address, and if I were to check my contract, I would see that I had been in the wrong all these years.

I obtained a copy of my original contract, dated May 9, 1988, attached to my written testimony as addendum A, wherein it gives the following instructions:

"Important: In establishing your mailing address, your mail box number is designated as a suite number." And it is in there, I might add, in three different places.

I have been informed by MBE franchise owners that several years ago, MBE corporate instructed its franchisees to tell new customers to use the pound sign, but that they should not say anything to existing customers like myself, because those customers already had established business addresses.

I have paid many thousands of dollars over the years to have this address printed on business cards, stationery and brochures. I have also paid many tens of thousands of dollars for advertising in industry trade publications. I have distributed countless thousands of business cards at an average of half a dozen trade shows per year. I am known within my industry specialization throughout the U.S., Europe, the Pacific Rim and South America.

In addition to my using this address in advertising in professional industry trade publications, this same address has been pub-

lished in many plastics and composites industry, as well as non-industry specific publications, including directories, databases, mailing lists, e-mail lists, outplacement and resume services, et cetera.

"Addendum B" in your copy of my written testimony is a 3 page representative list of those professional publications that I advertise in, subscribe to, or have given my consent to be listed in, as well as those in which my business is listed based upon the publisher's assumed consent.

I receive 200 to 300 unsolicited resumes in the mail each week, not including candidates I have recruited, telephone calls, referrals, new client contacts, and unsolicited candidates' resumes received via fax and e-mail. My database contains more than 55,000 names, with several thousand more yet to be entered, and the list grows daily. It is not physically, technically nor financially possible for me to identify and notify everyone necessary as to an address change.

The USPS rule would cost me tens of thousands of dollars in additional advertising costs, not to mention many more tens of thousands in lost income. I offer as an example my experience of two years ago when the Dallas telephone area code was split. I have paid a monthly fee for the past four years so that my old phone number will roll over to my present phone number.

I discovered, months after the area code change, that the Public Utility Commission took my old phone number away from the phone company; as a result, individuals trying to contact me at my old phone number reach a recording that says "This is no longer a working number." I have since learned that I have lost many thousands of dollars in income as a result of the area code change. I estimate that the area code change cost me approximately $15,000 for printing and mailing of new stationery and business cards, an additional $20,000 for increased advertising in industry trade journals to publicize the area code change, and at least $100,000 in lost income. I do not want, and I cannot afford a repeat of this situation.

In closing, it is my contention that the USPS does not have any justifiable reason to deny the delivery of my business mail addressed to Suite 232. If the mailed item has the proper postage, then their job is to deliver it to its destination—my business address.

I hope that you now have a better understanding of how devastating this rule is for small business owners like myself, and how the USPS's proposed extension for its enforcement of the rule to April 26, 2000, does not solve our problem. I and thousands of other legitimate small business owners are asking for your help to keep the USPS from destroying our livelihoods.

Again, thank you for your time, and I will be happy to answer any questions you may have.

Chairwoman KELLY. Thank you, Ms. Taylor.

[Ms. Taylor's statement may be found in the appendix.]

STATEMENT OF JULEY FULCHER, PUBLIC POLICY DIRECTOR, NATIONAL COALITION AGAINST DOMESTIC VIOLENCE

Ms. FULCHER. Thank you Chairwoman Kelly and members of the Subcommittee. On behalf of the National Coalition Against Domes-

tic Violence, I thank you for the opportunity to address the safety concerns of battered women in relation to the new postal regulations.

The National Coalition Against Domestic Violence is a nationwide network of approximately 2,000 domestic violence shelters, programs and individual members working on behalf of battered women and their children. I am here today because we are disturbed by the circumstances under which personal information can be released under the new regulations of the United States Postal Service.

Each year, 1.4 million Americans are stalked. One in every 12 women will be stalked at some point in their lives and 59 percent of these women will be stalked by their current or former intimate partners. Stalkers can be very persistent, especially domestic violence stalkers. A domestic violence or stalking victim must be allowed to take steps to protect herself where we cannot protect her.

When Jane left her batterer, he became her stalker. She moved and obtained a post office box in order to keep her new address secret, but he found her and was waiting for her at her post office box. She moved to another State and got a new post office box, but again her batterer was waiting for her when she went to pick up her mail. Jane moved from State to State only to be found again and again. In desperation, Jane went to domestic violence advocates in her newest hometown, as well as to various law enforcement officials to get advice on how not to be found this time. She learned that many other women had suffered the same problem, and she was advised to obtain a private mail box, or PMB. Jane did so and still continues to live peacefully in that same town. Unfortunately, since August 26, 1999, she has been unable to receive her mail because all delivery to her PMB was stopped when she refused to provide her home address on the Form 1583 now required of PMB users.

Under the final rule issued on March 25, the Form 1583 must be completed and placed on file with the Postal Service in order to receive mail. The form requires a home address and telephone number and traceable information from two forms of identification. It even requires the names and ages of any children that may receive mail through the PMB. Under the August 26 proposed rule, that information may be provided to any government agency requesters. This policy puts the lives of many women and children at risk.

The Los Angeles Stalking Victims' Handbook advises victims to use a Private Mail Box service to receive all personal mail. They also recommend that victims use suite numbers rather than box numbers because it does not alert the stalker that it is a PMB. These recommendations come from experienced workers in the field who understand the persistence of batterers and other stalkers and who have seen the ways that these criminals locate their victims.

Now advocates and law enforcement officials are left without any assurance that victim information will be adequately safeguarded, and none of us can blame Jane and other women like her for refusing to provide their home addresses on the Form 1583. We understand that the purpose of the new regulations is to prevent criminals from using PMBs to commit fraud. We respect the need to ad-

dress this problem. However, personal information about mail box holders should not be released without a warrant.

We are very concerned about the dissemination of addresses even to law enforcement personnel without the proper checks and balances required by judicial involvement. If the information is needed as part of an official investigation, a warrant should not be difficult to obtain and would provide an important added protection for battered women. Anything less increases the possibility that the lives of battered women and their children will be endangered by unwitting release of information by law enforcement officers to a batterer. Moreover, the August 26th proposed rule allows that information can be given to all local, state and federal agencies creating broad categories of individuals who are granted access to this information without any restrictions on the reasons for which that information can be obtained.

A similar concern exists for battered women's shelters. Shelters house many victims of domestic violence at one time; putting one woman in danger puts all shelter residents in danger, including their children. Disclosure of the shelter location can be especially critical to these families' lives. The threat is so great that many shelters do no publish their addresses, withholding addresses even from other domestic violence service providers. For this reason, shelters will commonly use a post office box or a PMB for receipt of mail.

Again, the new rule allows for disclosures broadly to federal, state and local agencies. Once this information has been turned over to these agencies, there is nothing to prevent that information from being further disclosed to others or included in documents that are available to the public.

The regulation unacceptably places shelter residents and workers at risk without any clear connection to a legitimate law enforcement purpose. The safety needs of the women and children seeking refuge in a shelter obligate us to hold shelter locations confidential. It is imperative that no one obtain a shelter address without a warrant. And I will just add that there is an article in the Washington Post today about how the Supreme Court has just held that police cannot search a murder scene without a warrant, but apparently we can turn over the individual's home address without a warrant.

Finally, if PMB holders are going to be required to submit the completed 1583 forms, it is critical that the Postal Service develop a protocol to help ensure adequate security for the information, such as a secure filing system with restricted access and a formal system of recording releases of information. A protocol such as this one could mean the difference between life and death for a battered woman.

Keeping the personal information of Private Mail Box owners confidential is essential in protecting lives. The National Coalition Against Domestic Violence understands the need to develop regulations that address the legitimate mail fraud concerns of the United States Postal Service, but we must not do so at the expense of battered women, their children, shelters, and stalking victims who utilize commercial and post office mail boxes.

We call upon the United States Postal Service and Members of Congress to address this issue without compromising the safety of women and children who are struggling to survive.

Thank you.

Chairwoman KELLY. Thank you very much, Ms. Fulcher.

[Ms. Fulcher's statement may be found in the appendix.]

Chairwoman KELLY. As we have heard this morning, this is a very difficult issue. But I would like to begin with some questions. I have some questions here that I would like to ask you, Mr. Crawford.

In the supplementary information that USPS issued accompanying the March 25, 1999 proposed rule, the Postal Service said, "the sole purpose for the rule is to increase the safety and security of the mail. The rule is designed to benefit both businesses and consumers by reducing the opportunities to use the mail for fraudulent purposes."

Do you think that statement accurately reflects the general intent for the final rule?

Mr. CRAWFORD. I think it does, but I would like to add to it that the main focus that we had for this rule is the protection of the American public, businesses and to keep fraud out of the mail stream.

Chairwoman KELLY. Mr. Crawford, perhaps you would like to address how protection of the American public is entrained in the rule to Ms. Fulcher and explain to her how people she is representing here on the panel today are protected by your rule?

Mr. CRAWFORD. I can fully understand and sympathize with her and any battered person. We have tried to work with organizations to try to determine the best way to approach the problem.

In terms of release of the information, we went back to the Postal Service; we were trying to bring everything in line. In Postal Service regulations for a post office box, there was a stipulation that information could be released to the public on a box holder if that box holder was doing business with the public. That was basically something that was put in place because of pressure put on the Postal Service in response to businesses, and consumer groups, and people doing business with organizations, or small businesses and large who were operating out of post office boxes.

We went back and revisited that and said that we would not release the information to individuals even if they were doing business out of those boxes, whether it is with the CMRA or with a P.O. Box.

I think that this would all apply to battered persons who are operating businesses out of their home. That was the initial concern that we had.

Chairwoman KELLY. We are not talking about battered women or men operating businesses here. We are talking about battered women who are trying to escape their stalkers and batterers. Ms. Fulcher, feel free to jump in here. I think it is important to have a dialogue between you two on this point.

Mr. Crawford, when did you start working with the battered women's shelters and with the National Coalition Against Domestic Violence and some of these other groups?

Mr. CRAWFORD. I don't have the exact time on that.

Chairwoman KELLY. Mr. Spates?

Mr. SPATES. I can't give you the exact date, but when we were first contacted, we met with representatives—Ms. Fulcher and representatives from the inspection service and they described the situation. Two things occurred, one regarding the temporary shelters that battered spouses go off to. In our discussions with them, since those were temporary shelters, they are treated as hotels, et cetera, and would not be subjected to the CMRA regulations. The privacy issues were a main concern, and that was one of the reasons that we met with the other groups, and that is why we put out the proposed regulation, to make the change in the privacy statement on the back to delete it.

We have preliminary responses back, showing that out of 287 responses on removing the privacy statement, 232 of them reflect what Ms. Fulcher said: We need tighter restrictions on when that information can be released. Considering that, there was overwhelming support for what she just said in releasing the information. I am sure that would all be taken into consideration.

Chairwoman KELLY. But you have gone ahead and issued a rule.

Mr. SPATES. That rule was issued before. In fact, the rule was originally published in the Federal Register in August 1997. We got comments back at the last minute from CMRAs, primarily; and then there was pressure from the CMRA industry to publish the rule again to give more adequate time for people to comment. So the rule was republished. We still received no comments from the interested groups until we finally put the rule out in March. Then they all came.

Chairwoman KELLY. Were you waiting for everybody to read the Federal Register, or did you do any outreach to try to meet with these groups? What about Ms. Taylor's group and how are people that are effected supposed to know except to read the Federal Register? What kind of outreach did you do prior to the promulgating of the rule?

Mr. SPATES. The outreach was primarily through the CMRAs. Some of these interest groups we were not aware of.

Chairwoman KELLY. I am sitting here with Postal Bulletin 21982 as of 10–8–98. I have the Privacy Act statement.

According to reading this, even I can get the information from somebody who has a postal box, a P.O. Box. You are saying that anyone who is going to go to a CMRA is going to sign an agreement that a PMB will be subject to the same Privacy Act statement that I am looking at here which means that you are not offering any further protections to these people who are trying to restart their lives and escape stalkers and batterers?

Are you going to try to address this now or where are we with this?

Mr. SPATES. As a result of the feedback, we published in the Federal Register to eliminate that statement and information would not be provided except under certain restrictions. In the interim, while that proposal was issued, a letter went out from our chief operating officer and a follow-up letter went out just as a reminder back in July: Do not release any information on anybody renting a post office box or private mailbox until we reach resolution on this privacy statement. That is the proposal that I was just refer-

ring to. We have the comments back from the people who saw the Federal Register notice, and it has a lot of publicity on this one because of all of the activity around the privacy issue.

Chairwoman KELLY. There are a number of more questions that I want to ask about this specific area. I would like to be able to—and I am going to hold the hearing open for 14 days for people to submit questions for answering because I myself will have some more.

In the interest of time, I want to move on because I still have some other questions.

I want to specifically hone in on a couple of things. You are currently regulating the CMRA industry. You are trying to improve the "safety and security of the mail," and I think that is a valid goal. You are trying "to bring provisions in line with those governing,"—and I am taking these as quotes from you—"with those governing post office boxes."

I have to assume that the P.O. Box industry currently has more effective regulations to help deter and expose the types of fraud that the regulations address. Is that correct?

Mr. SPATES. Referring to fraud and post office boxes?

Chairwoman KELLY. Yes.

Mr. SPATES. I have to yield to Mr. Crawford.

Mr. CRAWFORD. I would say yes. What we have seen during the 1970s and 1980s, the choice for most of the scam artists was P.O. Boxes. But with the proliferation of CMRAs, they have started to migrate from P.O. Boxes to CMRAs merely because of the fact—and this is based on comments that we have gotten from inspectors in the field who have interviewed people that they have brought in relative to these cases, and they have just asked them the simple question why did you use a CMRA? The response was because there was no identification required, and it is easier to secure a CMRA box than to get a P.O. Box. With the P.O. Boxes our employees were required to get specific identification from an individual, and it was maintained there at the Postal Service.

Chairwoman KELLY. Do you have any statistics to show what you are talking about, Mr. Crawford?

Mr. CRAWFORD. No, I don't.

Chairwoman KELLY. The Postal Service has done no studies? They have no quantifiable analysis, no statistics at all to support the promulgation of the rule. Is that what I hear you saying?

Mr. CRAWFORD. To my knowledge, there was nothing done relative to that.

When we got involved in the CMRA issue, it was based on merely—the information that we were getting from the credit card industry, as well as from other law enforcement agencies, is that they had seen a proliferation in the use of CMRA addresses for crimes.

Chairwoman KELLY. In your statement to us, you say and I quote, "The amount of illegal activities conducted through private mailboxes is significant." If you haven't done any studies and you don't have any quantifiable numbers, how do you know the accuracy of your statement?

Mr. CRAWFORD. I would say that the accuracy of that statement is based on those cases that I gave you.

We went through our database in the Inspection Service, our information database, and pulled up all of the cases that were related to crimes being perpetrated, whether it was fraud, credit card scams, any types of crimes, and we used that information. We didn't do a complete analysis of the information, but we saw that we did have a problem; and like these cases that I have shown you where we have people who are operating out of Canada and other locations, who will have hundreds of CMRA boxes in the United States, these individuals never set foot on United States soil and they are ripping off the American public. The money is going out to these individuals.

And to quantify it, if I came in and told you, just like here, I have two cases that I related to you and someone would say we are only talking about two cases out of thousands of cases that the Inspection Service investigates. Then we have to go into the number of people who are being victimized by these scams.

Chairwoman KELLY. But you don't have any idea how many there are?

You have not done any studies?

Mr. CRAWFORD. We never maintained the information in a form where we could go in and just pull up cases based on CMRAs. You know, we have realized the error of that. We have gone back and our IT people are in the process now of giving us fields where we can capture that information.

Chairwoman KELLY. It is a tough problem, Mr. Crawford. You are trying to protect the American public and yet protect the public's privacy.

I want to ask you a question about whether or not the Postal Service has any records about the amount of fraud or criminal activity emanating from addresses with people using post office boxes? Do you have that kind of information?

Mr. CRAWFORD. No, we don't.

Chairwoman KELLY. You don't have any information about that either?

Mr. CRAWFORD. No, we don't.

Chairwoman KELLY. You will regulate the CMRA industry, assuming fraud, but you will not assume fraud from our own post office boxes? I find that difficult because—maybe it is because I don't think that the government should be interfering with people's privacy to such an extent. Whether I have a post office box from you people, or I get one from the CMRA, I am concerned about people being able to lead private lives. And most people don't rent these boxes to commit fraud; most people are pretty honest, and they have good, strong reasons why they have done what they have done.

You are telling me that you have done no studies for either your own post office boxes or for CMRA?

Mr. CRAWFORD. Chairwoman Kelly, I agree with you 100 percent.

Chairwoman KELLY. Is that what you said?

Mr. CRAWFORD. Yes, that is exactly what I said. But can I continue?

Chairwoman KELLY. Please.

Mr. CRAWFORD. What I was saying to you was that the information that we gathered was based on cases that we had coming from all of our divisions.

Believe me, if we had seen a proliferation of crime activity in P.O. Boxes, that is where we would have directed our attention. What we saw was the CMRAs. We just didn't jump out of the box and start to ask for changes.

Several of our divisions of the Inspection Service conducted audits of CMRAs and postal facilities to determine what is causing this, what is causing the criminals to go to these facilities. The audit was expanded, but we didn't take that information and roll it up and come up with any statistics on it that we were going to use on a national basis. But we did see from those audits that there were certain things that the CMRA industry and the Postal Service were not doing, and it was incumbent upon us to try to correct those breakdowns.

Chairwoman KELLY. I have one problem with what the USPS has provided to Chairman Talent. When he asked for specific information from the USPS, they sent five pages of anecdotal evidence of criminal investigations within the CMRA industry. But you have not produced any kind of an analysis to estimate the amount of the fraud that is representative over the course of any time period, let alone 6 months, a year. We don't know what time period these anecdotes are coming from.

I think it is incumbent upon you to come back to this committee with some information based on time and something besides anecdotal evidence. I think it is important that you come to the Committee. If all you have got is anecdotal evidence, similar to the kind of thing that you have done, I don't see how you can argue that fraud doesn't exist in your own Post Offices. So I would like to see you come back to us with some information for not only me, but I am sure Chairman Talent would be interested in that also.

Mr. CRAWFORD. I didn't say that fraud didn't exist in our P.O. Boxes.

Chairwoman KELLY. Okay.

Mr. CRAWFORD. At least I hope I didn't say that.

Chairwoman KELLY. I don't understand how you can write each individual regulation in the way that you have. You had to make some kind of a determination on how each regulation was going to deter fraud. I have a list of the regulations that you have promulgated in your rule. If I quote that supplementary information, "the rule clarifies and updates the requirements to be consistent with other current postal rules, policies and requirements."

Isn't that really sort of the basis of how you drafted the regulations?

Mr. CRAWFORD. The Inspection Service has to maintain the sanctity of the seal. When people put mail into the mail stream, they are expecting it to go from point A to point B without being victimized, whether it is stolen or someone is ripping them off with a crime. That is what we were looking at when we were trying to bring the CMRA forms in line with the forms that were being used by the Postal Service, which required some form of identification. It was the whole issue of an individual being able to go into one entity and be able to secure a box and maintain total anonymity.

When we would have folks from the public contacting us to say that they had been ripped off or victimized by some scheme, and it is being operated out of a suite at—you know, Suite 300, Pennsylvania Avenue, and we go to those locations, based on the information that is available and we see that it is a CMRA address, and there are no leads to take us to who the perpetrators were.

Mr. SPATES. May I add something?

Chairwoman KELLY. By all means.

Mr. SPATES. The 22 attorneys general, which now I believe is up to 28, the primary thing is when you use a post office box, it says post office box on the address. When you use a CMRA, you can use number, suite, what have you. These 20-plus State attorneys general are looking at State legislation to prohibit the use of suite, et cetera. So the post office has a better chance of eliminating fraud because the person who is responding to that address knows that physical address is a box. With a CMRA they don't know whether it is a box or a suite. A little over a year ago NBC News in "Fleecing of America" did a major case on Medicaid fraud involving CMRAs because they thought that they were sending checks to medical suites when it turns out to be a box about this big. That is the difference between a post office box and a CMRA. You know that you are mailing to a post office box. You don't know that you are mailing to a Private Mail Box.

Chairwoman KELLY. Thank you.

I am still struggling with this a little bit. Mr. Crawford, it seems that you are arguing both ways. If you don't know what the problem is, how can you fix it? You don't have anything out there, you have to know what is broken before you can fix it, it seems to me. If I took my car to an automobile mechanic and I said, as I usually do, "the engine is going clunk, clunk, clunk when I try to start it," he will pop up the hood and say, "try to start it." He will analyze the problem. Then he and I will agree what needs to be done and a price.

That is kind of standard operating for most businesses and—what I don't understand here is how you can fix the car without popping up the hood and analyzing what is going on underneath.

On page 8 of your written testimony, you claim that after two comment periods the USPS studied and considered the comments—those comments for well over a year before issuing the March regulations. Now, is that correct?

Mr. CRAWFORD. I would like to refer that to Mike Spates.

Chairwoman KELLY. It is on page 8.

Mr. SPATES. That is true. When we got the comments back, 8,000 of them, primarily from CMRA owners and box holders, we went through those comments. We strategized within our own organization what is the best approach to take. We had not heard from these other interest groups at that time. We decided to go forward based on the comments that we had with the March 25 issuance, and that brought all of the attention to this issue.

As we said in this opening statement, we have met with these interested groups ever since that time. They are sort of like the mechanics that you use in your analogy. We knew that there was a problem. We brought all of these people together and—how can we work out a compromise and come to a joint resolution? The witness

from the CMRA industry said they are interested in preventing or reducing fraud themselves.

What came out of all of this is the industry working together and at the same time trying to satisfy the particular needs of groups like the National Coalition Against Domestic Violence.

Chairwoman KELLY. Mr. Spates, I am glad you brought up the 8,000 organizations that responded to you.

According to your supplementary information preceding the statutory language, you state that "nearly 8,100 organizations and citizens oppose the 1997 proposed rule compared to 10 that generally supported it." Yet in the July 13th letter that you sent to Congressman Talent, you state "during the notice and comment period the Postal Service received 8,107 letters. They included expressions of support from organizations representing thousands of leading businesses, key law enforcement agencies, and millions of American consumers including"—and you list a group of people. "Most of the letters opposing the changes were form letters," and that is the final sentence in that paragraph.

I can't figure out why you state here that there were nearly 8,000 people—in this supplementary information you State nearly 8,000 organizations and citizens opposed your 1997 proposed rule, and in your letter on July 13 you imply that those 8,000 people were supportive of what you were trying to do. Can you tell me how those two figures—I am confused. Can you unconfuse me?

Mr. SPATES. I am not familiar with the letter that you are referring to.

Chairwoman KELLY. The letter is signed by Sheila T. Meyers, and it came from Government Relations of the United States Postal Service.

[The information may be found in the appendix.]

Mr. SPATES. I am not aware of the letter, but the first statement was accurate.

Chairwoman KELLY. This came to Chairman Talent in a letter July 13, 1999. And perhaps you would like to go back and in our further dialogue, you would like to bring both of these statements into some kind of compliance with each other.

Mr. SPATES. The first statement was accurate. There are 8,107 letters opposed, and that was made up of CMRA owners, which is a little less than 10 percent. The rest were made up of CMRA box holders. There were 10 letters of support, but they were from associations such as the International Association of Financial Crimes Investigation, Secret Service, Visa, Wells Fargo, American Bankers Association, Discover, American Financial Services Association. They were groups. Those 10 were from groups representing major parts of industry.

Your first numbers that you had were correct. The ones in the letter, I am not familiar with the letter—it is turned around, the way that I understand it.

Chairwoman KELLY. I hope that in your further dialogue with this Committee you will be familiar with the letter and let us know what happened with those numbers. My final question here, when the USPS stated in the final rule that, "compliance would put the CMRAs out of business"—and I am quoting—"the rulemaking appears to discriminate against them because of their choice of an ad-

dress," "these requirements are burdensome and unnecessary and the current annual submission is sufficient," "the PMB designation is unnecessary and a stigma that unfairly portrays the customer CMRA as unsavory," "CMRA customers will incur costs to print new stationery and to notify all current correspondents of the address change," "there is no requirement or opportunity to allow the CMRA to come into compliance," and when "CMRAs expressed concerns for their customers' privacy," this was not noted.

What did the Postal Service do to take all of these statements and interests into account before you promulgated your final rule?

Mr. SPATES. Those statements and issues never surfaced until after the final rule. The two——

Chairwoman KELLY. They are stated in the final rule, Mr. Spates. They are stated in the final rule.

Mr. SPATES. But I am talking about the details worked out with the other interest group. Those came from the CMRA industry itself.

Maybe I misunderstood your question.

Chairwoman KELLY. When you stated in your final rule the things that I enumerated, you did not state what USPS had done to try to take the interests of the CMRAs into account. You simply stated these things and let them stand for themselves and went ahead and promulgated the final rule, and these were stated in your final rule.

Mr. SPATES. I am sorry, I misunderstood your question. I thought you were talking about the interested groups that we were working with after. That was my mistake.

Chairwoman KELLY. No, these were people during the comment period who commented, apparently to no avail and of no interest to the USPS here because they were stated, which is a very worthy thing; but on the other hand, I don't see what the Postal Service did to take these interests into account.

Mr. SPATES. First of all, we were trying to mirror the regulations as they apply to post office boxes. The post office box has a particular addressing requirement, and it also has a privacy statement on the back of it. We wanted to apply that to the group. We felt taking away not requiring PMB or some designation to let you know it is a Private Mail Box would deter what we are trying to do from the fraud standpoint, and this was brought up strongly by the States' attorneys general because they said if we don't do it, they are going to do something locally, and then you are going to have a different mixture. That is why PMB stayed in there.

The privacy statement was put in there because it was on the post office boxes, and then that came out. As a result of the final rule, people were opposed to it.

All we are trying to do is match it up, the requirement where we had a year, changed it from a year to a quarterly update provided by the CMRAs, because of the turnover rate they have—in private mailboxes in cases of fraud, they are not there very long. We wanted an updated list. It does not create any more paperwork. They still have the 1583 on file; they just have to tell us where there is a change.

Chairwoman KELLY. Mr. Spates, that sounded terrific, but quite frankly, I don't think that it answered my question.

We will want a further answer to my question.

At this point, I thank you, Mr. Pascrell, for indulging me in a longer questioning period and I am going to turn this over to you.

Mr. PASCRELL. First of all, I want to thank Mr. Crawford for your candor because I can only conclude from that candor that on the process side of this I think there is much that is desired here. You leave much to be desired—not you personally, I think the process itself. It is a bit convoluted, and when we go back to the March 25th date, because I don't want to spend too much time on process, I am a results kind of person, but these regulations were promulgated on March 25th. You didn't start—the post office didn't start meeting with small businesses until after the promulgation. It would seem to me that the small businesses, those affected, those organizations affected, should have been with you at the table before the promulgation of any rules and regulations.

This leaves a lot of question here. It also leaves a lot of question, the fact that you don't have much live data to begin with. So I believe that the process is flawed, and I believe you need to do something about it rather than just catch up.

I want to deal now with substance, if I may.

There are two issues here: the issue of cost and the issue of privacy as I see it. On the issue of cost, well, you moved the deadline to April of 2000 from October of 1999 as I understand the testimony. So, therefore, it leaves me with the conclusion that you could just as well stretch it to the year April 2001. And therefore when people are providing stationery and things like that, there is a changeover anyway, and I think the cost could be worked out.

How do you determine the dissemination of these addresses? How do you decide—who decides on whether information about these addresses and post office boxes is disseminated? Who makes that decision?

Is there any public dissemination, Mr. Spates?

Mr. SPATES. Public dissemination, as far as letting them know what happened?

Mr. PASCRELL. No, as to actual numbers that you are now requesting, who can go into a post office, who can go into one of these private association—the carriers, the—and ask for information about these post office boxes? Who is allowed to do that? Anybody can go in, right?

Mr. SPATES. If John Q. Public walked into the post office and his business is being conducted with a company using a post office box, they can get information regarding where they are doing business, if they are doing it from their home. Up until July 1, yes, anybody can go in there.

Mr. PASCRELL. Anybody. So there is no real need to know. The information is just requested; the information is presented. Does that make sense to you? Aren't there problems there?

Mr. SPATES. That is our policy. When we applied it on the CMRA side and went back in history and tried to find out what triggered that, to put it on the P.O. Box, they couldn't track how long that was put on post office boxes for information purposes. Now with a lot of small home offices, they decided we should pull it from post office boxes and from CMRAs and not provide that information other than as we mentioned before.

Mr. PASCRELL. Do you keep a record as to who asks for this information?

Mr. SPATES. I would have to go back and check.

Mr. CRAWFORD. Not to my knowledge. That is for people who are doing—like Mike Spates said, individuals doing business with the public out of that box. The stipulation or the rule had always been that for business purposes if an individual contacted the Postal Service to find out who this individual was, the information was released to them.

Mr. PASCRELL. So you want to address the problem of fraud. You want to—although we do not know statistically, or anecdotally we have stories, but we don't have numbers as to how severe the problem is. We know that the problem does exist, and I think we would be a fool to think that it doesn't.

So I think—it is very easy for me to conclude that what is on paper for us to react to is almost like a knee jerk reaction to try to address the problem of fraud without getting an understanding of what the privacy issue means.

I think if you would go back to the embryonic stages of this thing, if we would have sat down—if we sit down with the organizations that I mentioned before, I think a lot of this could be avoided.

Mr. CRAWFORD. I agree with you 100 percent.

Mr. PASCRELL. Now we have a lot of things to make up. And you understand the questions that are being asked today; they are very pointed and direct. And they are very real, and I think they are fair questions. Don't you think so?

Mr. CRAWFORD. I most certainly do.

Mr. PASCRELL. How do we preserve privacy and at the same time have access on the need to know from government agencies that are dealing in search of crimes? How do we do that? Do you think that you've resolved that question? Do you think that you've answered that question up until now, or do you think that you have a long way to go?

Mr. CRAWFORD. It hasn't been answered, but I don't think that we have a long way to go to get to a conclusion on that. What we are doing right now—like Mike Spates has said, ideally we should have met with all of these groups, but we didn't know who all of the various groups were.

You know, the process, we thought it was to put the information into the Federal Register. As Chairwoman Kelly said, then we are relying on everyone to read the Federal Register. We were relying on those different organizations that represent the various groups to read the Federal Register and pass that information on.

Again, in an ideal situation, we would have known every one of the facets that we should have checked into. We didn't. That is why we have gone back. We have met with the different organizations, and in the process of doing that beginning in April, former Chief Postal Inspector Ken Hunter—he met regularly with the various groups and invited—I mean, the meetings just started to grow and grow because other organizations were being made aware of this and they were coming into the meetings.

Mr. PASCRELL. Mr. Crawford, tell me where my logic is faulty here. It would seem to me, before you begin to enforce a regulation,

before you enforce the regulation, that you be more substantive as to what you are doing. It would seem to me—and correct me if I'm wrong, I will stand corrected—that we are putting the proverbial cart before the horse here, and I think that has caused a lot of problems, and I think you need to address this.

I think these are very serious problems. In fact, you may be contributing more in the process that you have highlighted today—without resolving the privacy issue, you may be doing more to enhance those who want to break down the privacy in the United States than you would like to. You may be the greatest contributor to the dissemination of information that is nobody's business in your attempt to fight fraud because of how you have gone through procedurally to get to this conclusion.

I mean, if—you should not start enforcing a regulation unless you are on sound ground. And your testimony today—and I think it is candid and I respect your candor—is such that you either should—and I can't tell you what to do. You either should remove the implementation of the regulation this afternoon, or you need to provide to us the data upon which that enforcement, that implementation exists. Otherwise I believe that the post office itself, that the department itself is promulgating rules and regulations that should not be in existence. I have no other conclusion.

I want to ask you another question.

If a number sign on a box would allow consumers to know the exact type of establishment to where they are mailing something, would that—is that part of what we are talking about here? Is that part of the regulation, as I understand it?

Mr. SPATES. We originally had PMB and working with all of these interested groups, it was going to be PMB—the recommendation came Private Mail Box or pound sign, one or the other. You cannot use "suite." You cannot use anything else that may indicate that it is anything other than a mail box. When you see a number sign, you may think that is an apartment. We have what we call 1–800 call centers and the software is going to be modified because John Q. Public doesn't necessarily know how to use a computer or have access, can dial up and give the address if they want to verify if that is a CMRA, and they will tell you.

That is not going to do you any good unless you do an education program to let them know what PMB and number sign mean. The industry and Inspection Service and the Postal Service operations are going to participate in jointly educating people, what PMB means and what the number sign could mean and how you can access information to find out.

Mr. PASCRELL. I think what you have heard from us on this side of the table is that we admire your attempt, Mr. Crawford, to address the issue of fraud and crime. I think that is important. There is a lot that goes on in the postal department, and you want to try to get a handle. But this—like profiling; you stop cars on a highway because the people driving the cars look like something. You are punishing everybody in order to prevent and protect.

I think sometimes you need to do that, but I think you ought to be a little more careful and your words are clearer than my words that you haven't been, and I say to you if you have enforced this regulation with many of these open-ended questions still in mind,

I think you ought to rethink where you are at this time. You may come back to the same point, but I think you will have more to stand on and you will have more supportive evidence, and I really question the direction that you are going in on this matter.

So I applaud your candor. I applaud—I don't applaud your conclusion, and I think you ought to take a look at that very carefully, and then you will have all of us on the same side of the fence.

We all want to do the same thing, but I don't want you to punish people simply because they are using the mail or simply because they are using—the two young ladies that spoke today, their issues are real and need to be addressed and you've admitted that they were not addressed before the rules were promulgated.

Mr. CRAWFORD. Congressman Pascrell, there was no intent to punish anyone——

Mr. PASCRELL. I didn't think there was.

Mr. CRAWFORD [continuing]. In the whole process.

Mr. PASCRELL. The intentions may be one thing, but the results may be another.

Mr. SPATES. Hindsight is 20/20. If we knew about these associations beforehand, we would have sent the Federal Register notice directly to them. But that does not mean that we cannot correct past errors in coming up with a compromise.

Mr. PASCRELL. You are enforcing the regulations.

Mr. SPATES. You have to have the form completed to act as an agent to deliver. What is not being promulgated right now is the release of information. That was stopped July 1. The Private Mail Box designation and the number sign still don't go into effect until April of 2000.

One thing that has been stopped right now is the release of any information on privacy awaiting the results—and we haven't gone through the detailed comments that came up through the original proposal on privacy.

Mr. PASCRELL. You are going to tell us about that? When are you going to do that?

Mr. SPATES. Right now, all I know is the profile of support, and the major thrust is, as was brought up by the Coalition Against Domestic Violence, tougher restrictions on who can get access to the information.

Mr. PASCRELL. If you were a governmental agency per se, you would have to come before the Congress of the United States before you regulate and before you promulgate the regulations and enforce them, would you not?

Mr. SPATES. I would have to plead—I don't know the laws.

Mr. PASCRELL. You are not covered by the law as such, but the fact is that we are trying to catch the tail here. We are trying to hold onto something to try to fix what we think needs to be fixed. You are trying to deal with crime. We are trying to deal with crime and yet protect people's privacy and not sweep with a wide broom and include everybody.

Ninety-nine percent of the folks who have these CMRAs are honest people. Thank you.

Mr. SPATES. I agree with you totally.

Chairwoman KELLY. Thank you, Mr. Pascrell.

Ms. TAYLOR. May I make a comment?

Chairwoman KELLY. By all means.

Ms. TAYLOR. As a small business owner who has had the same address for these past 12 years, the Federal Register is not in my daily reading. I do good to read the Wall Street Journal and the Dallas Morning News on a regular basis. But the lack of dissemination of information by the U.S. Postal Service, corporate, the agency, to the local postmasters is also quite a problem.

A lot of people have refused to sign this new 1583 form, and I was one of them, because by doing so, you are agreeing to some egregious infringement on how you are going to conduct your business and privacy. There has been zero communication from the USPS to the local postmasters and the Postal Service to the CMRAs about a lot of these changes in that regard. Mail Boxes Etc. sent out a memo telling about the option, but people are not understanding.

The Richardson postmaster, where I reside, has tried to enforce this law refusing to deliver mail in August, and again as of Friday last week. The U.S. Postmaster needs to communicate better to the local postmasters to avoid these types of problems.

Thank you.

Chairwoman KELLY. Thank you very much, Ms. Taylor. I appreciate your additional comments here.

Actually, I was going to intercede at this point to ask a question which is exactly what you raised. So I am delighted that you did it because it is better coming from you. You've seen the regulations and the information that came from Mail Boxes Etc., and I think it is important that we hear from you. That is the purpose of this hearing.

I would now like to go to my colleague from Kansas, Mr. Moore.

Mr. MOORE. Thank you, Madam Chair.

Mr. Crawford, you have identified as one of the primary reasons for these new regulations to prevent fraud; is that correct?

Mr. CRAWFORD. Yes.

Mr. MOORE. Ms. Fulcher, you are here because you have grave concerns about privacy for the people who come to the shelters that your organization is concerned about; isn't that correct?

Ms. FULCHER. Shelters and, in addition, the women who are not in shelters, but are in hiding.

Mr. MOORE. So basically you are concerned about the safety of women who have been subjected to battering in the past?

Ms. FULCHER. Yes.

Mr. MOORE. And you recognize that fraud is a legitimate concern that Mr. Crawford has, correct?

Ms. FULCHER. Correct.

Mr. MOORE. Mr. Crawford, you understand that Ms. Fulcher represents some grave concerns about the safety of women who have been battered in the past?

Mr. CRAWFORD. Without a doubt.

Mr. MOORE. And you are both willing to accommodate the concerns about privacy and safety considerations, correct?

Mr. CRAWFORD. Definitely.

Mr. MOORE. Ms. Fulcher, you are willing to acknowledge that fraud is a legitimate concern of the United States Postal Service, and you want to work reasonably with them on behalf of your orga-

nization to accommodate those concerns and at the same time protect your constituency, correct?

Ms. FULCHER. Correct.

Mr. MOORE. Ms. Taylor, you are concerned about costs as one of the CMRA box holders, correct?

Ms. TAYLOR. That is part of it.

Mr. MOORE. And privacy?

Ms. TAYLOR. And also—my main issue is that I have had this address for 12 years, and they are now saying that they are not going to deliver my mail, and the cost that would result in, yes.

Mr. MOORE. Right now, Mr. Crawford, I accept your statement and Mr. Spates' statement that you followed what you believed to be the rules as far as putting this information in the Federal Register and inviting comment on these proposed regulation changes, okay. That is what you did, correct?

Mr. CRAWFORD. Yes.

Mr. MOORE. You didn't know about some of the interest groups that have now come forward at the time your agency originally did that, correct?

Mr. CRAWFORD. That is correct.

Mr. MOORE. Now you are aware that there are many other groups in the country, or at least some groups, that have some concerns about these proposed regulations, and you have indicated that—that was a yes?

Mr. CRAWFORD. Yes.

Mr. MOORE. And you have indicated a willingness to try to accommodate those concerns or at least listen to those concerns?

Mr. CRAWFORD. Yes.

Mr. MOORE. And take those concerns into consideration in promulgating new regulations, correct?

Mr. CRAWFORD. Correct.

Mr. MOORE. I want to get your response for the record.

Mr. SPATES. Yes.

Mr. MOORE. And right now, just so I understand, the enforcement of at least a portion of this regulation has been extended until April of 2000, correct?

Mr. CRAWFORD. Yes.

Mr. SPATES. Yes.

Mr. MOORE. I am a little unclear about that. Can you explain to me what portion has been extended to 2000, the enforcement—or has been suspended, what portion of the regulation is currently being enforced, if you will, either you or Mr. Spates?

Mr. SPATES. The completion of the form, first of all, to act as an agent and also to rent a box through that agent, the deadline has already passed. What was extended to April 26, 2000, was the fact that originally you had to use PMB by that time.

If I can alleviate some of your concerns about mail being returned, the original rule had a statement that mail without PBM will be returned. That has been rescinded. If you are making a reasonable effort—and we have to depend on our working relationship with the CMRA—no mail will be returned that doesn't have PMB, and if it still has "suite" because some of your correspondents are responding to advertising literature which has been out there for some time, has a long shelf life, we are not going to return that.

The CMRA industry has agreed when they are sorting the mail to their customers. If they see a customer that does not have a PMB on any of their mail, they will put a notice reminding them of their obligation. It is going to take time to get 100 percent. You know when you get Christmas or holiday cards, some people still have old addresses, so we are giving it plenty of time. We are not looking for excuses to return mail.

Ms. TAYLOR. The intent is one thing, and the reality is another. I have had problems with the Richardson postmaster. Intent at the corporate level may be one thing, and in the field, implementation is totally different.

The interpretation by the people in the field is that—and by a lot of the Mail Boxes Etc. and CMRA owners is, if your mail is not changed to the pound sign or PMB, then your mail will, in fact, be returned.

When you have had an address out there—to be honest, I can never have all of my mail addressed to #232. It isn't going to happen. I am too widely known throughout the world. So for them to even have that stipulation in there is ridiculous. Some person down here is going to implement it rather stringently.

Mr. MOORE. Mr. Spates, do you understand the concern that Ms. Taylor has?

Mr. SPATES. That stipulation has been removed, but you have 30,000 postmasters, and some will go off on their own. The industry has worked with us and brought to our attention the cases where they have been ordered to shut down or what have you. I wrote down Richardson, Texas, and we will follow up.

Mr. MOORE. So you can give Ms. Taylor your assurances that your agency will do its best to try to accommodate her concern there.

Mr. SPATES. We will make sure that accommodation is being exercised in Richardson, Texas.

Mr. MOORE. Ms. Fulcher, would it satisfy some of your concerns for the privacy and safety of the individuals that your group represents if a warrant were required, issued by a judge, before information could be released based upon probable cause?

Ms. FULCHER. Yes, absolutely. The requirement of a warrant would solve a lot of the safety concerns that we have.

Mr. MOORE. At least an impartial judge would pass on the information before that information was released?

Ms. FULCHER. Correct. I will point out, as was already stated, the Form 1583 requirements have gone into effect. At this point, battered women who are not sure what is going to happen to their address (and based on the Privacy Act statement that is on Form 1583, it can be handed out to just about anybody) are in a situation where they are not receiving mail because they can't fill out that form not knowing what is going to be done with the information.

Mr. MOORE. I thought Mr. Spates indicated that portion of the regulation has been suspended as far as nondelivery of mail.

Mr. SPATES. Exactly.

Ms. FULCHER. As I understand it, Form 1583 is required of the individuals. They had to have completed that at this point.

Mr. MOORE. Is that correct?

Mr. SPATES. You had to complete the form. They had the privacy statement on the back, but the chief operating officer issued a letter plus a follow-up letter reminding, you will not release any information to anyone until the proposed Federal Register statement on privacy is resolved, so they should not be releasing anything.

Ms. FULCHER. That is a very difficult thing for a battered woman who is facing a life-and-death situation to trust that the system will figure out, in the end, a good way to insure that her information is kept private.

Mr. MOORE. You understand that, Mr. Spates?

Mr. SPATES. We do.

Mr. MOORE. Ms. Fulcher has indicated that a requirement for a warrant before release of information would go a long way towards satisfying her concerns. What is your position on that proposition?

Mr. SPATES. I would yield to Mr. Crawford.

Mr. MOORE. Mr. Crawford.

Mr. CRAWFORD. That is something that we will take under advisement. I am willing to discuss any of these issues, and we will see if that can be done, but that is something that I would have to discuss with our counsel.

Mr. MOORE. I understand that. But there are only three members here this morning and one is gone now, but Ms.—the Chairwoman and Mr. Pascrell both have indicated, and I will tell you that I feel the same way, privacy of American citizens is a grave concern in these regulations that have been implemented.

As a former district attorney and law enforcement officer for 12 years, I place a lot more trust, frankly, in an impartial judge issuing a warrant and who is there, concerned for what purpose, what legitimate purpose this information may be requested, than just some individual at a post office, for example, or in an agency making a decision about release of information.

Can you appreciate that?

Mr. CRAWFORD. I do.

Mr. MOORE. I guess the question is, in view of the fact that right now a portion of the enforcement of this regulation has been suspended until April of 2000, is there any good reason right now that the remainder of the regulation enforcement cannot be suspended until some point in the future until some of these concerns are addressed and resolved?

Mr. CRAWFORD. I would say that based on our experience, we are pretty much for getting the rules out there. The longer it is postponed, we will still have people who are being victimized by the crimes that we have out there.

Mr. MOORE. I understand that, and I think even Ms. Fulcher indicates that she understands that. But there are victims on the other side as well who might be victimized by the regulation in effect at the present time. That may include Ms. Taylor or people represented by Ms. Fulcher. And so my question is——

Mr. CRAWFORD. From the Inspection Service standpoint, we are willing to work on anything to try to get this as perfect as possible.

Mr. MOORE. But my question really is, a part of this regulation has been suspended, implementation has been suspended. A part of it is already being enforced. So to resolve the concerns that have been raised here today, my question to you is, would there be con-

sideration on your agency's part to suspending the balance of the enforcement portion of the regulation now in effect until—say for another 3 to 5 months until some of these issues can be addressed and resolved? That is my question.

Mr. SPATES. Enforcement of PMBs is not until April. The form that you are signing—because the privacy issue is up in the air, you don't sign the form. I guess I have to check from the legal standpoint, if you don't sign the form, we cannot deliver the mail to that address. I would have to check with the law department on that.

Mr. MOORE. I would ask if you would check and let us know the answer.

[The information may be found in the appendix.]

Ms. TAYLOR. May I offer an option on that?

Mr. MOORE. Certainly.

Ms. TAYLOR. On my contract on the new 1583 form, I went through it just like any other legal contract, and crossed out those parts that I don't agree with, and put my initials on them.

Mr. MOORE. Have you made that a part of the record?

Ms. TAYLOR. No, but I would be glad to do so.

Mr. MOORE. I would like to see what portions of that form you find objectionable, and I think other members of this committee would like to see that as well.

Ms. TAYLOR. I would be glad to do that.

[The information may be found in the appendix.]

Mr. MOORE. Any other recommendations, Ms. Fulcher?

Ms. FULCHER. I mentioned in my oral testimony, in addition to a warrant requirement, we would like to see some very strict protocol put into place to make sure that those forms, when they are on file, are kept under adequate security and have someone in charge to make sure that the decisions to release that information are correct decisions. And we have even indicated, as well, that for purposes of battered women and victims of stalking, it would be good if they could actually contact someone in the post office to find out if their information has been released to anyone at some point. If that is something that they are keeping on file, that should not be a difficult question to answer.

But our understanding is that these forms will be kept on file at the individual post offices throughout the country, which makes security of the information very difficult if there isn't a very strict protocol in place. You have thousands of people across the country making decisions about whether to release that information and what is a valid request, what is a valid warrant to get that information.

Mr. MOORE. If there is a strict protocol in place which requires issuance of a warrant before release of that information and some sort of penalties for wrongful release, I would hope that would satisfy your concerns.

Ms. FULCHER. Yes, it will.

Mr. MOORE. Mr. Crawford and Mr. Spates, I don't fault you or your organization. It sounds like you followed the procedures in place for trying to publish the notices this proposed regulation, and sometimes the people don't sit around and read the Federal Register and I think maybe it is a fault on our part, meaning

Congress's part, for making that procedure if that is the procedure promulgated by Congress.

But now there have been some valid and legitimate concerns raised, and I hope that your organization would take the view that it is appropriate to try to satisfy some of these valid, legitimate concerns even though they may not have been raised timely. Can I get your agreement with that?

Mr. CRAWFORD. I agree with you.

Mr. SPATES. I agree, and there is a meeting scheduled with representatives of this group for next week.

Mr. MOORE. I thank all of the witnesses.

Thank you, Madam Chair.

Chairwoman KELLY. I just have a couple more questions that this line of questioning has brought out.

Mr. Crawford, does the Postal Service compete with the CMRA industry?

Mr. CRAWFORD. No, not to my knowledge. CMRAs actually are quite a benefit to us because CMRAs have boxes where we don't have boxes. We deliver the mail to the CMRA, and to my knowledge, there is no competition.

Chairwoman KELLY. It is interesting that you make that statement. I am quoting from the Postal Service's 1997 Strategic Plan as mandated by the Government Performance and Results Act. "Substantial competition from private mail and parcel franchise has emerged in recent years. Starting with a few hundred stores in 1980, this industry has grown to include 7,800 Commercial Mail Receiving Agencies, such as Mail Boxes Etc., FedEx, United Parcel Service, and other package delivery services have another 5,300 outlets that are focused primarily on business shippers. UPS also has contract arrangements with another 28,000 agents. Together, these companies generate over $5 billion in revenues.".

Just a side note, the Postal Service published this statement the same month it extended the initial comment period in 1997.

I am very interested that you said that there is no competition. I wonder how you say that has changed—has the system changed somehow since 1997?

Mr. CRAWFORD. The Postal Service is working with MBE. They pilot programs with MBE, and they are working in partnership.

Chairwoman KELLY. Mr. Crawford, you included FedEx, United Parcel Service and other groups that are in the private mail business in this statement; they were included. Now you are telling me that you are only working with MBE.

Mr. CRAWFORD. That is not my statement. That is the Strategic Plan for the Postal Service. You didn't say that was my statement, did you?

Chairwoman KELLY. No. I said I was quoting from the Postal Service's Strategic Plan, but you do work for the Postal Service?

Mr. CRAWFORD. Yes, ma'am.

Chairwoman KELLY. I assume in your capacity here before the Committee today, you probably have read this and understand it.

I asked you a question and you gave me an answer that I don't think is in compliance with what is indicated here in 1997.

Mr. CRAWFORD. Chairwoman Kelly, you asked me if I saw competition between the Postal Service and the CMRA industry, and

I answered it as best I could. I do not see where we are in competition with the industry. Postage——

Chairwoman KELLY. I am glad to hear that. There was a brochure, if I went into a post office—I saw this in my post office. It said, "Apply for Post Office Box Service, the Safe and Convenient Way to Get Your Mail." "This was in an October 8, 1998 Postal Bulletin. Can you define "safe"? Safer than what?

Mr. SPATES. I am not familiar with the brochure, but there have been cases with curb line mailboxes where there has been theft from the mailbox that "safe" was aimed at that, people getting access to the box.

We use the same type of promotion where you see cluster boxes, 15 or 16 boxes that lock. This is a way of having your mail delivered to you behind a lock as opposed to your standard curbside mailbox. That is safe.

Chairwoman KELLY. So you are saying that people who have rural route boxes and people who have cluster boxes and boxes in apartments and so on, they are in an unsafe alternative to the Post Office box?

Mr. SPATES. No, I am not saying that at all. We have had cases that received publicity, such as in Seattle where a group was breaking into the box and stealing mail before the customer got home to pick it up. That is what they are aimed at. They say it is a safe way; especially if you travel and are away from home for 2 or 3 days at a time and you don't have them put it on hold, a post office box is an option.

Chairwoman KELLY. The implication—it sounds to me like you may not feel the delivery that you are giving us is necessarily safe, if I just distill it down to a very simplified version of what you have said.

You don't feel that this comment is in any way headed toward the CMRA industry?

Mr. SPATES. No, ma'am, I don't. I will verify with the author of that letter. From a delivery standpoint, the CMRA industry does the post office a lot of good.

As Mr. Crawford mentioned, we deliver the mail in bulk and they sort it, and if they have 250 customers, they are sorting it to the customers. If we are in competition, I have never seen any—outward competition with CMRAs as far as the mailboxes themselves, because we didn't have enough to go around; and in the locations we are, they are not.

Chairwoman KELLY. Mr. Spates, we have obviously got a vote, and we are going to have to go vote. But I want to ask one quick question, and I want a fast answer on this.

Last Monday this committee gave you the letter that I believe came from the postmaster that Ms. Taylor was referring to, and we gave that letter to you. What have you done since last Monday to help Ms. Taylor?

Mr. SPATES. I had a member of my staff contact the postmaster in Richardson to take care of that situation. We had two letters handed to us. One was Richardson, Texas; and I can't remember the other one.

Chairwoman KELLY. You are now—as Mr. Moore pointed out—you are now thinking about what you are going to do in terms of

specific penalties regarding postmasters who do not observe what the letter of what your rule will be?

Mr. SPATES. I don't think that we need to look at penalties. I think they need to make sure that they are informed how the regulations should be applied.

Chairwoman KELLY. What will you do if they don't comply?

Mr. SPATES. We go to their vice president and make sure that they comply. The industry has provided us with letters similar to the one that she received in Richardson, but it has been less than a dozen. There was an education program that went on. We will make sure that people are properly educated.

Chairwoman KELLY. At this point, I will stop this panel. However, I am holding the hearing open for further questions on this issue. You will be receiving some questions from them, and I want you to be prepared to please give us the answers.

Thank you all very much for appearing here today. This panel will end, and when we return from the vote, we will begin the second panel. Thank you.

[Recess.]

Chairwoman KELLY. I am going to get started here. There are other people who are moving around, who are asking how this hearing is going. It is going, and so we are going to continue on right now with you, Mr. Morrison. We have our second panel. I thank all of you for being with us here today.

We have in our second panel, Mr. James Morrison, Senior Policy Adviser of the National Association for the Self-Employed; Mr. Michael Mansfield, Assistant District Attorney for Queens, New York, Chief of the Economic Crimes Bureau; Mr. Rick Merritt, the Executive Director of Postal Watch Incorporated; and Mr. Ed Hudgins, Director of Regulatory Studies of the CATO Institute.

I thank you all for being here today and let's go to you, Mr. Morrison.

STATEMENT OF JAMES MORRISON, SENIOR POLICY ADVISOR, NATIONAL ASSOCIATION FOR THE SELF-EMPLOYED

Mr. MORRISON. Good morning, Chairwoman Kelly and members of the subcommittee. I am James Morrison, the Senior Policy Advisor to the National Association for the Self-Employed. On behalf of the Nation's more than 16 million self-employed individuals, we want to thank you for reviewing this important issue.

Never, since I began working with the NASE in 1991, have I personally seen an issue that stirred more extensive and spontaneous member concern. We have attached to the written testimony a typical member letter from Judith and Thomas Coates in Washington State. They have published a dozen books and circulated more than 20,000 brochures, including reply envelopes with the designation "suite" in their return address, as they were told they could. Now they and others like them stand to lose a substantial portion of their business. Reply mail bearing the "suite" designation will be returned to its senders as undeliverable.

Why? Why would the Postal Service adopt rules that would devastate thousands of law-abiding small businesses. The Postal Service believes its actions are needed to prevent postal crime.

No one disagrees with the goal of fighting crime. All of us respect the work that the postal inspectors do. Like all law enforcement officials, they are courageous public servants who deserve our support and thanks. The postal crime that they are trying to root out is certainly a major problem. But how best to combat that crime?

Ms. Kelly, no one objects to allowing law enforcement officers on additional duty learning the identity of PMB renters, monitoring unusual or suspicious activity at a PMB or fostering a closer working relationship between the CMRAs and the postal inspectors. But in our written testimony we suggested some types of postal crime, including telemarketing and Internet fraud, identity theft and credit card fraud, that might be more easily prevented in ways that the PMB rules especially do not address, such as giving credit card companies access to Postal Service databases on CMRA locations, taking a closer look at post office change-of-address forms, providing better training to CMRA operators, and improving the cooperation between CMRA operators and the postal inspectors.

The PMB rules should avoid imposing costs on legitimate businesses unless those costs represent the best way to fight crime, because we need to deter crime in ways that are targeted and effective to avoid wasting law enforcement resources. In ways that will build public support for law enforcement, not erode it. And in ways that would burden would-be criminals without unnecessarily burdening the law-abiding. In ways that can be shown to work. That is the nub of the problem with these rules.

The NASE believes that the PMB rules are flawed not because there is no crime problem, but because the process that generated these rules is so flawed that no one can have any confidence in them.

We can all agree, I think, that the rules impose a burden. What we cannot know, because the rules do not provide the information necessary, is whether that burden is appropriate or necessary. We don't know in large part because USPS has been given so many exemptions from the rulemaking laws that apply to the rest of the Federal Government. From the Administrative Procedure Act, the core Federal statute governing rulemaking. From the Paperwork Reduction Act. From the Regulatory Flexibility Act and from the Small Business Regulatory Enforcement Fairness Act, Congress's bill of rights for small business.

All of these exemptions mean that USPS is not even required to empirically justify its regulations, let alone to seek and weigh public comment. With the PMB rules, USPS did solicit public comment, but then they basically ignored what they didn't want to hear.

Over 8,000 people objected to the first set of rules. And what did USPS do? They spent entire pages of the Federal Register dwelling on the 10, yes, 10 comments that they received favoring the proposal. There are also major disconnects between the problems as originally stated and the solutions proposed.

Our written testimony goes into that in more detail. But suffice it to note that the initial proposed rule did not mention the following terms: mail fraud, identity theft, or even crime. So now we are facing Postal Service rules imposed on perhaps 2 million renters of private mailboxes, many of them small businesses, but we

lack a few things. We lack any regulatory flexibility analysis of the rules. We lack any definition of small business, any analysis of small business impact, and we never had any outreach to PMB renters who are small businesses. Nor did we have any frank acknowledgment that the USPS does in fact directly compete with CMRAs. Above all, there was no honest effort to surface less burdensome alternatives for small businesses.

USPS says that CMRA fraud has grown. Perhaps so. But CMRAs themselves have grown exponentially. Is fraud as a percent of the CMRAs growing or declining? We are also missing a few other data elements such as any hard data on mail fraud, identity theft or other postal-related crimes; any empirical breakdown of how, where and by whom such crimes are committed; any statistics on postal crimes committed through CMRAs compared to those committed through private households, USPS post office boxes, apartments, executive suites, or other addresses.

In sum, USPS has no baseline from which to measure the success or failure of any CMRA rule it implements. So when the Postal Service says these rules will stop postal crime the obvious response is, "how do you know?" And even if the rules do help prevent crime how can anyone know whether a better approach to stopping crime has been overlooked?

USPS evidently intends to reopen part of this rule. According to a press release last week, USPS now proposes to give PMB renters two options—use the PMB designation in the return address or the number sign. But people and Mr. and Mrs. Coates who have used suite in their catalogues and reply envelopes will still be out of luck. And why? Well, lately USPS has talked less about crime and more about suite designations as being, quote, unquote, "misleading."

If the powers of the Federal Government now will be brought to bear on misleading addresses, especially in light of Mr. Spates' statement a moment ago that anyone will be able to dial an 800 number and find out whether an address is in fact a CMRA, well, we can think of a few other misleading addresses besides those used by entrepreneurs that should also get scrutiny, and some of those are in our testimony.

We look forward to seeing USPS's empirical justification for the rule, but chances are there won't be one. Most likely we will hear again about USPS' many exceptions from the laws that apply to the rest of the Federal Government. And there is no assurance that USPS will not engage in similar activity again in the future. Far from it. Given the Postal Service's first class mail monopoly and life or death grip on businesses that depend on the mail for their cash flow, given its power to regulate many of its own competitors such as the commercial mail receiving agencies, given its exemptions from every regulatory law that counts in this country and given its for-profit status, given all this, there will someday be a disastrous misuse of this regulatory power—if not on this issue this time, then on another issue another time.

The whole PMB fiasco shows that Congress should revisit the legal framework under which the Postal Service regulates the public. This Committee which shares legislative jurisdiction over the

Regulatory Flexibility Act with the Judiciary Committee ought to lead the way.

Chairwoman KELLY. Thank you very much, Mr. Morrison.

[Mr. Morrison's statement may be found in the appendix.]

Chairwoman KELLY. I have been informed of a change in the floor plan for the things that are going to go on the floor of the House today, and I am going to have to ask you all to limit your statements to 5 minutes or less in order to be able to try to fit the rest of this hearing into the floor schedule today.

Mr. Mansfield.

STATEMENT OF MICHAEL MANSFIELD, ASSISTANT DISTRICT ATTORNEY, QUEENS, NEW YORK, CHIEF OF ECONOMIC CRIMES BUREAU

Mr. MANSFIELD. Thank you, Madam Chairperson.

Actually, my comments take somewhat longer than that, so I will try to skip through them and be as brief as possible.

As an Assistant District Attorney of Queens County I am in charge of the Economic Crimes Bureau for Richard Brown, the District Attorney of Queens County. District Attorney Brown represents a constituency of almost 2 million people. Our office prosecutes approximately 60,000 cases a year, running the gamut from homicides, rapes, to quality-of-life crimes such as prostitution and the like.

In addition, we play a significant investigative role in such areas of criminal conduct as narcotics trafficking, organized crime, labor racketeering and economic crime.

I very much appreciate the opportunity to speak here today in support of the Postal Service's regulatory changes concerning CMRAs, and I want to take this opportunity to thank the Postal Inspection Service on behalf of the prosecutorial law enforcement community for its aggressive investigative efforts in the fight against white collar financial crimes. However, Madam Chairperson, we in the City of New York are fighting an uphill battle against these criminals based on the current regulations concerning CMRAs.

To paraphrase that famous bank robber from the 50s, Willie Sutton, whose response to the question why he robs banks was because that is where the money is, similarly financial crime thieves use CMRAs because that is where the money goes. And go it does. The losses attributable to identity theft and other forms of account takeover number in the billions of dollars a year, not to mention the financial havoc that is visited upon the consumers who are the victims of these crimes. I know from my 16 years of being an economic crime prosecutor that it sometimes takes years for these victims to undo the damage done to their credit status.

What I wanted to speak about today is, over the past 4 years my office, in conjunction with the Postal Inspection Service, Federal and State law enforcement agencies, has dismantled four multimillion dollar financial fraud enterprises who owed their very existence and survival to the many CMRAs which operate in the New York metropolitan area.

The problem with criminal use of CMRAs has become so widespread that the prosecutions that we have conducted in Queens

County have drawn the attention of national media, including numerous newspaper and magazine articles as well as being featured on 60 Minutes and other news magazine shows.

Our four investigations, dubbed Operation Silver Parrot, Operation Mail Stop, Operation Black Leather and Operation Nigerian Express, involved highly structured ethnic organized crime groups that used New York City as their base of operations, but their criminal activity extended throughout the United States. Indeed, they had the opportunity to operate wherever a CMRA existed.

Briefly, Operation Silver Parrot was an 8-month investigation that resulted in a 200 count indictment under our State's equivalent of the Federal Rico Statute, charging eight Nigerian nationals with operating a multi-million dollar fraud ring that specialized in the theft of credit identities of thousands of people throughout the United States.

The individual who was responsible for that ring, Olishina Adecombie, received a 10-year prison sentence for his role in that enterprise; and that was based on his cooperation with our office.

Basically, the tactic used by this ring was to obtain personal information about a potential victim from a number of sources. It is commonly known as identity theft. And they would then divert that individual's mail to a CMRA. The ring systematically drained the victim of all available cash and credit from their accounts—from home improvement accounts to pension lines—even to the point of using one victim's frequent flier miles that he had accumulated.

Since that time, some of the loopholes that permitted that and those crimes to occur have been plugged by the Postal Service. And the leader of that group, when we interviewed him, indicated that he made $8 million during the course of our investigation and the time prior to it in the area of identity theft and his use of CMRAs.

As a result of that prosecution, we in the law enforcement community learned a lot about identity theft rings and their use of CMRAs. And under the adage "if you can't beat 'em, join 'em," we decided to commence a sting operation where we set up our own CMRA which was manned by undercover postal inspectors, Federal agents and detectives from my office. I am happy to say that early this year we convicted the last of the 13 defendants in Operation Mail Stop who comprised a ring of West African nationals who were again prosecuted under our State Rico statute.

As its name suggests, Operation Mail Stop was a major financial fraud ring whose success was only possible because of the extensive and pervasive use of CMRAs by the criminal element.

And reminiscent of Kevin Costner's movie Field of Dreams, "if you build it they will come" our experience was not only that they came to our CMRA but they came in such overwhelming numbers that we were forced to concentrate our efforts on only one of many rings there were operating out of our CMRA. In this case, stores and other financial institutions were contacted directly by the criminals and diverted the mail directly from the individual financial institutions directly to the CMRAs.

We obtained court-ordered wiretaps. We were able to track this ring. They were calling up credit bureau reporting agencies, having copies of people's credit reports sent to the CMRA and then would systematically drain that individual's entire financial profile.

If I could go on to our third example which was operation Black Leather. This again was a multi-million dollar fraud ring operating in New York, New Jersey——

Chairwoman KELLY. Excuse me, Mr. Mansfield. That amber light means you have about 1 more minute left.

Mr. MANSFIELD. I will be quicker then, Madam Chairperson. My time is already up.

But briefly in that investigation that was a merchant bust-out scheme where all the members of the ring set up phony storefronts using CMRAs as their base of operations. Our entire investigation brought us back to CMRAs. It took us approximately 8 months to complete that investigation.

Again, in that case we had one Westchester resident, a Sister Margaret Mary, a Dominican nun who noticed on her credit card bill that she was charged for the purchase of a leather coat from Queens, New York. She ended up being a very credible witness for us because she never even tried one on, much less purchased one.

I won't go into the last one because I see my time is up, Madam Chairperson. But from the perspective of law enforcement, particularly in the city of New York, if we don't have the ability to track people who are renting boxes at CMRAs and engaging in criminal conduct, as well as being able to identify boxes that are actually at homes as opposed to CMRAs, our job in fighting financial crime will be that much more difficult.

I thank you for your time.

Chairwoman KELLY. Thank you very much, Mr. Mansfield.

[Mr. Mansfield's statement may be found in the appendix.]

Chairwoman KELLY. Mr. Merritt.

STATEMENT OF RICK MERRITT, EXECUTIVE DIRECTOR, POSTALWATCH INCORPORATED

Mr. MERRITT. Chairwoman Kelly and distinguished members of the subcommittee, thank you very much for this opportunity to appear here before you today.

My name is Rick Merritt. I am the executive director of PostalWatch Incorporated, a small business owner and a long-time private mailbox customer. PostalWatch is a grass roots organization founded in order to provide to the small business community a voice in postal-related issues such as this.

Speaking on behalf of our membership and all of the small businesses that utilize private mailboxes, we commend the Subcommittee's tenacious pursuit of regulatory equitability on this issue.

For the record, PostalWatch strongly opposed the U.S. Postal Service regulations published in the Federal Register on March 25th, 1999, governing Commercial Mail Receiving Agencies. We are of the opinion that the Postal Service enacted these regulations without any documented justification and that the procedural processes surrounding their enactment continues to be so egregiously flawed that these regulations should be rescinded in their entirety immediately.

At this time I would like to provide special thanks to Congressman Ron Paul and Congressman Todd Tiahrt for their efforts on behalf of overturning these regulations as well.

Attached to my written testimony is a CATO Institute briefing paper which contains a table entitled "Cost of New Postal Regulations." This table is an estimated "Range of Direct Costs" to small business during the first year of these regulations. Since its publication, the Postal Service has repeatedly attempted to discredit this estimate by charging that the assumptions used in the estimate were unsupported and inflated. I would argue that the direct cost estimates are, in fact, conservative. I would further argue that the direct cost represents but a fraction of the total economic impact these regulations will impose on small business. The future value of "Lost Opportunities" and "Future Revenues" could easily add an additional $1 billion if not $2 billion to the total cost imposed by these regulations.

The real cost of these regulations, however, is not measured in dollars but in human suffering. Please make no mistake. The Postal Service is actually putting people out of business with these regulations.

The Postal Service is quick to point out and leverage the truly sad human suffering and economic devastation caused by the crimes of mail fraud and identity theft. They fail, however, to acknowledge the truly devastating effect that these regulations will impose on potentially millions of Americans and their families. A small business is, for the most part, a family institution that represents the hopes, dreams and, many times, the life savings of several family members. Starting and operating a small business is an emotional experience that requires long hours, unrelenting dedication and personal sacrifice.

The following are excerpts from a few of the hundreds of individual stories we have received from our members on how these regulations are impacting their lives and livelihoods.

A small business owner in San Antonio, Texas, wrote, "the new regulations were the last straw. Our private mailbox outfit went out of business. They made arrangements to transfer their mailbox holders to another firm right down the street. However, the Postal Service has been holding our mail for a week now and will not release it to anyone. Do you have any suggestions as to how we might get our mail, checks and orders? The Postal Service just says, 'We have not decided what we are going to do with the mail yet.' They do imply, however, that if we get a P.O. box from them the mail would instantly appear in the box."

Another boxholder wrote, "it is beyond my ability to know how to make these ridiculous changes. I am a divorced mother of three children trying to make a business to support my family, and the government will put me out of business. Please explain that one to me."

A CMRA in Fresno, California, wrote, "I am a CMRA who is about to go out of business due to the cancellation by my mailbox holders who are furious about this insane regulation and the invasion of their privacy."

A CMRA in Baltimore wrote, "with boxholders dropping like flies, closing boxes because they are fed up with the rules, funds are dwindling, just what the Postal Service wants: Put the competition out of business."

A boxholder in Arizona wrote, "I am married to a diabetic. He has had eight operations since October. He is now on dialysis four times a day. Besides taking care of him every chance I get, I work most days from 6 a.m. to 10 p.m. Now the Post Office comes along and says, fill out this form. They want to know everything about you except the color of your kitchen sink, and they want you to change your address and advertising. I have been in business 17 years and have acquired approximately 300,000 clients, businesses and vendors. What on earth is going on here? This regulation must be stopped immediately."

In conclusion, I would like to say that millions of small businesses are being forced to absorb a huge economic burden to solve a perceived problem the Postal Service has not even bothered to define. Without collecting the criminality statistics about CMRAs prior to enacting these regulations there will be absolutely no way to ever determine if these regulations were effective at anything other than terrorizing millions of small business people.

This regulatory action on the part of the Postal Service by decree cripples thousands of its private sector competitors, imposes a huge unfunded mandate on small business and tramples the privacy rights of 2 million law-abiding American citizens, without as much as a token attempt at justification, cost-benefit analysis or demonstrating the existence of any compelling public interest.

The fact that these onerous regulations found their way so easily into law makes a compelling case for Congress to repeal U.S. Code Title 39, section 410, which grants the Postal Service an exemption from the Administrative Procedures Act and thus all other statutes that protect the American people from runaway regulatory agencies.

This concludes my testimony. Thank you for this opportunity to appear here today. I would welcome any questions.

Chairwoman KELLY. Thank you very much, Mr. Merritt.

[Mr. Merritt's statement may be found in the appendix.]

Chairwoman KELLY. Mr. Hudgins.

STATEMENT OF DR. EDWARD L. HUDGINS, DIRECTOR OF REGULATORY STUDIES, CATO INSTITUTE

Mr. HUDGINS. Thank you for the opportunity to testify today on the problems of the new CMRA regulations. I will summarize my testimony which will echo some of my colleagues.

The sloppy, capricious and arbitrary manner in which the Postal Service has made and implemented these regulations have harmed small businesses. The new regulations illustrate why the Postal Service, a government monopoly with regulatory powers that it can use against its competitors, at minimum should be made fully subject to the Paperwork Reduction Act, Regulatory Flexibility Act, and other government statutes that are meant to protect citizens from abuses by government. If it had been so subject we probably wouldn't be having this hearing today because many of these issues would have been vetted earlier. I also think that the new CMRA regulations should be repealed.

Take a look at the process by which the new regulations have been made. I will just highlight some of the problems.

First, the Postal Service has ignored the will of the people—8,100 comments against, 10 in favor. It went with the 10.

Second, the Postal Service failed to demonstrate the magnitude of the problems.

We found an Inspector General report that indicated that in a 1-year period there are 9,642 convictions for mail-related crimes, of which 1,533 involved mail fraud or about 16 percent of the total. But there was no breakdown about how many of those cases involved CMRAs versus home addresses versus post office boxes.

Third, the Postal Service has failed to show exactly how the new regulations will deal with the mail fraud problem.

Fourth, the Postal Service has failed to determine whether the costs of its regulations in fact outweigh the benefits. If in fact the costs are a billion dollars and there, let's say, are about 1,000 cases involving CMRAs, that is about $1 million per case. Is that too much? Too little? We don't know.

Fifth, the Postal Service has failed to seek the regulations that had the least costly impact on small business as it would be if it were under the Paperwork Reduction Act.

Sixth, the Postal Service has shown a reckless disregard for the privacy of the citizens. Its March 25th posting indicated that in fact it would be releasing confidential information to the public, but this seemed to fly in the face of its own Title 39 regulation in the Code of Federal Regulations.

Seventh, the Postal Service seems to be making up the regulations on the fly, as it goes along. Interestingly enough, it seemed to realize that it was violating its own privacy rules because on June 9th it had another posting in the Federal Register basically saying that it now would release the information to anyone who walked in and asked for it. And then on August 26th it rescinded that proposal and changed it again.

Eighth, the Postal Service has denied to many enterprises the opportunity to comment on the regulations to which they are subject. It was only on April 29th in a memo from Patricia Gilbert of the U.S. Postal Service that it declared that executive office suites and other mail forwarding enterprises would be subject to these regulations. Those enterprises never had a chance 2 years ago to comment on them. And, of course, the Postal Service has made no attempt whatsoever to show that any cases of mail fraud have originated from executive office suites.

Ninth, the Postal Service has been erratic and inconsistent in its enforcement.

And I will call your attention to the case of Ms. Sabiha Zubair, who operates a CMRA franchise in northern Virginia. She has gone from having 221 boxholders to 159 boxholders because of the harassment by the local Postmaster. She has lost 30 percent of her business because of these regulations.

I want to put into the record the letter from the local Postmaster to this woman that almost shut down her business.

Tenth, I do believe the Postal Service uses its regulatory authority against its competitors.

Eleventh, this latest incident gives small businesses and large a preview of what can be expected in the future. The U.S. Postal Service has been losing a lot of profitable first-class mail to faxes,

e-mails and private carriers. Its own numbers indicate that when electronic billing is fully implemented in 5 to 10 years it could lose $15 billion in revenue off of a base of $65 billion.

In recent years, the Postal Service has begun to offer many services that are not part of its mail monopoly—for example, check-clearing operations, e-commerce operations, et cetera. And, of course, the Postal Service is competing head to head with private businesses, yet it is not subject to taxes and not subject to most government regulations. It can borrow from the U.S. Treasury, and it has regulatory authority against its competitors.

In the future, I think you are going to see a lot more of these kinds of regulatory problems.

The examination that is going on right now should have occurred 2 years ago. If the Postal Service had been subject to other government regulations, it would have.

Ultimately, the only answer to these problems is going to be privatization. New Zealand and Sweden have both privatized their Postal Services. The largest postal carrier in Europe, the Germany's Deutsch Post, is going to be making an initial stock offering next year of its shares, and it is going to be removing its monopoly on January 1, 2003. Also, in Germany, there is an independent regulator to regulate not only Deutsch Post but its competitors. But until we privatize the Postal Service in this country I think the minimum action should be to make the Postal Service subject to all of the other safeguards that other government agencies are subjected to and, that the CMRA regulations be rescinded immediately.

Thank you for your attention.

Chairwoman KELLY. Thank you very much, Mr. Hudgins.

[Mr. Hudgins' statement may be found in the appendix.]

Chairwoman KELLY. Mr. Hudgins, you have a letter that you would like to insert in the record. We are delighted to accept that with unanimous consent.

[The information may be found in the appendix.]

Chairwoman KELLY. At this point, we have been joined by my colleague from New York, Mr. Sweeney. Do you have a statement you would like to make?

Mr. SWEENEY. Yes, I would.

First, let me congratulate and thank the panelists for being here.

Madam Chairwoman, everyone wants to reduce fraud. Unfortunately, as I believe the testimony—what we have seen today, what I have read of it, this rule opens the door for identity theft and invasion of privacy and threats of violence.

In my district alone just yesterday I found out a constituent of mine, Mr. Greg Tucci, who is an owner of a company in Granville, New York, a commercial mail receiving agency, was effectively shut down and put out of business by the postal authority. And I am outraged by that. The Postal Service not only stopped his delivery service, but they are also holding his mail. And effectively—and they have done that because all of his customers have essentially refused to fill out the revised PS form 1583.

So, with that in mind, I would like to submit my formal statement, and I do have some questions.

Chairwoman KELLY. Your statement is accepted.

[Mr. Sweeney's statement may be found in the appendix.]

Chairwoman KELLY. Mr. Sweeney, if you don't mind allowing me the prerogative here of the chair, I would like to ask one question of Mr. Mansfield.

Mr. Mansfield, you testified continually referring to identity theft as going through financial institutions. The financial institutions as I understand it can and do purchase a delivery sequence file, and the file shows a financial institution whether or not an address is a CMRA. So why aren't the banks and the credit card companies using this?

Mr. MANSFIELD. Madam Chairperson, I think you would have to address the financial institutions in that regard.

But I do know from speaking with them, what they have said to me when I have said many of the same things to them, they have said, well, we have a number of legitimate cardholders that use CMRAs. When I give examples of all the fraudulent users of CMRAs—obviously, I am a prosecutor; that is a lot of all I see. But there are, as you know, a vast majority of individuals who are legitimate users of CMRAs.

They said, we have people who, for the reasons set forth like this morning with the woman discussing domestic violence and the like, who have legitimate reasons for using CMRAs. So financial institutions will not block deliveries to CMRAs though even small businesses are affected by fraud occurring in CMRAs.

In one of the investigations that I didn't get an opportunity to speak of, but it is in my testimony, orders were being placed with many small businesses that operated on the Internet and had mail order catalogue businesses and that merchandise was being sent to the CMRAs by the criminal element. And then, either the checks they sent or the cards they were using were bad—the small businesses ended up suffering the losses. And these losses have to do with the regulations concerning credit cards when there is actually not a signature on file that the Internet company or the mail order company uses the credit cards at their peril.

Chairwoman KELLY. I am just interested in your perspective on what responsibility you feel that the banking institutions and department stores and people who issue credit cards have to investigate where they send their mail?

Mr. MANSFIELD. Well, they clearly have to be more vigilant. After the last investigation that we had completed, my boss, District Attorney Brown, testified before another Senate Committee concerning regulations that the Postal Service has since put in effect to stop our first crime wave, if you will, from occurring, and those regulations were put into effect.

With respect to the financial institutions, they clearly have to be more vigilant when they are given a change of address form to divert someone's mail. But I think imposing on the financial institutions the responsibility that they should stop sending mail to the CMRAs would have an effect on those that are legitimately using the CMRAs also.

Chairwoman KELLY. Don't you think it would be an effective solution to have the financial institutions verify an address change? You know, why don't they just call a person and find out, "Did you change your address?" Or you know, it seems to me that I get calls

all the time because of the erratic use of my own personal credit cards. I only have two, and I use them erratically, and, inevitably I get a telephone call from the credit card company saying, is this really you? Did you really use this? If the credit card company can do that, it seems to me that other credit-issuing organizations ought to be able to pick up the phone and just check, the same way that my credit card people do. Do you have any explanation for that?

Mr. MANSFIELD. Let me give you an example of one way that that will not work. On one of the rings that we prosecuted the way they started getting the person's credit information was they first went to the credit reporting agencies, Equifax, TRW, Transunion, and they said that my husband lost or was denied employment or my husband was denied credit and we would like a copy of our credit bureau. Under the Fair Credit Act, they are required to send that out. They said, by the way, I have moved; and they gave the address of a CMRA to the credit bureau.

Now, that is through the credit reporting agency. So now the credit reporting agency thinks they are updating their file, oh, we will update our files now. We are putting this other address down. Then when the credit bureau was sent to the CMRA, the criminals would then go to the individual department stores or the individual financial institutions and say—I want a new credit card sent to me. I have a new address. If that credit institution were to verify the change of address, one of the things they would do is pull the TRW or pull the credit bureau and, lo and behold, that credit bureau have the same change of address.

In other cases, they were even changing the victim's telephone numbers to numbers that were controlled by some of these criminal organizations.

So the short answer to the question is, yes, there is a lot financial institutions can do, but I think there is a lot that we, as government officials, are able to do also to prevent this kind of thing from occurring. The individuals are not suffering, by and large, financial losses, but just dealing with some of these people, what has happened to their credit ratings, it takes them years to get it back.

Chairwoman KELLY. And that still doesn't answer the question of why the credit bureaus don't pick up the phone—they are carrying a great deal of information about all of us in computers in the sky somewhere, and it seems to me that we ought to have some kind of information check. If somebody is changing their address, their telephone number, then legitimately if you pick up the phone and call and say, is this you, did you change your telephone number, did you change your address, I think that there is certainly some obligation they must carry.

I have lived in the same house for almost 39 years now. I have actually had four addresses. I don't change my address. The post office changes my address.

That brings me to a question I wanted to ask about this regulation. Do you think that by tightening its controls in the way that the post office did that you think it is a way for them to deter fraud? Why are they aimed only at the small businesses using the CMRAs? I think that you ought to be able to include other regulations that don't destroy legitimate small businesses.

Mr. MANSFIELD. Are you asking me that question, Madam Chairperson?

Chairwoman KELLY. Yes.

Mr. MANSFIELD. Which specific regulation are you referring to? Are you referring to the fact that identification should be used to open it, the fact that they should have a PMB designation? Because I think the answers to each regulation are somewhat different.

Chairwoman KELLY. Well the USPS has changed their own rule, so they have a move verification letter that is sent back to you if you have a change of address form. Wouldn't that suffice for what we are talking about here?

Let's let anybody else on the panel jump in on this one. Go ahead, Mr. Mansfield.

Mr. MANSFIELD. I'm sorry, in terms——

Chairwoman KELLY. If they had a verification letter or a verification telephone call, wouldn't that suffice to stamp out fraud?

Mr. MANSFIELD. In terms of the financial institutions doing it? Well, the Postal Service——

Chairwoman KELLY. The Postal Service just changed their regulation to include this.

Mr. MANSFIELD. That was the result of testimony by District Attorney Brown before another Committee where that was the very problem that caused the first ring that we prosecuted to exist, that they were wholesale changing addresses with the Postal Service. I imagine what you are asking me is could we have a move verification letter with the financial institutions.

Chairwoman KELLY. And with any other——with the, as you say, the credit companies, anyone who has credit information, any department store that issues credit cards, all of those people could send verification letters or make verification telephone calls, could they not?

Mr. MANSFIELD. They probably could. I don't know what that would do to the cost of our credit cards. But that also doesn't address the issue of when criminals open up PMBs, operate them as suites and then apply for credit cards and conduct fraud right out of that location when they are not actually changing someone's address—you know, just bilking the consumers also.

Chairwoman KELLY. You mean originals.

Mr. MANSFIELD. I have only addressed the identity theft issues. We have—as an economic crime prosecutor, I have a host of consumer-fraud-related problems that occur also. They are not as large as the issues involving identity theft, but they also exist at CMRAs. And those don't involve changing somebody's address.

Chairwoman KELLY. I see both Mr. Merritt and Mr. Hudgins would like to jump in here. Feel free.

Mr. MERRITT. Madam Chairman, I would ask Mr. Mansfield, has he ever encountered an identity theft problem where a CMRA was not used, but an apartment complex or a small office was used?

Mr. MANSFIELD. Sure, we have.

Mr. MERRITT. So this is not exclusively a CMRA problem but there seems to be some feeling although no statistics that show it, that it is more prevalent at CMRAs than any other particular type of address.

Mr. MANSFIELD. It is overwhelmingly at CMRAs.

Mr. MERRITT. But no statistical data to support that.

Mr. MANSFIELD. I can give you statistical data from my office from the number of cases we prosecute. For the past 4 years that I have been in charge of the Economics Crime Bureau, without being back there and doing research, I have probably had a handful of cases involving apartment buildings and the rest actually involve CMRAs.

Mr. MERRITT. If in fact the CMRAs were completely shut down, if the Postal Service made it illegal to be a CMRA, are you actually of the belief that there would be any significantly less identity theft perpetrated or would the perpetrators be ingenious enough to find an alternative which is not regulated like an apartment or small office where identification is not required at all?

Mr. MANSFIELD. As a lawyer, it is difficult to answer speculative questions such as that. But all the cases we worked on—the criminal element is very intelligent. We are always, unfortunately, one step behind them. I am sure it would take a large chunk out of the identity theft issue. We are not asking CMRAs be shut down. They serve legitimate purposes.

One of the other hats I happen to wear at the District Attorney's Office, I am in charge of our witness protection program; and I relocate witnesses throughout the United States. And one of the things that I do when I have my detectives relocate witnesses, we set them up at a CMRA in order for them to get their mail. So the conversations that were being had with the women from the domestic violence group impact our way of relocating witnesses who have death threats against them also.

Chairwoman KELLY. Right. Mr. Mansfield, I am glad you offered that. I think this is a really difficult problem that we must work through with a lot of information. You don't know of anyone who happens to have any statistical basis for this particular rule that the USPS promulgated, do you?

Mr. MANSFIELD. Madam Chairperson, I am not here on behalf of the Postal Inspection Service. I am here on behalf of the law enforcement community in New York. But I can tell you that one of the reasons that we opted to open a CMRA for our sting operation was the statistical data that we were getting from the financial institutions about losses that were occurring at specific addresses and at specific with zip codes. Then we were able to reduce it to specific addresses. So I think perhaps the financial community would be in a position to give you some of that statistical data that you seek.

Chairwoman KELLY. Thank you very much.

Mr. Hudgins.

Mr. HUDGINS. If I could just add, I think your point is well taken when you say perhaps some sort of a confirming phone call would be useful. I suggest in my written testimony that one of the problems of not having a process by which the Postal Service must vet these issues before the fact is that it might overlook what I would call a more minimalist solution that would deal with, say, 90 percent of the problem. It might involve, for example, phone calls; it might involve, for example, the fact that credit companies have access to a data base where they can learn whether an address in fact is a CMRA.

Perhaps companies could organize their own internal workings differently so that if an individual has a CMRA address and is moving, well, the company would check that one particular individual carefully. And perhaps a combination of those kinds of safeguards would head off 90 percent of the problem. That is why I think if the Postal Service were subject to the Paperwork Reduction Act and lots of other acts, that we would have vetted these issues 2 years ago and we wouldn't be having this conversation now.

Chairwoman KELLY. Mr. Merritt.

Mr. MERRITT. Madam Chairperson, one thing I would like to clarify, there seems to be some misconception that identification was not required in order to rent a CMRA box prior to these regulations, which is not the case. Identification was required before this, and one of the most onerous things that the existing small business community finds about these regulations is the fact that they are retroactively forcing people like Sandi Taylor, who has been in the same CMRA location for many years, to now fork over significant identification, again.

I would argue that if fraud of any type is perpetrated at CMRAs it is probably perpetrated by the people who come in, open a box for a short period of time and then leave. So consequences of these regulations are forcing existing boxholders to go and reaffirm their identities and provide significant personal information—I might add that information that people are fighting to keep private—is the same information that has found its way so prevalently out into cyberspace that now facilitates the identity theft that they are trying to curb with these regulations. So protecting your personal information prevents identity theft, identity theft is the result of unprotected private information.

I would ask if you would not agree with that, Mr. Mansfield.

Mr. MANSFIELD. I think I agree with that, yes.

Mr. HUDGINS. If I could add to what Rick has just said, we find that, in fact, many of the CMRAs are not allowing new customers to have "suites" or "apartment" addresses, that they are doing that voluntarily. So it seems that most of the suite and the apartment addresses in the future are going to be the older ones, and those are not the quick-hit artists who are pulling the scam. So it seems like, in a sense, the market is starting to take care of the situation all right.

Mr. MERRITT. I might, if I could, add that the people that have rented a box the longest are the ones who are going to endure the most cost because they would have had the most clients that have the old address. So the people least likely to perpetrate crimes are the ones that suffer the most from these regulations. Thank you.

Chairwoman KELLY. I thank you.

Now I am going to turn to my colleague from New York, Mr. Sweeney.

Mr. SWEENEY. Thank you, Madam Chairwoman. I came late, and you have been here a long time. I will try to be brief.

Mr. Mansfield, I, too, am a very strong supporter of the law enforcement community in New York. I am sponsor of six asset forfeiture bills in the House and regularly take on both the right and the left on those issues. So this reminds me—these regulations re-

mind me of some of the same arguments used in those instances, and the question is, where is the line drawn and where it is most effective?

So while you are not representing the post office here you are someone who can find—someone who can find those lines of delineation where we protect folks. There are five broad requirements in the new rule, and I think one of the keys to this hearing and our process here in the Committee is going to be try to find a way to narrow that process down and achieve the goals.

You said that the reason financial institutions change addresses to CMRA boxes is because legitimate people use them, and I think Mr. Merritt has touched on this a little bit as well. Why would a PMB designation do anything then if that is the case?

Mr. MANSFIELD. Because if someone is calling up and saying, I have moved; this is my new address, that is not where they have moved to. If it is a PMB or a post office box, you know mail is changed a lot, and it is changed to post office boxes or something that it is clearly identifiable as to where it is going. When you say you have moved, this is where I now live, you are not living in that 6-inch box. You are getting your mail there. That is a legitimate thing to get your mail somewhere, but then it requires a follow-up question, where are you moving to?

All the PMB designation is doing is it is indicating what the reality is, that this is a place that an individual is receiving mail and should be accepted as such. You shouldn't be able to have the facade that you have moved to a location when in point of fact you haven't moved there.

Mr. SWEENEY. All right. But I think—well, okay. Let me go down because I know you want to finish it.

Mr. Merritt, who is your biggest competitor?

Mr. MERRITT. My biggest competitor? PostalWatch? As far as I know, we don't have a competitor.

Mr. SWEENEY. Would the postal authority be your biggest competitor?

Mr. MERRITT. We represent the individual boxholders as a grassroots organization, Congressman Sweeney, so we don't really have a competitor I don't think. We are a dot-org. We are just trying to protect the boxholders from these regulations.

Mr. SWEENEY. Let me ask you, Mr. Hudgins and Mr. Morrison, if we were to extend the Regulatory Flexibility Act to include the post office in this process, would that be an appropriate first step?

Mr. HUDGINS. I think it absolutely would be an appropriate first step.

Mr. MORRISON. I would strongly agree with that. In fact, I actually mentioned that in the testimony.

Mr. SWEENEY. Okay. Thank you.

Chairwoman KELLY. Thank you.

Mr. Morrison, I want to say that I found your testimony extremely enlightening, and I appreciate the fact that you were willing to be as absolutely direct as you were. I agree with some of the questions that you raised, and I hope that we are going to get answers.

Mr. Mansfield, one more question. I am sorry we all seem to be alighting on your doorstep here, but since you actually have a prob-

lem from both aspects of this issue, have you thought through what you think might be a good idea for—if we are going to have to have a regulation of some sort, what kinds of regulations or what kind of regulation would be something that could protect our privacy as individuals yet still give you, as a law enforcement officer, the arm that you need?

Mr. MANSFIELD. Madam Chairperson, I assume you are speaking in terms of getting the identification of the person who is renting a PMB when someone goes in to get that information. You know, I know there was talk earlier this morning about the requirement of a search warrant. Without having addressed it to other members of the law enforcement community, I could tell you that we would be strongly opposed to the requirement of a search warrant for that information. That requires us to have a representation of probable cause to a magistrate before they are able to issue it, and it requires us sitting down and filing a document with the court.

In similar situations, for instance when we want to get subscriber information from the telephone company for—what we call a nonpublic number, a number that is not published, it requires us to issue a subpoena to the telephone company, and they will give it. As a prosecutor, I am able to sign a grand jury subpoena and get this information. If a defense attorney wants it or private litigation, it requires a judge to sign it.

Similarly, under the Fair Credit Reporting Act there are requirements for judicial subpoenas in order to get somebody's credit bureau from a credit institution. Those are all requirements that are less than a search warrant but somewhat more than just walking in off the street and saying, give me that information.

So during the course of an investigation many times you don't have probable cause to get a search warrant, but you certainly need information that is going to lead you to probable cause for search warrants for other locations.

Just this week we happen to be working on an investigation involving diverted merchandise, and we had to go to a self-storage location because we needed information. We knew that the person we were looking for stored their stolen material on the third level of the storage place. So we had to send our detectives in to get information about everybody that was renting boxes on the third floor, and then we were able to find the individual we were looking for, and that required us to give a subpoena to the owner of the self-storage place. There is no legal requirement for that. He could have just said, I am not giving you the information. So we are—I was required to draft a grand jury subpoena and then he gave the detectives that information.

So I think that, if we were to mirror what was being done in other areas, particularly with the telephone company, I think that would certainly assure the privacy rights of individuals. And as someone who relocates witnesses that have death threats against them all over the United States, I certainly wouldn't want the people who have been in harm's way and I am trying to take them out of harm's way to be in a situation where somebody could walk in a door and just ask for that information and get it without any legitimate reason for having it.

Chairwoman KELLY. And I am sure that the domestic violence people would agree with you on that.

As you probably heard if you were here earlier today, I am holding this hearing open for an additional 14 days. There will be questions from other people who have not been able to be here. And I am going to ask Mr. Sweeney if he has any further questions before we close the hearing.

Mr. SWEENEY. Just one. Maybe Mr. Merritt could help me. I mentioned it at the opening of my statement.

I have a constituent who has had his mail—delivery of mail has stopped. And just does this individual have or any of those who face this situation, do they have any recourse at this time? And his customers—how will his customers be able to receive their mail? One of his customers yesterday—this is how we heard about this—went to the post office, and they refused to give her her mail. She is a self-employed individual and what she was essentially picking up were checks.

Mr. MERRITT. I got the impression earlier this morning that Mr. Spates welcomes anyone having a problem to contact him directly to resolve it on an individual basis.

The problem was touched on earlier this morning, that is that the enforcement of these regulations is not being uniformly administered. They are not supposed to be withholding anybody's mail, Congressman Sweeney, but that dictum hasn't been able to find its way out on a universal basis in the field of the Postal Service administration.

I can empathize with the size of the organization with almost a million employees how difficult it might be to get information disseminated to everybody so that the correct things get done. I guess that makes it more important that they do regulations correctly in the first place.

We maintain a web site at PostalWatch.org and you can have any of the people contact us and we will try to contact the Postal Service as well or their CMRA can also contact them. Mr. Spates seemed to indicate he was willing to help anybody that was individually offended on a personal basis.

Mr. SWEENEY. As you can imagine, they are going to be getting a phone call from me probably in about half an hour.

Mr. HUDGINS. I will just add that, in my testimony I brought up one case of a woman in northern Virginia who received her "we are going to cut off your mail" letter. She has actually lost a third of her business. I have the copies of the letter here to submit for the record.

Mr. SWEENEY. I have a similar letter.

Mr. HUDGINS. And that argues that the Postal Service representatives this evening should go back, issue a memo to all Postmasters saying, "you will not send out any of these letters, you will not enforce these regulations until we can decide exactly what it is that these regulations mean." It seems that that is a minimum that they could do.

By the way, I also point out in my written testimony that the Postal Service is not subject to Title 5, chapter 7, of the U.S. Code that grants citizens an appeals process against actions that are "arbitrary and capricious." That would suggest that, again, the Postal

Service should be subject to a lot of the same regulations that other government regulatory agencies are subject to.

Mr. MERRITT. If I could further answer or put some light on your constituent's problem, when a person is denied mail from a P.O. box, there is a specific administrative procedure which the Postal Service must go through. It seems they have crafted these regulations in such a way as to deny people, individuals of that process because they are expecting the CMRA to, if you will, do their dirty work for them.

So what they are basically saying is, if the CMRA doesn't have compliance—in other words, if the people who rent the mailboxes from the CMRA don't do what they are supposed to do, then the Postal Service will shut down the CMRA. And somewhere in there they seem to have the idea that they don't need to go through their individual administrative procedures for actually withholding someone's mail in that process. That I think will, if it actually happens, will remain to be something decided in the courts at some future date.

Chairwoman KELLY. Thank you very much. I want to thank this panel very much for appearing here today and for being very direct in your testimony. I have a feeling that we may be talking with each other for some time to come until we get this issue resolved. But thank you so much. Thank all of you for being here today.

At this point, the hearing is adjourned.

[Whereupon, at 1:35 p.m., the Subcommittee was adjourned.]

SUE KELLY, NEW YORK
CHAIRWOMAN

BILL PASCRELL, JR., NEW JERSEY
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
106th Congress
Committee on Small Business
Subcommittee on Regulatory Reform and Paperwork Reduction
B-363 Rayburn House Office Building
Washington, DC 20515-6317

Opening Statement

Chairwoman Sue Kelly
Subcommittee on Regulatory Reform and Paperwork Reduction
of the Committee on Small Business

Good morning. Today the Subcommittee on Regulatory Reform and Paperwork Reduction is meeting to discuss United States Postal Service (USPS) regulations regarding Commercial Mail Receiving Agencies (CMRAs) and their clients, Private Mail Box (PMB) subscribers. USPS officially issued its initial final rule on March 25, 1999. However, it is my understanding that over the past seven months, USPS either modified, repealed, delayed or clarified most of the initial requirements contained in the final rule.

As I'm sure most of my colleagues in Congress would agree, my office received an influx of constituent opposition to the regulations after USPS enacted the final rule. Personally, I did not realize the severity of the problem until Mr. George Russell, an owner of a HQ Global Workplaces franchise, testified at our Subcommittee's field hearing on September 1, 1999, in White Plains, NY regarding, "The Impact of Federal Regulations on Small Businesses in the Hudson Valley." Mr. Russell provided insight on how the regulations will affect his fellow CMRAs as well as the business that subscribe to his services. I am glad Mr. Russell could be with us today in Washington to testify on this issue again.

After hearing Mr. Russell's testimony, upon my return to Washington, I immediately signed on as a co-sponsor to Representative Ron Paul's legislation, H.J.Res. 55, that would use the Congressional Review Act to disapprove this rule. In early September, I also discovered that Chairman Talent of the full Committee had an outstanding document request on this issue. It was the second document request sent to USPS by the Committee.

On May 19, 1999, Chairman Talent's first letter to Postmaster General William J. Henderson requested the Postal Service's "economic analysis on the impact of the final rule on small business." Almost two months later, on July 13, 1999, USPS Government

Relations wrote Mr. Talent a two page response. The response did not even mention the words, "economic," "analysis," "small" nor "business."

Chairman Talent sent a second and more detailed document request on August 16, 1999. Due to the urgency of the regulations, he requested the response by August 31, 1999. On August 31, 1999, USPS Government Relations called Committee staff to ask for an extension. It is my understanding that USPS and the Committee staff agreed on September 9, 1999. However, even after USPS started to enforce these regulations, even after we invited Mr. Henderson to appear before the Committee today, USPS did not deliver its response until five days ago. Once again, USPS did not address all of Mr. Talent's document and information requests.

I'm not sure why Mr. Henderson could not make it here, but I hope the Postal Service officials he sent to replace him will be more forthcoming in responding to Congressional concerns today.

I am looking forward to hearing the testimony presented by both panels today. Our first panel will weigh the interests of stakeholders—the small businesses and domestic violence victims that subscribe to private mail boxes, the small entrepreneurs that run commercial mail receiving agencies and a coalition consisting of CMRA franchises and franchisees—with the interests that inspired the Postal Service to issue these regulations.

Our second panel will look at the broader issues involved. The balanced panel will debate the public's necessity for the regulations versus the possible costs to the citizens affected. The panel will also address the Postal System's role as a "quasi-governmental" agency. We will discuss how USPS operates within its regulatory capacity in some instances and its commercial capacity in others.

I will now yield to my good friend from New Jersey, the Ranking Member, Mr. Pascrell, for any comments he may wish to make.

Rep. John E. Sweeney
before the Regulatory Reform & Paperwork Subcommittee
October 19, 1999

Madam Chairwoman, thank you for the opportunity to let me speak about the Postal Services's regulation of Commercial Mail Receiving Agencies.

Yesterday I found out that Mr. Greg Tucci, owner of P.A.S.S. of Granville, a small businesses in my district, was issued a death sentence. This local proprietor of who runs a CMRA was told by the local post office that his mail delivery was being suspended. All of his customers refused to fill out the revised PS form 1583. As a result, Mr. Tucci received a letter from the USPS District Manager stating, "delivery service to your commercial mail receiving agency is suspended immediately".

The Postal Service is effectively shutting down a small business in Granville, New York. I don't know about any other Members here today, but I can't spare any more small businesses in my district. I ask unanimous consent that this letter from the Post Office be entered into the record.

Yes, everyone wants to reduce fraud. Unfortunately this rule opens the door for identity theft, invasion of privacy and threats of violence. We must ensure that small businesses are not put out of business because of this unnecessary and poorly thought out regulation.

Madam Chairwoman, I look forward to hearing the testimony of the witnesses. Thank you for the opportunity to speak today on this important small business issue.

Statement by Congressman Bill Pascrell, Jr.

Small Business Subcommittee on Regulatory Reform and Paperwork Reduction
Hearing on United States Postal Service's Regulations Concerning Commercial Mail Receiving Agencies

Good Morning. I would like to begin by thanking Chairwoman Kelly for bringing this important issue to the attention of the Subcommittee. I would also like to thank our distinguished panelists for their participation in today's hearing.

Small businesses are the engines of growth for our nation's economy. They are indeed the very backbone of our economic system. In examining how regulations affect the small business community – we are then better able to make adjustments to alleviate any undue burdens.

And that is precisely why we are here today. The Postal Service has issued a final rule regarding Commercial Mail Receiving Agencies and their clients. Under this new rule customers will be required to write "PMB" or the "Pound Sign" followed by the box number in the second line of the mailing address.

The small business community - and others - have raised concerns about the net effect of this rule. Let me say that by definition, small

businesses are disproportionately affected by regulations – because of their very size. At the same time, the Postal Service has stated unequivocally that the point of the new policy is to combat mail fraud. They maintain that too often, criminals rent mailboxes to use as a front for illegal activities that include credit-card fraud, identity theft, and schemes to swindle the elderly.

I believe that today's hearing represents a prime opportunity to hear from both sides of the issue and hopefully come to some conclusions about what can be done. I must say that I am concerned about several aspects of these regulations and how we got here. I think the Postal Service needs to re-examine their rulemaking process – and they need to take into consideration the concerns of all those affected, including small businesses. Regulations should be formulated with the full participation from those who will be potentially impacted.

Thank You.

Statement of
Anthony J. Crawford
Inspector in Charge, Mid-Atlantic Division, U.S. Postal Inspection Service
United States Postal Service
before the
Subcommittee on Regulatory Reform and Paperwork Reduction
Committee on Small Business, U.S. House of Representatives
October 19, 1999

Good morning, Chairwoman Kelly and members of the Subcommittee. Joining me today is Mike Spates, Manager of Delivery for the Postal Service.

Over the past two years, both of us have been very involved in developing, implementing, and modifying regulations governing commercial mail receiving agencies, or CMRAs. We appreciate the opportunity to discuss recent changes to these regulations and our reasons behind them.

We also appreciate the work you do on behalf of the small business community. Like you, the Postal Service recognizes that small and home-based businesses help drive our nation's economy and contribute a great deal to our country's tremendous success and quality of life.

As we have moved through the process of revising our CMRA rules in recent months, some have suggested that the Postal Service has overlooked the needs of small businesses.

If you look at our track record, however, I believe that you will find that this is simply not the case.

The Postal Service is an important enabler of small businesses.

We are a vital communications link, providing regular, low-cost mail service six days a week that allows them to advertise, ship merchandise, and communicate with their customers around the world.

We have a long history of being a leader in contracting with small and minority-owned businesses, a partnership that benefits us both.

We have many high-quality programs and initiatives that reach out to the small business market.

For example, we operate a system of postal business centers around the country that respond to the concerns of small businesses and help them maximize their use of the mail. We have prepared small business information kits, hold regular seminars and fairs, and provide other useful tools that target their specific needs. We are designing new Internet services that benefit small businesses. Most recently, we have worked with the private sector in pioneering a way to print postage directly from a personal computer, a service that is especially useful for small and home-based businesses.

We believe that small businesses are not just an important part of our country's future, they are critical to the ongoing success of the Postal Service. We are looking at ways to strengthen our relationship, not diminish it.

Today, you will hear several members of the small business community discuss the impact of our CMRA regulations on their livelihoods. The Postal Service is well aware of these views and is sensitive to the many concerns that have been raised, not just by small businesses, but by all the groups and individuals who have been impacted by our changes.

For the past six months, we have been meeting with representatives of the CMRA industry, the Small Business Administration, the National Federation of Independent Businesses, the National Association of the Self-Employed, the Federal Trade Commission and other government agencies, law enforcement officials, the National Coalition Against Domestic Violence, corporate executive centers, mailing associations, and many others to get all of the issues and concerns on the table and find a fair, workable resolution.

What we have found—and what we believe will be made clear here today—is that the CMRA regulations impact many different groups in many different ways. There are a number of legitimate, but often opposing, interests. The Postal Service has found itself in the middle, attempting to strike a fair balance between them.

On one side, for example, there are consumer groups, law enforcement organizations, mailing associations, and financial and credit card companies that seek to curb fraud and support the basic intent and nature of the regulations.

The National Consumers League (NCL), the oldest nonprofit consumer organization in the nation, has told us that of the 30-50 fraud reports that they receive each day, more than 10 percent involve CMRA-related promotions.

The NCL says that it is "obvious that fraudulent telemarketing and Internet promoters are abusing this alternate mail delivery system," and indicated that they believe that some of the new requirements do not go far enough. For example, they suggested that the term "PMB" be spelled out as "private mail box" so that customers would understand clearly what it means. The Postal Service, concluded this important consumer watchdog organization, has both the "right and the obligation to ensure that this mailing alternative is not used as a conduit for fraud and other forms of illegal activity."

Several law enforcement entities, including the United States Secret Service, the International Association of Financial Crime Investigators, and nearly half of the nation's state attorneys general, have expressed support of the revised CMRA rules as a way to curb fraud.

The attorneys general, in particular, have been vocal advocates of tougher CMRA standards. They have told us, for example, that some charitable organizations use CMRAs to give the appearance that they actually have a physical address in the communities where they conduct their fund-raising campaigns. Then, they funnel the funds back to different states often many miles away. Citizens are more likely to give to charities that they believe will help their local communities, and the attorneys general view this as a deception.

Some states, like Pennsylvania and Arizona, have laws or court decisions that prohibit the use of "suite" or "apartment" in the addresses of CMRA customers because they are misleading and deceptive. Several other states are considering similar legislation, but have been awaiting the outcome of our discussions with the CMRA industry and others.

Two large mailing organizations—the Advertising Mail Marketing Association (AMMA) and the Parcel Shippers Association (PSA), which collectively represent thousands of American businesses and nonprofits—have urged us to adopt strict CMRA rules.

The AMMA points out that the "need for a secure means of communicating and transacting business through the mail should take precedence over the concerns of those who act as receiving agents." The AMMA says that while "some might feel these rules impose an unjustifiable burden...[w]e strongly believe that the value of mail as a means of communication and commerce is only as good as the privacy and security the USPS provides."

Several companies and associations representing the financial services and banking industry have expressed to us serious concerns about the rise of identity theft and account takeovers by criminals using CMRAs and the impact this has on the success of their businesses and America's economy. They include the American Bankers Association, VISA, American Express, Novus Services, Wells Fargo, and the American Financial Services Association.

The American Bankers Association, for example, indicates that their members have experienced a "sharp increase in fraudulent activity involving cards mailed to CMRA addresses."

VISA, which alone represents 21,000 financial institutions around the world and more than a trillion dollars in financial transactions each year, tells us that tougher CMRA rules would be a "powerful disincentive" for criminals using CMRAs to maintain anonymity. VISA indicates that nearly a quarter of the total fraud losses incurred by their member institutions involve the misuse of the mail, and that a "substantial portion" of that fraud occurs through CMRAs. VISA says that they have been unable to stem the rising tide of identity takeovers and other kinds of CMRA-related fraud despite concerted efforts and programs over the years.

Finally, one group that does not have a voice at the table today, but that we have had personal experience in dealing with, are the victims of CMRA fraud. Our postal inspectors have seen first hand the devastation and losses these individuals have experienced. Some have had their identities stolen and have been forced to deal with the stress of fighting to straighten out their credit ratings, jeopardizing their ability to obtain mortgage and car loans. Others, including many elderly citizens on fixed incomes, have been scammed out of thousands of dollars and lost all or part of their life savings.

Many elderly citizens, in particular, have been swindled by promotions involving sweepstakes and games of chance. Often, companies use CMRAs as a shield to defraud the public. One Canadian criminal, for example, bilked Americans out of more than $128 million through illegal lotteries and fraudulent sweepstakes. To help conduct his scheme, this individual set up private mailboxes in 25 CMRAs across the country. All of the mail he received was forwarded to another address.

Legislation addressing deceptive mailings was passed unanimously by the Senate over the summer. The House Government Reform Committee is currently considering similar legislation.

A number of businesses large and small have been victims of CMRA fraud. Many cases involve fake billings for office supplies or bogus Yellow Page listings. In one such false billing scheme for trash bags and maintenance supplies, six individuals used CMRAs to bilk companies out of at least $1.2 million. In another, two foreign nationals used more than 100 "mail drop" addresses in the United States as fronts for fake Yellow Page listings that cheated businesses out of more than $8 million. These criminals then had the mail and their illegal proceeds forwarded to Toronto, never even setting foot in the United States.

Some of the most prominent CMRA cases we have investigated involve child pornography and the distribution of illegal drugs.

In fact, the most prolific child pornography distributor we ever identified used CMRAs. The Inspection Service was able to put the company out of business and its principal and many of its customers behind bars. In another child pornography case, the suspect said that he preferred using private mailboxes because they are not as "high risk" as post office boxes.

The illegal activities conducted through private mailboxes increase the availability and demand for drugs and pornography, and this obviously takes a toll on the lives of individual citizens and our society as a whole. It would be impossible to calculate the financial costs and emotional toll these activities have had on our nation, but we believe from our own experience that it is significant.

The Inspection Service has been questioned on why it cannot provide the total number of investigations that involve CMRAs.

Historically, we have tracked investigations by the type of illegal activity—such as pornography or identity theft—not by the tool used to carry out that activity. Also, based on our experience with ZIP Code changes, a one-year period to deplete stationery supplies seems reasonable and sufficient.

Given the sensitivity of this issue, however, we have recently begun testing a system that would enable us to track CMRA-related fraud and crime.

Even if the Postal Service did have statistics today on past CMRA cases, however, we do not believe that it would add a great deal to this discussion.

The Postal Inspection Service, after all, is just one law enforcement entity that investigates and prosecutes illegal activities using private mailboxes. A more accurate number would have to include cases investigated by the Federal Bureau of Investigation, state attorneys general, and local district attorneys.

In addition, if we did have an exact count of the cases involving CMRAs, at what threshold would these statistics be considered sufficient? How many Americans must have their identities stolen and their lives turned upside down before we say enough is enough? How many millions of dollars must be taken away from vulnerable Americans like the poor and elderly before we take action?

The Postal Service is convinced, based on our own experiences and those reported to us by the law enforcement community, consumer groups, financial companies, and even the CMRA industry itself, that many illegal activities are conducted through CMRAs. We have been urged by many different groups to take action, and that is what we have done.

On August 27, 1997, we published the original proposed revisions to the regulations in the *Federal Register* for a 60-day comment period. At the request of the CMRA industry, we republished the proposed regulations in the November 24 *Federal Register* to allow an additional 30 days for comments.

Nineteen months later, a final rule was published in the *Federal Register* on March 25, 1999, effective April 26, 1999. The following outlines the basic provisions contained in the regulations at that time:

- CMRAs must register, using Form 1583A, *Application to Act as Commercial Mail Receiving Agency,* with the Postal Service within 10 days of the April 26th effective date to act as an agent to receive mail for others.
- CMRAs are to require two forms of identification, one of which must include a photograph, to rent private mailboxes to their customers using Form 1583, *Application for Delivery of Mail Through Agent.* The reverse side of the form has a *Privacy Act Statement* identical to the statement on the application for renting a Post Office Box (Form 1093). An element of the statement reads, "The Postal Service may disclose this information ... to anyone when the delivery address is being used for the purpose of doing business with the public."
- CMRAs are not authorized to deliver mail to a box unless a Form 1583 in that name is on file; the effective date for having the completed form on file is June 26, 1999.
- CMRAs are not authorized to accept Registered, Insured, or COD mail.
- CMRAs will submit quarterly lists of their box holders to the Postal Service.
- CMRA box holders must use the designation "PMB" (private mailbox) and number (e.g., 123) in their mailing address. Suite, apartment, or other designators are not allowed; the compliance deadline is October 26, 1999.
- CMRAs are to affix new postage to re-mail to former customers for at least six months, rather than indefinitely as required under current provisions; after the six month period, CMRAs will endorse and return First-Class Mail for former customers to the post office without the need for new postage.
- CMRAs will endorse and return mail to the post office for which the CMRA has no Form 1583 on file; no new postage required.
- CMRAs will be notified in writing by the Postal Service of any infractions and be subject to suspension of delivery for failure to correct the infractions in a timely manner. However, any suspension must be reviewed by more senior officials before being made effective.

Overall, the new CMRA rules improve the security of the mails by strengthening the requirements involved in the application for and use of a private mailbox. They also bring the provisions in line with those governing post office boxes.

At the same time, we have been sensitive to the impact that the regulations have had on those who must implement them and other groups that might be affected. As I pointed out, we began the process of revising the regulations back in the fall of 1997. We gave interested parties two separate opportunities to voice their concerns, and we studied and considered those comments for well over a year before issuing the March regulations.

After we published the revised rules, however, we began receiving calls and letters from Members of Congress and others about the impact these changes would have on the CMRA industry and their customers. Some of these concerns were familiar to us. Some, however, were entirely new.

We soon realized that even though there were strong voices telling us to adopt stricter CMRA rules, there were equally strong voices saying that the March regulations raised a number of problems and concerns.

We decided that the best approach would be to strike a balance between the differing viewpoints. In April, former Chief Postal Inspector Ken Hunter and other postal officials began meeting regularly with interested groups to gain a better understanding of their views and concerns. We extended an open invitation to virtually anyone who wanted to participate in these discussions. Meetings were also held with various congressional staff.

Over the past six months, we have made considerable progress in identifying key issues and working out mutually agreeable solutions.

As a result of these meetings, the following modifications, clarifications, and agreements have been made:

- To address privacy concerns, we issued a *Federal Register Notice* for public comment on August 26 (30-day comment period) prohibiting the release of information pertaining to individuals who use either private mailboxes or post office boxes for business purposes. In the interim,

on July 1 and again on August 25, we instructed postal employees not to release information from the Form 1583.

- We gave CMRA customers an additional six months to notify correspondents of the new PMB address requirement and to deplete stationery with the former address format. Therefore, the compliance date was extended from October 26, 1999 to April 26, 2000.
- We indicated that mail without the PMB designation may be returned if the CMRA box holder does not make a reasonable effort to notify correspondents of the requirement. The original rule used the term "will".
- We provided that CMRAs may accept accountable mail (except Registered Mail).
- We issued additional clarifications and modifications regarding the remailing obligations of the CMRA, addressing format (four line vs. three line), acceptable forms of identification, and compliance with deadlines. These clarifications and modifications were published in *Postal Bulletin 22006*, dated September 9, 1999.

During the comment period for the Privacy Statement revision, discussions continued with interested groups to resolve additional issues—in particular, the "PMB" designation.

The most recent meeting, held on September 22, focused on a proposal to drop the "PMB" designation and replace it with the "#" sign. The pros and cons were discussed at length by a large number of interested groups. In fact, it was the largest meeting to date, with 33 representatives on hand.

As a result of these discussions, the following elements of a proposal have been recommended:

- The CMRA industry will prohibit the use of the terms suite, apartment, or any other designation that implies something other than a mailbox.
- There will only be two address options for the box holder: PMB or the "#" sign. One or the other must be used; there are no other options.

- There will be no "grandfathering" of previous CMRA contracts that allowed customers to use "suite," etc.
- To assist consumers in identifying an address as a CMRA location, an intensive joint education program will be developed and conducted by the Inspection Service, postal operations and the CMRA representatives. This includes explaining the PMB designation and the procedures for determining if the "#" sign is a CMRA address or an actual physical address. The process will give customers direct access to the Postal Service Call Centers to verify the address.
- The Inspection Service and the CMRA industry are working together to develop indicators that will help CMRA operators to identify potentially fraudulent operations by a box holder.

While these proposals have been widely embraced, there is not unanimous agreement. Some small business representatives still want to use the designation "suite" in their private mailbox addresses, even though it is a deception.

The group representing attorneys general from 22 states want "PMB" to be the only permitted designator. In fact, they actually prefer stronger provisions pertaining to CMRAs and private mailboxes than originally published by the Postal Service. As I mentioned earlier, some are considering legislation at the state level to tighten the address designation requirements.

There is one final issue that I want to discuss this morning, and that is the total financial impact of the rule changes. After we agreed to let CMRA customers use current stationery until April 26, 2000, the issue of costs has not been a serious concern at our meetings. Many participants felt that the price of fraud is much higher than the expenses that will be borne by CMRA owners and customers.

Nevertheless, I know some Members of Congress are concerned by the estimates they have heard discussed and read in the press. In particular, a recent cost study conducted under the auspices of the Cato Institute indicated that the direct costs of the new regulations could approach $1 billion.

We have studied closely the calculations used to arrive at that figure, and based on our understanding of the use of mail and other factors, we believe that it is grossly inflated. I am attaching to my testimony a statement outlining our concerns with the methodology and assumptions used to arrive at that figure.

Based on our meetings with the CMRA industry and others, we believe that all of the major issues and concerns have been addressed to the satisfaction of most of the participants. There is still some disagreement, and given the wide range of views, it seems unlikely that we will ever be able to reach a 100 percent consensus on all of the issues. We do believe, however, that our efforts to reconcile the many interests involved have brought everyone to a better understanding of each other's needs and concerns.

I want to commend the representatives of the CMRA industry in particular. Most CMRAs do not condone or promote fraud. But the industry acknowledges that fraud does take place in their establishments. They want to curb these abuses and improve the image of their industry, and have worked very cooperatively to achieve workable resolutions.

I believe that we have struck a fair balance between privacy, business, and customer needs, without weakening the integrity of the regulations. When the new rules take full effect, the Inspection Service will have gained important new tools in curbing criminal activities involving the mail. We will probably never be able to eliminate them entirely, but the steps we are taking will go a long way towards helping to stop crime before it even takes place.

In the end, we hope that everyone will come to understand that the sacrifices we are making—and I believe that everyone involved has made a sacrifice of some kind—are for a greater collective good that transcends all of our individual interests. Together, we have fashioned a set of rules that will help create a safer, stronger, and more enjoyable America. That is something we all agree is a worthy cause.

That concludes my statement. We would be happy to answer any questions that you might have.

# # # #

USPS ANALYSIS OF REPORT ON THE DIRECT COSTS OF CMRA REGULATIONS

The following is an excerpt from the Executive Summary of the Cato Institute *Briefing Papers* of July 30, 1999, entitled, "The U.S. Postal Service War on Private Mailboxes and Privacy Rights," by Rick Merritt:

> "... the new regulations will foist enormous costs on some 1.5 million to 2.5 million private mailbox holders, which include many of the country's smallest businesses. CMRAs will also incur expenses, not only of compliance with and notification to box holders of the new regulations, but also of lost business. A conservative estimate of the direct costs alone of the new regulations could approach $1 billion."

In the section entitled, "The Direct Costs of Regulations," Mr. Merritt includes assumptions and costs that we feel are simply unreasonable.

Quoting from a *Wall Street Journal* article of May 4, 1999, the study assumes that there are approximately 10,600 CMRAs and 1.5 million private mailboxes. This figure is used as the lower range for determining the impact of the regulations.

The upper range is based on a requirement of Mail Boxes, Etc. (MBE), the largest CMRA business in the industry, that new franchises have a minimum of 250 boxes. The author simply multiplied the approximately 10,000 CMRAs by 250 boxes and arrived at the 2.5 million box figure, which became his upper range.

There are several problems with this approach. First, even if MBE's 250 minimum is followed in every situation, that requirement applies to new, not current, franchises. Also, while MBE is the largest franchise, they have only about 3,500 outlets in the United States. Therefore, to apply the 250 box minimum to all other CMRAs is unrealistic and invalid.

The study then assumes, without any documentation, that 70 percent of CMRA box holders are entrepreneurs and 30 percent are individuals. The study

also makes no adjustment for box vacancy rates, assuming that all 1.5 to 2.5 million boxes are rented. The Postal Service is confident that the CMRA industry would find this assumption unreasonable.

In reviewing the various elements of the cost calculations, one will find the following figures. Total costs for address changes (supplies, labor, etc.) range from $377 million to $628 million. These figures are based on the author's unsubstantiated personal estimates that CMRA customers will have to contact 40 individuals or entities that mail regularly to their boxes.

It also assumes that it would take an average of 17 minutes to prepare the notices, at an average labor cost per hour of $16.84. The unit costs for notification supplies are also excessive—31 cents per piece for letterhead and 28 cents for an envelope, plus postage and toner, for a total of 94 cents per notice. These figures produce a total estimate of $56.5 million to $94.2 million for notification supplies, depending on the number of boxes assumed. However, a 20-cent postal card preprinted with the address change information, which is what many small businesses would use, would reduce the supply cost and postage by 79%.

The labor costs to prepare the notices are calculated to be $4.77 each, with the 17 minutes assumed per notice charged at $16.84 per hour. Adding in the supplies' cost of $0.94 per notice produces a total of $5.71 for each notice. The study assumes a 10 percent second notice rate, bringing the cost to $6.28 per notice.

Therefore, the combined notification costs (supplies and labor) for all entrepreneurs are between $264 million and $440 million. This equates to a one-time cost of $251 per entrepreneur box holder to notify 40 customers when using the unrealistic assumptions contained in the study.

The analysis, moreover, did not include any reference to the fact a small business receives monthly billings and orders at various frequencies throughout the year. Typically, bills give recipients the ability to update change of address information. Given the one-year transition period for address compliance, there would be many such opportunities to minimize notification costs.

Costs of new office supplies were estimated for all entrepreneurs to be between $322.5 and $537.3 million. Without going into the per unit numbers, the assumption used is that all stationery, business cards, and checks will be reprinted well before the compliance deadline, if not immediately. There is no allowance for stock depletion and replacement during the one-year transition period. Such an allowance would reduce these costs significantly.

In addition, the author is assuming that all box renters (1.5 million to 2.5 million, of which 70% are entrepreneurs) are current renters and will be renters at the end of the transition period. There apparently is no assumed normal turnover. Therefore, no allowance is made for new renters, who would not have to change stationery because of the regulations. This omission is not realistic and also contradicts an assumption used in the section entitled, "Initial Direct Costs to CMRAs." In this section, it is assumed that CMRAs will lose 15 percent of their box rental revenues due to the regulations, or $40.5 million to $67.5 million. This 15 percent is not reflected as an adjustment to the direct costs to box holders nor is it used to assume a vacancy rate and a turnover rate in previous calculations.

One of the more curious factors in the analysis of CMRA costs is the assumption of 5 minutes to either explain or argue about the new regulations for each of the 1.5 to 2.5 million box holders. At $16.84 per hour, the author calculates each explanation or argument at $1.40, bringing the grand total for arguing and explaining to an additional $2.1 to $3.5 million.

In summary, the Cato Institute study appears fraught with unreasonable assumptions, unsupportable calculations, and unexplained contradictions. Therefore, we believe it is not a reliable or realistic figure for determining the costs of the revised CMRA regulations.

# # # #

TESTIMONY OF RACHEL HESKIN

BEFORE HOUSE SUBCOMMITTEE

ON PAPERWORK AND REGULATORY REFORM

OCTOBER 19, 1999

Madame Chair, Members of the Subcommittee, thank you for the opportunity to testify today before your subcommittee on the CMRA Regulations. I am here today representing a group of CMRA owners including national franchisers, franchisees, and independent store owners. My group includes my company Mail Boxes Etc., PAK MAIL, Post Net, Postal Annex + and the Associated Mail and Parcel Centers. Together we represent the vast majority of the over 10,000 Commercial Mail Receiving Agencies in the country. Our group has been active on these regulations since they were originally proposed.

Our initial position was to oppose these regulations. During the initial publication and subsequent comment period in July and November 1997, we actively generated the over 8,000 comments opposing these regulations. Nevertheless, the Postal Service put these regulations into effect. Since their publication, we have been working with the Postal Service and members of Congress to determine if these regulations can be implemented in a manner which can be workable for our industry.

I am pleased today to tell you that our effort with the Postal Service seems to be working toward success, and we may soon be in a position to accept the regulations in a modified form. Our group has found the senior management of the Postal Service, particularly retiring Chief Postal Inspector Ken Hunter, his successor, current Chief Postal Inspector Ken Weaver, and Manager of Delivery Michael Spate willing to work with us to solve most of the problems which

the current regulations have created. We intend to continue this effort with the Postal Service until all outstanding issues have been solved.

Solutions Discussed

In our working group convened and chaired first by Ken Hunter and now by Ken Weaver of the Postal Inspection Service, we have tackled all the tough issues. Attached to my testimony is a description of the various solutions which we have discussed. A number of these will require a new round of publication and comment in the Federal Register while others can be immediately implemented in the Domestic Mail Manual. However the attachment describes our understanding of the agreements which we have reached with the Postal Service with the sole exception of some details relating to the Termination of Service issue which we are still discussing with the Postal Service. At this point let me highlight some of the more important issues.

PMB Designation--As the members of the Committee know, this is one of the most emotional issues for our customers and has resulted in a great deal of communications to Congress by our center owners and customers. At our last meeting, the Postal Service agreed to a solution to this issue which we believe is highly workable:

Regulations will be amended to provide the following;

1. An address designator must be provided on line 2 or 3 of the mail at a CMRA.
2. The approved designator may be PMB or #.
3. All other designators will be prohibited including suite and apartment.
4. There will no "grand fathering" of suite for any box holder.
5. The mail to the CMRA owner will be unaffected by the regulations.

This solution must be proposed in the Federal Register as a formal change to the regulations. Most of our stores already urge their box holders not to use any designator other than #. This

will not disrupt the mail or create a stigma for our box holders and is acceptable to our group.

Fraud Protection--The Postal Service has stated that their motivation for these regulations was to prevent mail fraud. All our members share this goal, and we have devised a proposal for the Postal Service and the CMRA industry to work together on this important issue. Our joint agreement is described below:

USPS/CMRA Industry Fraud Task Force--The USPS and CMRA industry will establish a joint task force as follows:

> 1. To develop a joint protocol by which CMRA owners can better identify potential fraud and to notify the Postal Inspection Service of same.
> 2. To develop a training regime to be incorporated in training of CMRA owners and staff as part of new CMRA establishment and for retraining.
> 3. To develop a list of CMRA addresses which will be posted on the USPS website and toll free telephone number This will permit any customer to check an address to determine if it is a CRMA.

It is our intent to meet with the Postal Service later this month to begin establishment of the joint task force. We firmly believe that the best way to attack this issue is with a joint effort combining the skills of the Inspection Service with our everyday knowledge of the CMRA industry.

Termination of Service to CMRAs--This remains the area in which work must be done. The current CMRA regulations contain a provision by which a postal manager can order termination of mail service to a CMRA owner for all his customers because the CMRA owner is not in compliance with the CMRA regulations. This is very threatening and has been dubbed "the death penalty" by some in our industry.

The Postal Service has assured us that this will not be misused by overzealous local

postmasters and the regulations do include a requirement that any termination order be approved by a higher Postal Service official. Unfortunately, some overzealous postal officials have already sent out some termination notices even though we were assured no such notices would be sent while we continued to work on these issues.

Postal Service management has rescinded these notices, but that showed us that a firm policy on termination needs to be established on a uniform basis throughout the country. We have proposed the following to the Postal Service on this issue:

Termination of Service to CMRA--The Domestic Mail Manual shall contain instructions regarding termination of mail service to CMRA as follows:

> 1. Mail Delivery to a CRMA will not be terminated because a box holder or box holders have refused to fill out a Form 1583. Mail delivery will be terminated for the box holder.
> 2. The USPS shall provide specific notice to a CMRA if it feels the CMRA is not in compliance with the regulations. The notice shall provide specific direction as to how to cure the deficiency.
> 3. No notice of potential termination(30 day notice) letter shall be sent unless preciously reviewed by the authorized superior of the postal manager. The notice of termination shall list the party who reviewed the notice.

This remains a work in progress, but we are hopeful that we can resolve this issue soon with the Postal Service.

Domestic Mail Manual CMRA Section

We have proposed to the Postal Service that these changes in regulations be included in the Domestic Mail Manual. This is the "bible" for postal employees and users. It states firmly what postal policy is on these matters. So many changes are being made to the implementation to the regulations that it is important that all of these be included in the DMM which will be notice to the world on these matters.

Congressional Support Critical to this Process

The Congress deserves a lot of credit for moving these changes along. Many members of Congress have contacted the Postal Service and urged that these regulations be fixed. Most notably, we would like to thank Congressman Todd Tiarht who sponsored a critical amendment in

the House Appropriations process and Congressman Ron Paul, sponsor of HJR 55, who first brought this matter to the attention of the Congress. Additionally Chairman Dan Burton of the House Government Reform Committee and Chairman John McHugh of the Postal Subcommittee have been strong supporters of fixing the problems created by the initial regulation as have Congressman Chris Cox, chairman of the House Republican Policy Committee and Congressmen Duncan Hunter and Duke Cunningham. By mentioning these members, we do not mean to leave out any other members. The fact is that the Congress rallied to this issue early and often which has been tremendously helpful.

Looking Forward

This has been a painful process for our center owners and our customers. But we think that we have established a solid working relationship with the Postal Service on this issue and we are dedicated to making the revised regulations work and to developing a successful joint task force on fraud

Thank you for the opportunity to testify and I will be happy to answer any questions you have on my testimony.

CMRA Regulations Solutions

PMB Designation— Regulations will be amended to provide the following;

1. An address designator must be provided on line 2 or 3 of the mail at a CMRA
2. The approved designator may be PMB or #.
3. All other designators will be prohibited including suite and apartment
4. There will no "grand fathering" of suite for any box holder
5. The mail to the CMRA owner will be unaffected by the regulations.

Mail Forwarding--The Domestic Mail Manual will be amended to provide the following:

1. After the six month period following a box holder termination, the USPS will no longer deliver mail for that box holder and will accept return of mail inadvertently delivered.
2. During the six month period, no mail need be forwarded for a box holder who has signed written instructions including a box holder services agreement that he does not wish his mail to be forwarded.
3. During the six month period, if the CMRA owner can show that he has no legitimate forwarding address for a box holder, the USPS will accept refusal of delivery of mail by the CMRA owner. The most likely way to show this is to attempt to forward mail and have it returned unaddressed.
4. Mail forwarding requirements apply only to first class mail.
5. Any mail which is not forwarded may be disposed of by the CMRA owner.

Form 1583/Privacy Act--The Regulations will be amended to provide the following:

1. No private information will be provided except to law enforcement in the Course of a legitimate law enforcement activity.

2. The form 1583 Privacy Act statement will be revised to reflect this changes

3. The form 1093(P.O. Box) and 1583 (CMRA box holder) will be identical

4. Form 1583 should be filled out, but private information may be withheld until the regulations are finalized.

5. No National Data base will be created from the Form 1583.

Form 1583/Identification--The Domestic Mail Manual will be revised to list acceptable id's:

1. The list as published in July 15, 1999

2. The list of acceptable identification shall be identical for PO Box and CMRA Box.

3. Two forms of acceptable identification shall be required for both PO Box and CMRA boxes.

Termination of Service to CMRA--The Domestic Mail Manual shall contain instructions regarding termination of mail service to CMRA as follows:

1. Service will not be terminated because a box holder or box holders have refused to fill out a Form 1583. Mail delivery will be terminated for the box holder.

2. The USPS shall provide specific notice to a CMRA if it feels the CMRA is not in compliance with the regulations. The notice shall provide specific direction as

to how to cure the deficiency.

3. No notice of potential termination(30 day notice) letter shall be sent unless previously reviewed by the authorized superior of the postal manager. The notice of termination shall list the party who reviewed the notice.

5. Accountable Mail--The Domestic Mail Manual will be amended as follows:

1. CMRA owners may accept all forms of accountable mail except registered at their stores and take the mail to a postal facility for precessing. as described in the Sept. 10, 1999 Postal Bulletin.

6. USPS/CMRA Industry Fraud Task Force--The USPS and CMRA industry will establish a joint task force as follows:

1. To develop a joint protocol by which CMRA owners can better identify potential fraud and to notify the Postal Inspection Service of same.

2. To develop a training regime to be incorporated in training of CMRA owners and staff as part of new CMRA establishment and for retraining.

3. To develop a list of CMRA addresses which will be posted on the USPS website. This will permit any customer to check an address to determine if it is a CRMA.

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DATE: 19 October 1999

TO: Members of the House Subcommittee on Regulatory Reform and Paperwork Reduction, a Subcommittee of the House Committee on Small Business

FROM: Sandi Taylor, Owner/Manager, Strategic Technologies

RE: USPS Rule re CMRA's/"PMB" or "#" Address Designation

Madam Chairwoman Kelly and fellow House Subcommittee Members: Thank you for inviting me to before your Subcommittee today, so that I can address the "real world" impact that the U.S. Postal Services' Rule regarding customers of CMRAs (Commercial Mail Receiving Agencies) will impose upon my business: a huge financial burden, an unwarranted stigma upon my professional reputation and, overall, irreparable damage to my business. I know that my situation is representative of thousands of other small business owners who are similarly impacted by these arbitrary and burdensome rules imposed upon those of us who utilize CMRA's for our business mail. I appreciate your taking the time and interest to listen to our side of the story.

I am a self-employed executive recruiter, and I've been earning my living at this profession since 1978. I've been a single parent of 3 children, with my office in my home, for most of the past 20 years. I have utilized the same Mail Boxes, Etc. (MBE) address of Strategic Technologies, 2183 Buckingham Rd., Ste. 232, Richardson, TX 75081, as my business address since May, 1988, for very sound business reasons:

1) As a single female, I have no desire to publicize my home address across the country, much less around the world. My clientele is 99% male, both clients and candidates. A large part of the service my clients require of me is to screen out candidates who do not meet their requirements, for any number of reasons. Historically, some of these passed-over individuals have become disgruntled, and it could be very dangerous for them to know where I reside.

2) If the USPS is allowed to refuse to deliver my business mail, returning it to the sender, solely because of the way it is addressed, it will cost me a substantial loss of income, force me to expend many thousands of dollars in new stationery, brochures and advertising, drastically impact my business for years to come, and it will cause an unwarranted stigma upon my professional reputation. The business address I use, "Suite 232," is the address designation I was instructed by Mail Boxes, Etc., and it is professional in appearance, which is very important to small business owners like myself.

   Most of my long-term clients know that I office out of my home; not all of them know, nor do they need to -- all they need to know or care about are the quality, ethics and results of the work I perform for them. Some existing clients, and certainly potential new clients, would not want to do business with a recruiter officing out of her home; the same applies to many candidates. If the USPS is allowed to continue with their implementation of this rule, all of my business mail will be returned to its sender, and clients and candidates will assume that I am no longer in business -- and they will simply go to a competing recruiter.

I am in a very competitive industry, and I have worked very hard over the years to earn, build and maintain an impeccable reputation. I cannot afford to allow *anything* to impart even the *slightest* lessening of my professional appearance -- which is exactly what the imposition of this rule will do.

It has been my experience that MBE as a corporation has not been sufficiently supportive of its franchise owners or customers. For example, in July, I placed a call to James Amos, president and CEO of Mail Boxes, Etc. I was informed by his secretary that Mr. Amos did "not accept calls from customers." I explained to his secretary that I was calling to find out what the corporation was doing regarding the USPS's new rules; she replied that I would receive a letter.

Several weeks later, I received a letter from Mr. Amos, dated August 17, 1999, wherein he explained the current status, extending the date for compliance until April 26, 2000 (which I already knew). Furthermore, his letter stated: "I hope this information assuages your concerns. If you have any further questions please contact our Executive Director of Public Relations, Rich Hallabrin at (859) 623-1718." [NOTE: My concerns were not assuaged.]

On Friday, August 27, 1999, I telephoned Mr. Hallabrin, to inquire as to MBE's efforts on behalf of its franchisees and customers, explain my position, and to tell him what had happened the day before with the Richardson Postmaster (threatening to discontinue delivery of mail to my MBE franchise owners immediately, if 100% of its customers had not signed the new Form 1583).

I explained to Mr. Hallabrin how long I had been an MBE customer, and what this rule will do to my business. He told me that MBE and other CMRAs were working very diligently "behind the scenes" on this matter, and that I should be reassured that "things will work out." He also told me that the Richardson Postmaster was incorrect in his actions; that some other postmasters across the country were also misinterpreting the rule; he would have someone from the MBE corporate staff contact the Richardson Postmaster, to straighten things out.

Although I was not satisfied with Mr. Hallabrin's explanation of MBE's position, the conversation had a friendly tone. I faxed him a memo, thanking him for his time, restating my position and concerns, and asking him to keep me informed as to the status.

On Thursday, October 7, 1999, at approximately 11 a.m. CST, I left a voice mail for Mr. Hallabrin to inquire as to MBE's current status was to support its customers and franchise owners in this endeavor, to let him know that I was testifying before this Subcommittee on the 19th of October. I was also interested in obtaining information that might be helpful in my testimony before you today. Mr. Hallabrin returned my call around 3 p.m. CST.

In contrast to my telephone conversation with Mr. Hallabrin in August, he conveyed a decidedly unsupportive attitude towards myself, as well as all other customers and franchise owners.

He explained to me that the incoming Postal Inspector and the CMRA's had "accepted a compromise with the USPS" and that they considered it to be "the best alternative" -- which was for customers to have the *option* to use "PMB" or "#___" designation in their mailing address, but that they *absolutely could not* use "Suite" or "Apt." in their address.

I explained to him that I don't know why anyone would use "Apt." in their address, and I would agree with that stipulation; however, this did not solve my problem, as I've used

"Suite 232" as my address for almost 12 years, and that I could not afford to have my mail returned to the sender because of the way it is addressed.

Mr. Hallabrin told me that MBE's policy had *always* been that I should not use that wording in my business address. He told me that if I were to look at my contract, I would see that I'd been wrong all these years in my use of "Suite". I explained that I didn't have a copy of my contract in front of me, but that I was sure that I would not have done so if I'd been so instructed; I surely would not have spent the tens of thousands of dollars over the years in advertising, stationery, etc.

In our telephone conversation, I conveyed to Mr. Hallabrin my disappointment in the lack of support MBE as a corporate entity was putting forth on behalf of its customers and franchise owners, as well as my disappointment in the company's agreeing to this "compromise" with the USPS. His response was that I was "entitled to my opinion" and that he couldn't "help my perception."

After my discussion with Mr. Hallabrin, I obtained a copy of my original contract.

My MBE Contract: In 1988, I entered into a contract with the Mail Boxes, Etc. facility on Buckingham Road in Richardson, TX, to use a mailbox in their facility as my business address. That contract is attached hereto as Addendum "A" to the printed copy of my testimony. It is my 1-page contract with Mail Boxes, Etc.; the 2nd page is USPS Form 1583, dated May 9, 1988. Please note the last paragraph on page 1 of the contract, wherein it states:

> **"IMPORTANT: In establishing your mailing address, your mailbox number is designated as a suite number. This number shall be used in your address when using the format below."** As you can see, on that page and the subsequent page, my business mailing address is typed, with the MBE's then owner wrote in "232" next to the line that says "Suite _____".

When I asked MBE franchise owners about Mr. Hallabrin's comments, they told me that several years ago, MBE was sued by the Pennsylvania Atty. General for having customers use "P.O. Box" in their MBE address. They told me that MBE corporate personnel subsequently instructed them and other franchise owners to tell *new* customers to designate "#___" in their address -- *but that they should not say anything to existing customers, because they already had established business addresses*.

This arbitrary rule by the USPS is an infringement upon my rights as an established, legitimate small business owner. I've paid many thousands of dollars over the years to have it printed on thousands of business cards, letterhead, stationery and brochures. I've also paid many tens of thousands of dollars for advertising in industry trade journals, over these past 11 1/2+ years. I've distributed countless thousands of business cards at an average of half a dozen trade shows per year, distributing my business cards throughout the U.S., Europe, the Pacific Rim and South America.

In addition to my advertising in industry trade publications, this same address has been published in many industry (as well as non-industry specific) publications, directories, data bases, mailing lists, e-mail lists, outplacement and resume services, etc. Please see "Addendum B" (3 pgs.), attached hereto, for a representative list of these professional associations, publications, directories, and the like, that I advertise in, subscribe to, and either know or have been informed that my business address and contact information is listed.

I receive 200 - 300 unsolicited resumes in the mail each week (this does not include telephone calls, new client contacts, and new candidates' resumes sent to me via faxes and e-mails, or as a result of referrals, etc.). Unless an individual advises me in a phone call or their cover letter, I have no way of knowing where they obtained my business contact information. Therefore, it is absolutely impossible for me to notify everyone necessary as to an address change -- nor should I have to. Quite simply, *it just can't be done.*

It is not physically, technogically nor financially possible for me to identify and inform the countless thousands of companies and individuals who have or will obtain my long-time address that there is an address change. I have in excess of 55,000 names in my database; I have several thousand more yet to enter, and the list grows daily.

Every week, I receive calls from several people who have found my contact information in an old directory of some sort or another. With the boom of the internet in recent years, I've discovered that my business information is in many places that I had (and have) no knowledge. My representative list submitted herein is just that -- I have no way of knowing where else my business is listed, or how my business contact information was obtained.

There are no less than 5 post offices and one MBE location closer to my home than the MBE location where I send and receive my business mail. When I moved to North Dallas from East Richardson four years ago, I considered changing my business mail address to the MBE closer to me. Combined with the impact an address change would have on my business and the reduced level of services that I would receive at the closer MBE, I decided to keep my address the same. My MBE franchise owners hold my mail for me when I'm out of town and call me whenever I have a Federal Express delivery. I pay them a deposit to be applied towards my account, and they deduct my charges against the deposit, giving me a monthly statement, with receipts attached; when my balance gets low, I pay them another deposit on my account. They provide valuable bookkeeping services for my small business, at no additional charge. I drive 10 miles each way to send and receive my business mail -- and I submit that I have the right to do business where and with whom I choose.

If the USPS is allowed to continue with the implementation of this arbitrary and discriminatory rule, it will cost me tens of thousands of dollars in additional advertising costs, not to mention many more tens of thousands in lost income. It's happened to me before, two years ago, when the Dallas telephone area code was split. Since then, I have paid a monthly fee so that my old phone number will roll over to my new phone number. I discovered, months after the change, that the Public Utility Commission (PUC) took my old phone number away from the phone company; as a result, individuals trying to contact me at my old phone number reached a recording saying that "this is no longer a working number." I subsequently learned that I'd also lost many thousands of dollars in income, as a result of this area code change.

I estimate that the area code change cost me approximately $15,000 for printing and mailing new stationery and business cards, an additional $20,000 for increased advertising in industry trade journals to publicize the area code change, and at least $100,000 in lost income. I do now want, and cannot afford, a repeat of this situation.

While I support the USPS and law enforcement personnel in their efforts to protect the public from mail fraud and other illegal activities, they must not be allowed to have *carte blanche* to impose rules and regulations that destroy the livelihood and rights of thousands of law abiding citizens like myself in that process.

In closing, it is my contention that the USPS does not have any logical, reasonable or justifiable reason for to deny the delivery of my mail addressed to "Suite 232." If the mailed item has the proper postage, then their job is to deliver it to its destination -- my business address. I hope that you now have a beter understanding of how devastating this rule is, and that the USPS's proposed extension date for its enforcement to April 26, 2000, does not solve the problem. Please help me and the thousands of other small business owners in this country by putting a stop to this arbitrary and unjustifiable ruling by the USPS, which will cause *so* much damage to small business owners.

Respectfully submitted,

STRATEGIC TECHNOLOGIES

Sandi M. Taylor
Owner/Manager

The Post Office Alternative®

MAIL BOXES ETC. USA®

MAILBOX SERVICE AGREEMENT

MAIL BOXES ETC. USA facilities and services may not be used for any purpose prohibited by Postal Regulations or for any illegal or illegitimate purpose.

All information provided by customer is confidential and will not be disclosed except when legally mandated.

Possession of a mailbox key is considered by MAIL BOXES ETC. USA to be valid evidence that possessor is authorized to remove mail from your mailbox.

Mailbox service fees are all due and payable in advance and are payable quarterly. Initial mailbox service fees may be prorated as to the balance of the existing quarter on a per day basis. There will be no proration or refunds for cancellation of any service. Accounts are delinquent after due date and mail will be held pending payment. Services will be terminated at the option of MAIL BOXES ETC. USA 30 days after due date and mail for such terminated accounts may be returned to sender.

Upon voluntary termination of service, MAIL BOXES ETC. USA will forward or hold customer's mail for 30 day at no charge, provided customer pays the postage in advance. A postage deposit is required for this service.

C.O.D. items will be accepted only if prior arrangements have been made and payment in advance is left with MAIL BOXES ETC. USA.

Customer agrees to use the subject mailbox or any other MAIL BOXES ETC. USA service for only lawful purposes and in conformity with all applicable federal, state and local laws.

Customer further agrees to protect, indemnify and save harmless MAIL BOXES ETC. USA from and against any and all claims, demands, and causes of action of any nature whatsoever and any expense incident to defense by MAIL BOXES ETC. USA of any such demand or action arising out of or in connection with use or possession of a mailbox and including, without limitations, all demands, claims and causes of personal injury or property damage arising from such use or possession; for failure of the U.S. Postal Service to deliver on time or otherwise any items (Mail, parcels, etc.); for damage to or loss of mailbox contents by any cause whatsoever and for any violation by customer of applicable federal, state, or local laws.

CUSTOMER HEREIN AGREES THAT THE TOTAL LIABILITY OF MAIL BOXES ETC. USA FOR ANY AND ALL CLAIMS IS LIMITED TO $50 REGARDLESS OF THE NATURE OF THE CLAIM. (INITIAL _____)

IMPORTANT: In establishing your mailing address, your mailbox number is designated as a suite number. This number shall be used in your address when using the format below.

1. UTILIZING STREET ADDRESS
   Your Name
   Suite # 232
   2183 Buckingham
   Richardson, TX. 75081

2. UTILIZING P.O. BOX ONLY
   Your Name
   Suite # ✓
   P.O. Box 833846
   Richardson, TX. 75083

ADDENDUM "A"
(pg. 1 of 2)

AGREED: [signature] (Customer's Signature) 5/9/88 (Date) [redacted] (Driver's Licence #)

How did you hear about us? _____

MBE Clerk M. Wellborg (Clerk's Signature)

HOME PHONE: 699-8995 BUSINESS PHONE: same

U.S. POSTAL SERVICE

APPLICATION FOR DELIVERY OF MAIL THROUGH AGENT

1. Date 5-9-88

In consideration of delivery of mail addressed to the agent named below, the undersigned addressee agrees that: (1) the Postal Service will not forward any mail addressed to the addressee's residence or place of business; (2) the forwarding or delivery of any mail to the agent [illegible] the addressee's residence or place of business [illegible] delivered to the agent under this authorization must be prepaid [illegible] mail.

NOTE: This publication must be executed in duplicate by applicant in the presence of the agent, his authorized employee or a notary public. A signed copy will be kept on file by the agent in such manner that it is at all times available for examination by postal representatives.

TO: Postmaster

APPLICANT IDENTIFICATION

Drivers license: [redacted]

Credit card: _____

Other _____

PRIVACY ACT: The collection of this information is authorized by 39 USC 401, 404. It serves as the written authority for the delivery of mail other than as addressed. As a routine use, this information may be disclosed to an appropriate law enforcement agency for investigative or prosecution proceedings, to a congressional office at your request, to a labor organization as required by the NLRA, and where pertinent, in a legal proceeding to which the Postal Service is a party. Completion of this form is voluntary, however, if this information is not provided the mail will be withheld from delivery to the agent and delivered to the addressee, or, if the address of the addressee is that of the agent, returned to the sender.

2. Mail addressed to (Name, address and ZIP Code)

2183 Buckingham, Suite No. 232
Richardson, TX 75081

3. Deliver to and in care of (Name, address and ZIP code of agent)

Mail Boxes Etc. USA
2183 Buckingham,
Richardson, TX 75081

4. Name of applicant (Print or type)

SANDI M. TAYLOR

4a. Home address (Number, street and ZIP code)

[redacted]

5. Name of firm or corporation

5a. Business address (Name, street and ZIP code)

SAME

6. Kind of business

EXECUTIVE RECRUITING

7. If address is a FIRM, name each member whose mail is to be delivered

[redacted]

8. If a CORPORATION, give names and addresses of its officers

ADDENDUM "A"
(Pg. 2 of 2)

9. References (Name, address and ZIP code)

10. References (Name, address and ZIP code)

11. If business name of the addressee (Corporation or Trade Name) has been registered, give name of county and state, and date of registration.

12. Signature of agent

M. Weelborg

13. Signature of applicant (If firm or corporation, application must be by officer, firm, etc.)

Sandi M. Taylor

PS Form 1583, Nov. 1982

U.S. GOVERNMENT PRINTING OFFICE: 1983-421-043

STRATEGIC TECHNOLOGIES
PROFESSIONAL RECRUITING SINCE 1978
2183 Buckingham Rd., Suite 232
Richardson, Texas 75081
Tel: 972 / 490-9192 • Fax: 972 / 490-9193

ADDENDUM "B"

Representative List of *Known* Directories, Databases, Lists & Publications Wherein Strategic Technologies Contact Info is Listed

(NOTE: With regard to outplacement agencies, databases, internet sites, etc., I have been advised by clients, candidates and others that I'm listed on some of those ; I have not had the time to call them or otherwise confirm.)

1. Kennedy's *Corporate Directory of Executive Recruiters*, the acknowledged source used by executives and HR professionals to fill search assignments.

2. *The Executive Search Research Directory*, Kennedy, publisher; used by executives and HR professionals to fill assignments.

3. *Directory of Recruiters & Researchers*, published by Ken Cole, another widely used and acknowledged source used by executives and HR professionals.

4. Industry specific directories of professional organizations & publications, national, regional and local (member, membership directories, subscriber, mailing lists, etc.) relative to the plastics and composites industries in which ST specializes:

   A. Professional Organization Memberships:

   1. Society for the Advancement of Materials & Processing Engineers (SAMPE)
   2. Society of Plastics Engineers
   3. Society of the Plastics Industry, Inc.
   4. Society of Manufacturing Engineers
   5. Society of Chemical Engineers
   6. Composites Fabricators Association
   7. APICS -- (formerly American Production and Inventory Control Society)

   B. Industry Specific Professional Publications:

   1. *Chemical Engineering Buyer's Guide*
   2. *Plastics Engineering*
   3. *Advanced Composites* (advertising, plus *Sourcebook)*
   4. *High Performance Composites* (advertising, plus *Sourcebook)*
   5. *Composites Technology* (advertising, plus *Sourcebook)*
   5. *Reinforced Plastics Buyer's Guide*
   6. *Injection Molding* (advertising, plus *Buyer's Guide*)
   7. *Injection Moulding International*
   8. *Composites: An Insider's Technical Guide to Corporate America's Activities*
   9. *U.S./Canada Key Personnel List*
   10. *Modern Plastics*

11. *Plastics Technology*
12. *Plastics Design Forum Guide*
13. *Plastics World Yellow Pages*
14. *Plastics News* (advertising, mailing list)
15. *PlasticsNet Newsmail*
16. *Plastics Technology*
17. *Auto World*
18. *Plastics Compounding*
19. *Additives & Compounding*
20. *Automotive Engineering*
21. *Composites Fabrication*
22. *Permance Materials*

6. Outplacement Agencies & Career Counseling Services:

   a. Drake, Beam & Morin
   b. Challenger, Gray & Christmas, Inc.
   c. Leadership Resources
   d. TDM Technical Services
   e. ADG Group, Inc.
   f. Dawson & Dawson Consultants, Inc.
   g. Career Management Group, Inc.
   h. John Joseph Group, Ltd.
   i. R.W. Caldwell & Associates
   j. Michael A. Knaus & Assoc.
   i. Numerous and diverse companies' internal outplacement services

7. Internet database services:

   a. Hunt Scanlon
   b. www.deskrecruiters.com
   c. Custom Data Banks
   d. www.switchboard.com
   e. www.people.yahoo.com
   f. American Information Services
   g. resumeblaster.com
   h. resumezapper.com
   i. execunetresume.com
   j. recruitersonline.com
   k. PNnewsmail.com
   l. AOL
   m. e-news@tr.thomasregister.com
   n. www.netcareers.com
   o. www.ResumeShotgun.com

8. Resume Referral Services

9. Exec-U-Net, The Search Bulletin & competitors; company and recruiter referral services for senior management personnel

10. Other directories of professional organizations & publications, national and local (not specific to plastics &composites industries):

    a. APICS (American Production and Inventory Control Society)
    b. NAPM (National Association of Purchasing Managers)
    c. SERC (Society of Executrive Recruiting Consultants)
    d. IRG (Independent Recruiter's Group)
    f. MAPC (Metro Association of Personnel Consultants)
    g. TAPC (Texas Association of Personnel Consultants)
    h. *New York Times* (advertised positions)
    i. *Wall Street Journal* (advertised positions)
    j. *Dallas Morning News* (advertised positions)
    k. *The Fordyce Letter*
    l. Southwestern Bell, GTE phone directories & Yellow Pages

11. Trade Shows -- have attended, on mailing lists, attendee lists, regisration lists, handed out thousands of business cards, etc.:

    1. NPE (National Plastics Expo - held every 3 yrs.)
    2. SAMPE (Society for the Advancement of Materials & Process Engineering)
    3. West Pac
    4. Plastics USA
    5. Mass Plast
    6. NEPCON West
    7. NEPCON Southwest
    8. Paris Air Show
    9. Western Plastics Expo
    10. Composites
    11. APICS International Conferences
    12. Compounding Conference
    13. Medical Design and Manufacturing
    14. National Design Engineering Show & Conference
    15. SAMPE Europe Conference
    16. ANTEC

Written Testimony of

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before the
Subcommittee on Regulatory Reform and Paperwork Reduction
of the House Committee on Small Business

on

The United States Postal Service March 25, 1999 final rule
regarding Commercial Mail Receiving Agencies and Private Mail
Box subscribers

19 October 1999

Chairwoman Kelly and Members of the Subcommittee, on behalf of the National Coalition Against Domestic Violence, I thank you for the opportunity to address the safety concerns of battered women in relation to the new postal regulations. The National Coalition Against Domestic Violence is a nationwide network of approximately 2,000 domestic violence shelters, programs and individual members working on behalf of battered women and their children. My role here today is to advocate for increased safety for battered women and other stalking victims. Battered women and their children, as well as other victims of stalking, are very much at risk of harm when their location is revealed. We are concerned about the circumstances under which personal information can be released under the new regulations of the United States Postal Service.

Each year, 1.4 million Americans are stalked.[1] One in every 12 women will be stalked at some point in their lives and 59% of these women will be stalked by their current or former intimate partner.[2] Stalkers can be very persistent, especially domestic violence stalkers. Because of the nature of domestic violence and the difficulty in apprehending and prosecuting stalkers, a domestic violence or stalking victim must take steps to protect herself where we cannot protect her.

When Jane[3] left her batterer, he became her stalker. She moved and obtained a post office box in order to keep her new address secret, but her batterer found her and was waiting for her at her post office box. She moved to another state and got a new post office box, but again, her batterer was waiting for her when she went to pick up her mail. Jane moved numerous times, from state to state, only to be found again and again. In desperation, Jane went to domestic violence advocates in her newest "home town" to get further advice on how not to be found this time. There she learned that many other women had suffered with the same problem. She was advised to obtain a private mail box (PMB). She did further research by speaking with various law enforcement officials who also offered her the same advice and told her that she was less likely to be found if she used a PMB. Jane obtained a private mail box and still continues to live peacefully in that same "home town." Unfortunately, since August 26, 1999, she has been unable to receive her mail because all delivery to her PMB has been stopped because of her failure to provide her home address on the Form 1583 now required for PMB users.

Under the final rule issued on March 25, 1999, the United States Postal Service (USPS) requires the Form 1583 to be completed and placed on file with the USPS in order to receive mail through a PMB.[4] This form requires that the mail box holder list a home address and telephone number and to provide traceable information from two forms of identification.[5] It even requires the names and ages of any children that may receive mail through the PMB. Moreover, the Form 1583 contains a "Privacy Act Statement" explaining that the information held in the Form can be disclosed to a number of different agencies and, in some cases individuals, apparently at the discretion of the United States Postal Service. The United States Postal Service has followed this up with its newest proposed rule, promulgated on August 26, 1999, stating that the information contained in a Form 1583 may be provided to "federal, local, and state government agency requesters, including those engaged in law enforcement activities, or pursuant to subpoena or court order."[6] This policy puts the lives of many woman and children at risk.

Women like Jane often turn to the advocacy and law enforcement communities to aid in their protection. Frustrated workers in this field do their best to offer advice to victims that will help them stay safe while their batterer or stalker is at large. The Los Angeles Police Department's Stalking Victims Handbook advises victims to use a private mail box service to receive all personal mail because it is the most private.[7] They also recommend that victims use suite numbers rather than box numbers because it does not alert the stalker that it is a PMB.[8] These recommendations come from experienced workers in the field who understand the persistence of batterers and other stalkers and who have seen the ways that these criminals locate their victims. Victims need every available avenue to find safety. However, with the new regulations implemented by the USPS, we could be placing victims in grave danger. Advocates and law enforcement officials are left without any assurances that victim information will be adequately safeguarded and none of us can blame Jane, and other women like her, for refusing to provide her home address on the Form 1583.

Women who have been forced to conceal their location from their batterer for safety reasons are at particularly high risk by having a home address on file. These women are often relentlessly stalked by their batterers, sometimes for many years, and must go to great lengths to stay protected. They may be forced not only to relocate, but also to restrict their movement through the new community. Often, the only safe option for economic self-sufficiency for these women is to conduct a business out of their home. It is crucial that information on the location of these women be held confidential, both those using a PMB for personal mail and those conducting business through the PMB. As we understand, the purpose of the new regulations is to prevent private mail boxes from being used as part of a fraud. We respect and understand the need to address this problem. However, personal information about mail box holders should not be released without a warrant.

We are very concerned about the dissemination of addresses, even to law enforcement personnel, without the proper checks and balances offered by the requirement of judicial involvement. If the information is needed as part of an official investigation, a warrant should not be difficult to obtain and would provide an important added protection for battered women. Anything less increases the possibility that the lives of battered women and their children will be endangered by unwitting release of information by law enforcement to a batterer (such as through a police report or other document accessible to the public), impersonation of a law enforcement official by a batterer, or misconduct on the part of a member of law enforcement. Moreover, the August 26, 1999 proposed rule and the Form 1583 Privacy Act Statement clearly indicate that information can be given to local, state and federal agencies for purposes other than law enforcement, creating broad categories of individuals who are granted access to this information without any restrictions on the reasons for which that information can be obtained and potentially included in more documents available to the public.

A similar concern exists for battered women's shelters. Shelters house many victims of domestic violence at one time. Putting one woman in danger puts all the shelter residents in danger, including their children. Disclosure of the shelter location can be especially critical to these families' lives. The threat is so great that many shelters do not publish their addresses in any way, often withholding addresses even from other domestic violence service providers. For

this reason, shelters will commonly use a post office box or a private mail box for receipt of mail. Under the new proposed rule, the addresses of all businesses (presumably including shelters) could be disclosed quite broadly to federal, state and local agencies. Once this information has been turned over to these agencies, there is nothing to prevent the information from being further disclosed to others or included in documents available to the public. This regulation unacceptably places shelter residents and workers at risk without any clear connection to a legitimate law enforcement purpose. The safety needs of the women and children seeking refuge in a shelter, and the safety needs of the women and men who work diligently to provide safe refuge in those shelters, obligate us to hold shelter locations confidential. For this reason, it is imperative that no one obtain a shelter address without a warrant.

The August 26, 1999 proposed rule also contains guidelines for the release of the Form 1583 information about post office box holders. While the language delineating categories of persons with access to the information closely parallels the language used with respect to PMB holders, it includes one additional reason for which information about a post office box holder can be given out. It allows that information to be distributed "when needed for service of legal process."[9] A batterer or stalker can easily walk into a court clerk's office and file a civil action against the victim or a shelter which will then require service of process. This can be done without the assistance of an attorney and often without even paying a filing fee. This loophole provides a very easy way for a batterer or stalker to locate his victim and it must be corrected.

Both intimate stalkers and stranger stalkers will go to all lengths to obtain the personal information on their victim. As we understand through our discussions with the USPS, the 1583 Forms for private mail boxes will be kept on file in local post offices. If PMB holders are going to be required to submit completed 1583 Forms, it is critical that the USPS develop a protocol to help ensure adequate security for this information, such as a secure filing system with restricted access to the files and a formal system of recording requests for information, copies of warrants, signed approval for release of information by a senior supervisor, and names of all individuals receiving such information. This would provide a system for tracking information given out, and to whom it was given, as a means of holding the requestor of personal information accountable for any misuse or mishandling of that information. A protocol such as this one could mean the difference between life and death for a battered woman.

I would like to thank the Subcommittee on Regulatory Reform and Paperwork Reduction for holding this hearing today and inviting me to speak about this important issue. Keeping the personal information of private mailbox owners confidential is essential in protecting the lives of battered women and their children. The National Coalition Against Domestic Violence understands the need to develop regulations that address the legitimate mail fraud concerns of the Postal Service, but we must not do so at the expense of battered women, their children, shelters, and stalking victims who utilize commercial and post office mailboxes. We call upon the United States Postal Service and Members of Congress to address this issue without compromising the safety of women and children struggling to survive.

Endnotes

1.Patricia Tjaden & Nancy Thoennes, *"Stalking in America: Findings from the National Violence Against Women Survey,"* U.S. Department of Justice (1997).

2.*Id.*

3.Jane's batterer is still at large and therefore her real identity is being withheld for her safety.

4.Postal Bulletin, 21994 (3-25-99), *"DMM and POM Revision: Commercial Mail Receiving Agency Mail Delivery Procedures Revised."*

5.Acceptable forms of identification for the Form 1583 include a driver's licence; passport, alien registration card, or armed forces, government, or recognized corporate identification care – all forms of identification which include further information about the individual that could be put to criminal use by a batterer or stalker.

6. *Federal Register*, Vol. 64, No. 165, Thursday, August 26, 1999, Proposed Rules, p. 46630.

7.Los Angeles Police Department: Threat Management Unit, *Stalking Victim's Handbook*, Personal Security Recommendations.

8.*Id.*

9.*Federal Register*, Vol. 64, No. 165, Thursday, August 26, 1999, Proposed Rules, p. 46631.

Statement of

JAMES MORRISON

Senior Policy Advisor
National Association for the Self-Employed

before the

Subcommittee on Regulatory Reform and Paperwork Reduction
Committee on Small Business
U.S. House of Representatives

regarding

U.S. POSTAL SERVICE REGULATIONS ON COMMERCIAL MAIL RECEIVING AGENCIES (CMRA'S) AND PRIVATE MAILBOXES (PMB'S)

October 19, 1999

Chairwoman Kelly, Congressman Pascrell, members of the Subcommittee, good morning. I am James Morrison, Senior Policy Advisor to the National Association for the Self-Employed. On behalf of the nation's more than 16 million self-employed individuals, the NASE thanks you for reviewing this important issue. A great many users of private mailboxes (PMB's) are self-employed, and the uninterrupted flow of their business mail is of vital concern to them.

Often, the NASE needs to contact its members when an issue emerges that could be important to them. Not this time.

Never, since I began working with the NASE in 1991, have I seen an issue that stirred more extensive, spontaneous member concern than this one -- the proposed postal regulations governing private mailboxes.

I have attached to my testimony a typical member letter, from Judith and Thomas Coates, owners of Oakbridge University Press in Washington state. The Coates have had a private mailbox at a commercial mail receiving agency (CMRA) for almost ten years. They have published a dozen books listing that box as their return address. Crucially for their business, they also have circulated more than 20,000 brochures, including reply envelopes, with the designation "suite" in the return address -- as they were told they could by their CMRA.

Now they, and tens of thousands of people like them, stand to lose a substantial portion of their business. Mail to CMRA's bearing the "suite" designation will be returned to its sender as "undeliverable". Meaning, of course, every one of the Coates' reply envelopes.

Why?

When NASE members began contacting us with such concerns, we looked into the CMRA rules. We wondered why the postal service would adopt rules that could devastate thousands of law-abiding small businesses. And the more we looked, the more we saw an incredibly flawed regulatory process that ignored impacts and brushed aside alternatives.

The Postal Service believes its actions are needed to prevent postal crime. No one disagrees with the goal of fighting crime. And all of us respect the work that the Postal Inspectors do. Like all law enforcement officials, they are courageous public servants who deserve our support and our thanks.

And the postal crime that they're trying to root out is certainly a problem. Many NASE members have been victims of it. The stories the Postal Inspectors tell are real, and troubling.

But there are a number of ways to respond to these stories.

Take **telemarketing and Internet fraud**. In these cases, hucksters make fraudulent representations over the phone or Internet. Asking the victims to then send the money through the mail simply "closes the deal". Would writing a different form of address on the envelope alert that many potential victims? And if so, how long would it be before the criminals simply shifted their addresses?

Or **identity theft**. Wouldn't criminals find it simpler to steal mail from private residences or apartment buildings than from CMRA's? And don't the plentiful, unregulated "change of address" forms in every post office pose a far greater danger of identity theft?

Or **credit card fraud**. Why not simply give credit card companies access to the Postal Service's database showing which addresses are CMRA's? Then the credit card companies could decide when, if ever, to send credit cards to PMB's.

Or **phony charities**. And what's the best way to put one of these out of business? Would driving it out of a CMRA actually stop it from operating? Or would the criminals simply take up residence elsewhere?

If attempting to drive fraud out of CMRA's involved real costs to legitimate businesses without real impact on the fraud, should the attempt go forward anyway?

How much of the postal crime problem could be solved using better training, and perhaps even licensing, of CMRA's? How much of it could be solved through better cooperation between the CMRA operators and the Postal Inspectors?

These are the kinds of analytical issues that need serious and careful examination before the postal service imposes extensive regulations on a broad swath of lawful businesses.

Above all, we need to deter crime in ways that are targeted and effective. In ways that will build public support for law enforcement, not erode it. In ways that burden would-be criminals without unnecessarily burdening the law-abiding. In ways that can be shown to work.

That is the nub of the problem with these rules.

We commend the Postal Service for its announcement, late last week, that it intends to again reopen for public comment the rules regarding acceptable forms of address by PMB holders. It's a step in the right direction.

But it's important for this Subcommittee, and the whole Congress, to know how we got to where we are.

So before turning to the PMB rules themselves, it's useful to describe how federal agency rulemakings normally work.

This is important, above all, because Congress has tried to make the regulatory process take account of both impacts and alternatives. In this case, normal rulemaking safeguards were seriously neglected.

Normal Rulemaking

Federal agencies are supposed to follow very specific procedures when regulating small businesses. These procedures are described in the Regulatory Flexibility Act (RFA), passed unanimously by Congress in 1980, and the Small Business Regulatory Enforcement Fairness Act (SBREFA), passed overwhelmingly by Congress in 1996.

- First, agencies are supposed to define what they mean by a small business, either using SBA's definition or developing their own through notice and comment.[1]
- Next, agencies are told to develop and publish a "regulatory agenda" identifying forthcoming regulatory actions that may affect those small businesses.[2]
- As the rulemaking approaches, agencies are required to decide whether each rule will significantly affect a substantial number of small businesses.
- If not, the agency head must so certify, indicating the "factual basis" for the certification.[3]
- If so, the agencies must carefully analyze that impact[4] and do their best to directly contact the affected small businesses for input on less burdensome alternatives.[5]
- After evaluating these comments[6] as well as the effect of the rule on small business[7], agencies are supposed to examine various approaches to regulation and take "steps...to minimize" any adverse impacts of the

[1] 5 USC 601(3).
[2] 5 USC 602
[3] 5 USC 605(b)
[4] 5 USC 603
[5] 5 USC 609(a)
[6] 5 USC 604(a)(2)
[7] 5 USC 604(a)(3-4)

approach decided upon[8]. Agencies are also required to explain the "factual, policy and legal reasons for selecting"[9] the regulatory approach chosen, and why any workable *alternative* approaches suggested by the public were *not* chosen[10].

- If the rulemaking is in response to an emergency, the agency needs to say so, and then conduct the analysis as soon as possible.[11]

Since most of these requirements are judicially reviewable,[12] most agencies do follow these procedures in their small-business-related rulemaking.

But not the United States Postal Service (USPS).

USPS Exemptions

It turns out that USPS regards itself as exempt from all laws regarding notice and comment rulemaking -- not just the RFA and SBREFA that affect small entities, but even the broader safeguards for the general public, like the Paperwork Reduction Act,[13] the Unfunded Mandates Act, and, in particular, the federal Administrative Procedure Act[14]. The APA has been the law of the land, the core statement of citizen rights at federal agencies, for more than half a century. Among other things, the APA has been interpreted to mean that an agency must show the need for rule, either because of a mandate from Congress or on the basis of compelling empirical evidence. In other words, reasoned and informed decision-making is required. Facts must support the choices the agency makes – and rejects[15].

The USPS exemption from these laws is, quite frankly, amazing.

On the one hand, the USPS has been given a monopoly right -- to deliver first class mail. That's a life or death grip on businesses that depend upon the mail for their cash flow. USPS also has been given the right to regulate many of its own competitors, in those situations where it has them, such as the commercial mail receiving agencies. At the same time, USPS has been told to make a profit – and competitors obviously affect profits.

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[8] 5 USC 604(a)(5)
[9] 5 USC 605(a)(5)
[10] 5 USC 605(a)(5)
[11] 5 USC 608
[12] 5 USC 611
[13] 5 USC 400 *et. seq.*
[14] The APA is found principally in Chapters 5 and 7 of Title 5, USC. USPS' claimed exemption is at 39 USC 410. This sweeping exemption, if valid, would also appear to prevent the courts from halting most USPS regulatory actions -- the implications of which would be extremely troubling in a democracy. However, the courts have held that, despite USPS' exemptions, it is still bound by the legal principle of "reasonableness" in its rules. See *Tovar vs. USPS*, 3F. 3d, 1271, 1276 (9th Cir., 1993) and *Rockville Reminder, Inc. vs. USPS*, 480 F.2d 4, 6 (2nd Cir., 1973).
[15] See, for example, *Motor Vehicle Manufacturers Association vs. State Farm Mutual Automobile Insurance Co.* 463 US 29, 43 (1983), and *Burlington Truck Lines, Inc. vs. United States* 371 US 156, 168 (1962).

Yet on the other hand, USPS is not even required to empirically justify its regulations, let alone seek and weigh public comment.

Missing Elements of the CMRA Rules

The PMB regulations are a perfect example of what results from combining this clear potential for conflict of interest with the absence of normal procedural safeguards.

The CMRA rules that USPS has proposed in the *Federal Register*[16] lack the following:

- Any hard data on mail fraud, identity theft or other postal-related crimes.
- Any numerical breakdown of how, where and by whom such crimes are committed.
- Any statistics on postal crimes committed through PMB's, compared to those committed through private households, USPS post office boxes, apartments, executive suites, or other addresses.
- Any attempt to define a small business.
- Any frank acknowledgement that CMRA's compete with the USPS' own post office boxes.
- Any advanced notice of rulemaking through a regulatory agenda. (More than sixty federal agencies publish semiannual agendas of their upcoming regulations. Not USPS.)
- Any analysis of small business impact (obviously impossible without a definition of small business or any data.)
- Any outreach to PMB users and any systematic outreach to CMRA's.
- Any serious analysis of less burdensome alternatives that might accomplish the same objectives as well or better.

Absent all this, USPS has no baseline from which to measure the success or failure of any rule it implements.

[16] 62 FR 45366-8 (Aug 27, 1997), 62 FR 62540 (Dec 24, 1997), 64 FR 14385 (March 25, 1999), 64 FR 30929-30 (June 9, 1999), and 64 FR 46630-2 (Aug 26, 1999).

So when the Postal Service says that its rules will stop postal fraud, the obvious response is "how do you know?"

And even if the rules do help prevent fraud, how can anyone know whether a *better* approach to stopping fraud has been overlooked?

So far, this rulemaking has consisted of what people in the Pentagon jokingly refer to as "data-free analysis supporting analysis-free decision-making".

At least USPS asked for comments on the proposed rules. But the proposed rules themselves are so vague and self-contradictory that they take on an almost surreal, Alice-in-Wonderland quality.

Throughout the rulemaking, beginning in 1997, and continuing down through the present, there has been a serious disconnect between stated purpose of the rules and the proposed rules themselves.

The Initial Proposed Rules (1997)

In its 1997 description of the need for the rules, USPS said that certain unspecified "audits and follow-up reviews" showed the need for "clarity" in "easy to understand rules" that are "sensitive" to the "customer's needs".[17] The statement of the need for the rule went on to say that some CMRA's "are not aware of or do not understand the *current* rules"[18] and that the rules are needed "to safeguard the mails".[19]

The proposed rule then proceeded to criticize, at length, the "mail security" of CMRA's.[20] Now, the physical security of the mail at CMRA's would seem to be a great deal *stronger* than at unattended residential mailboxes, apartment buildings, and many business mailrooms. But the proposal took no note of this. And no evidence was cited to support the basic assertion that CMRA's lacked "mail security".

It is important to note that certain words and phrases *did not* occur in this initial proposal, among them: "fraud", "postal fraud", "identity theft" "postal crime", or even "crime".

USPS then set forth its proposed solutions for the problems that it did identify: Broad new mandates for CMRA's and renters of PMB's. New identity verification procedures. New reporting and recordkeeping requirements.

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[17] 62 FR 45366 (Aug 27, 1997)
[18] *ibid.*, (emphasis added).
[19] *ibid.*
[20] *ibid.*

Among the new mandates -- that all mail sent to CMRA's must carry the designation "PMB",[21] and that the names and home addresses of PMB renters "may be available to the public under Privacy Act provisions."[22]

The proposed rulemaking never explicitly disclosed that some of these requirements would have changed the competitive relationship between CMRA's and the USPS.

- The "PMB" designation requirement would have gone beyond the address designation required of post office box holders or renters of "executive suites," placing CMRA's at a competitive disadvantage in relation to them.
- Public disclosure of the home addresses of PMB renters, never previously required, would certainly have driven customers away from CMRA's.
- The elaborate identification verification procedures would have added requirements to PMB's that had previously applied only to post office boxes.[23]
- And the new reporting and recordkeeping requirements for CMRA's could well have been passed on to PMB renters as price increases.

There was also a basic disconnect within the proposal itself. The proposed *solutions* (putting "PMB" designations in addresses, requiring renters to present more ID's to rent a PMB, disclosing the names and addresses of PMB renters) bore little relationship to the *problem*, as originally stated -- mail security at CMRA's.

The disconnect between stated problems and proposed solutions went further, too. How would *new* rules have helped CMRA's "better understand" the then-*current* rules? How would added paperwork requirements have achieved "clarity" and "sensitivity" to the "customer's needs"?

Notably absent from the proposal was any account of potential economic impact – or anything resembling a regulatory flexibility analysis. Even the simple fact that are well over a million PMB's was never stated.

The March, 1999 Final Rules

In USPS' follow-up final rules on the matter,[24] there was another remarkable disconnect, this time a disconnect between the reasons stated for the proposed rules and reasons stated for the final rules.

[21] 62 FR 45368 (proposed section D042.2.6e of the Domestic Mail Manual)
[22] 62 FR 45367
[23] 62 FR 45366-7
[24] 64 FR 14385-91 (March 25, 1999). More precisely, this was USPS' first attempt at a final rule.

For one thing, the term "mail security," so central to the proposed rules, showed up only once in the seven pages of the *Federal Register* devoted to the final rules.[25] There was no more talk about CMRA's failing to protect the mails. The entire focus of the rulemaking had changed.

Some of the *commenters* on the proposed rules had raised the issue of "identity theft" - a type of theft that often involves mail diversion. Identity theft then became central to *USPS'* whole new rationale for the rules. A rationale without supporting evidence, however.

For the first time, mail fraud was invoked, becoming another new basis for the rule. Yet no empirical evidence relating to mail fraud at CMRA's was provided.

In a "further note," USPS denounced the use of "suite" in a PMB address as a "misrepresentation of a mailing address [that] is not in the best interest of and may cause irreparable harm to the sender"[26] although this sweeping assertion also was undocumented.

The truly astonishing aspect of the rules, however, was their tone-deafness.

USPS received 8,107 comments on the proposed rules. Exactly ten comments supported the rules.

Interestingly, nine of the ten positive comments were dated within a few days of another, right around Christmas, 1997, at the very end of a second comment period. (The original comment period was supposed to have ended on September 26, 1997. On November 24, 1997, the Postal Service reopened the comment period for thirty days.[27])

This sequence of events suggests: (a) There were *no* positive comments on the proposed rules during the original comment period. None. Not even one. (b) USPS had some reason for wanting to reopen the comment period.

The similarity in the tone, reasoning, and timing of the positive letters suggests that there was some organized effort to generate them. It may be that these letters were solicited.

Then, in what can best be described as a parody of bureaucratic pig-headedness, the ten favorable comments were lovingly described and parsed throughout the discussion of the final rules - while the 8,000+ negative comments were either quarreled with or dismissed entirely.

[25] A somewhat related term, "secure mailstream" also is mentioned once, in passing.
[26] 64 FR 14387
[27] 62 FR 62540

The opposing comments were "largely identical in form and content", "erroneous" and "based on misconceptions," USPS thundered. (Opponents of the rules would no doubt characterize the ten positive comments similarly.)

The most striking disconnect in the March, 1999 final rules, however, was between the many commenters who desperately sought to get USPS to focus on the *effects* of its rules and USPS' endless declarations about the *purposes* of the rules. Thus, USPS contended:

> There are assertions from CMRA's that compliance with these regulations will 'pu[t] CMRA's out of business'. Customers of CMRA's assert that the rulemaking 'appears to discriminate against them because of [their] choice of an address.'
>
> These claims are erroneous. The sole postal *purpose* of the rule is to increase the safety and security of the mail. The rule is *designed to* benefit both businesses and consumers... The rule is *intended to* ensure that mailers are confident...[28]

As this wording suggests, USPS had not, even in the face of over 8,000 negative comments and even after nearly two years since the proposed rules, produced any analysis of the economic impacts of the rules.

The June, 1999 Proposed Rules

Given the USPS' cavalier attitude toward criticism of its earlier CMRA rules, it is probably unsurprising that a follow-on rulemaking resulted in an even more lopsided reaction: 1,239 opposed and one (1) in favor.

The proposed rule[29] stated that

> the recorded name, address, and telephone number of the addressee using a Commercial Mail Receiving Agency (CMRA) private mailbox (PMB) for the purposes of doing or soliciting business with the public will be furnished to any person upon request without charge.[30]

No discussion of justifications, economic impacts, data, alternatives, feasibility or potential for unforeseen consequences accompanied this proposal.

[28] 64 FR 14385 (Emphasis added.)
[29] 64 FR 30929-30 (June 9, 1999)
[30] 64 FR 30929

Although the proposal mentioned in passing that the new policy would be "consistent with disclosure policy applicable to post office boxholders,"[31] it did not even hint at the effects that such a change might have on USPS' own competitors, the CMRA's.

Indeed, the proposed rule did not contain a single word of explanation or reasoning.

The August, 1999 Proposed Rules

In the face of a barrage of opposition that had grown to include victims of domestic violence, home-based businesses, celebrities, stalking victims, business owners dealing in valuable commodities likes coins and jewelry, and members of Congress, USPS backed down from the June 1999 proposal ten weeks later.

The revised proposed rules[32] completely rescinded the earlier proposal.

Interestingly, for the first time, USPS openly and directly compared the regulatory treatment of post office boxes with that of CMRA's and PMB's.

But USPS again quarreled with many of the commenters, describing them as "misinformed", and calling the original proposal a "proactive approach to reducing the opportunities to use a PMB for fraudulent purposes."[33] This claim had never been made in the original proposal, let alone supported by any empirical evidence.

And USPS rebuked those who complained that the federal Office of Management and Budget (OMB) had not approved the proposed reporting requirements, as required under the federal Paperwork Reduction Act.

> [T]he Postal Service is not subject to the Paperwork Reduction Act of 1980; its forms are approved and prescribed in accordance with its own forms management program.[34]

This blunt statement underscores the USPS' continuing ability to arbitrarily raise its competitors' cost of doing business.

In justifying the earlier (June 1999) proposal, USPS said that it had long disclosed the names and addresses of business postal boxholders – and that no problems had resulted. There was no "significant reported harassment or

[31] 64 FR 30930
[32] 64 FR 46630-2 (Aug 26, 1999)
[33] 64 FR 46631
[34] *ibid.*

harm to business post office boxholders about whom such information historically has been disclosed."[35]

Curiously, however, the solution proposed by the same rulemaking was to *stop disclosing* this information about postal boxholders -- in order to keep the requirement "parallel [to] that for PMB customers."[36]

The SBA / Advocacy Roundtable

In response to concerns raised by the small business community about the June, 1999 proposed rule, the Office of Advocacy at the U.S. Small Business Administration convened a roundtable and conference call on June 22, 1999 to discuss the issues involved. USPS was invited to this event and repeatedly urged to attend, or at least take part via conference call. SBA believed that it was offering USPS a ready-made opportunity for outreach to the small business community and many of the affected entities.

At the roundtable, CMRA operators, PMB renters, small business organizations, and others gathered for a two-hour session to try to understand USPS' concerns and to seek some agreements on the issues. Unfortunately, no representative of USPS attended, either in person or by phone.

The USPS September Meeting

On September 22, 1999, a few days before the comment period ended on eliminating the public disclosure of PMB addresses, USPS convened a lengthy meeting at its headquarters.

At the urging of the SBA Office of Advocacy, USPS invited representatives of the small business community, as well as Congressional aides, to attend this meeting.

The meeting seemed to mark significant progress toward cooperative efforts by CMRA operators and the Postal Inspectors in fighting postal crime.

But it would be inaccurate to say that any consensus was reached between USPS and the small business representatives and Congressional aides present. Disagreements about the "PMB" designation, for example, were very much in evidence.

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[35] *ibid.*
[36] 64 FR 46630

At the meeting, one representative of the CMRA industry pleaded to the USPS personnel present, "Please. Regulate us, not our customers." That is an exceedingly rare statement from private industry, and probably indicative of the depths of frustration that both CMRA's and PMB renters are feeling.

Use of the term "suite." A striking feature of the meeting was the transformation of USPS' reasoning regarding the use of "suite" in a PMB address.

Previously – not initially, of course, but by the time of the March, 1999 final rules – USPS had argued that this designation "caused irreparable harm". Yet USPS had been silent in the face of repeated requests for statistics showing the nature of such harm -- in terms of fraud or other crimes originating at such addresses. Nor had USPS provided comparisons between PMB-originating "irreparable harm" and non-PMB-originating "irreparable harm".

During the September meeting another remarkable shift in USPS' reasoning occurred. No longer was "suite" unacceptable because of fraud, but because it was "misleading" or "deceptive". No consideration was given to other types of misleading addresses. (In an attachment, the NASE offers some additional thoughts on this.)

Part of the meeting was devoted to a negotiation between USPS, the CMRA representatives, and a representative of the "executive suite" industry over the latter's use of the same term, "suite," in its return addresses. Obviously, a person renting such an "executive suite" need not ever actually use it. Yet that person could still use "suite" in the return address, unlike a person renting a PMB, under the USPS' proposed and final rules.

Yet what is the real difference? A rent of $30 a month versus a rent of $300 a month? What does a higher monthly rent have to do with "mail fraud"? Won't the person intent on mail fraud simply pay the extra amount?

The negotiations seemed to be focused on whether a renter of an executive suite would have to purchase ancillary services, such as use of conference rooms and office equipment, in order to use "suite" in the return address.

In effect, this is a debate over whether the use of "suite" in a return address will cost $300 a month or $500 a month. It still has nothing to do with preventing "mail fraud", let alone "misleading addresses."

The Coming USPS Proposed Rules

Judging from a USPS press release last week, the question of the "PMB" designation will soon be reopened. Apparently the new proposed rules will

state that CMRA customers can use either a number sign (#) in their return address or the "PMB" designation. The term "suite" will not be permitted, even for those who have long used it, and even for those whose CMRA contracts permit it.

It will certainly be interesting to see what postal crime statistics and economic impact analyses, if any, accompany this proposed rule.

Economic impact of prohibiting the "suite" designation. Here's a simple back-of-the-envelope starting point for the economic impact analysis. Not a rigorous study. Just some indicative figures.

Recent news accounts[37] put the number of PMB's nationwide at between 1.5 million and 2.5 million. Take the middle figure, 2 million. Assume that at any given moment, three-fourths of these boxes are rented. That's 1.5 million boxes. Now assume that there are an average of 1.5 persons using each rented PMB. That's two and a quarter million people. Now assume that half of these, or 1.125 million, are using some soon-to-be-proscribed form of address – "suite", "unit", "number", "apartment", no box number, etc. If the *average cost* of changing letterhead, business cards, reply envelopes, etc., for each of these 1.125 million people is $100 per person, then we have a rule with an impact of over $112 million on the private sector.

And that's just printing costs. It doesn't include lost business, like that facing the Coates (see attached letter). And it doesn't factor in lost revenue to CMRA's for departing customers.[38]

From any other instrumentality of the federal government, such a proposed rule would trigger a full OMB review. It would also trigger potential Congressional review under the 1996 Congressional Review Act.

From USPS, what we are likely to get is simply another assertion of exemption from the nation's regulatory laws.

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[37] See, for example, *Cleveland Plain Dealer* , October 9, 1999, p.

[38] A Cato Institute study, which puts the figures much higher, could turn out to be a better predictor of these costs.

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In sum, the self-employed have a problem here. But it is not just our problem. This whole rulemaking story, beginning in August, 1997 and continuing on through the present, shows many disturbing signs of USPS isolation from the general public and bureaucratic high-handedness.

Can this be the same Postal Service that was founded by the inventor and entrepreneur Benjamin Franklin – a champion of small enterprises?

Even if the PMB issue is eventually solved to everyone's satisfaction, there is no assurance that USPS won't engage in similar conduct in the future.

Far from it. USPS now has (a) an exemption from every regulatory law that matters in this country; (b) monopoly control over a form of communication that many businesses need to survive; (c) a mandate to seek a profit; and (d) the unfettered ability to regulate its competitors.

That is a recipe for disaster. If it's not disaster on this issue, this time, then it will be on another issue, another time.

It is time that Congress revisited the entire legal framework under which the Postal Service regulates the public.

This Committee, which shares legislative jurisdiction over the Regulatory Flexibility Act with the Judiciary Committee, should lead the way.

APPENDIX I

A Brief Consideration of "Misleading" and "Vanity" Addresses

In 1997, USPS proposed private mailbox (PMB) regulations that would ban the use of the term "suite". The regulations were described then as contributions to "clarity," "simplicity" and "mail security" at commercial mail receiving agencies (CMRA's).

When PMB renters made clear that the proposed regulations contributed nothing to "clarity," "simplicity" or "mail security," and that prohibiting the use of the "suite" designation would cost them money, the rationale for rules changed: they were said to help prevent "identity theft" and "mail fraud."

USPS then was challenged to show, through empirical studies, how the use of the term "suite" in the return addresses of PMB renters contributed to such crimes. In response, and very late in the process, USPS offered episodes of crime. This left many questions unanswered:

- Whether these episodes were isolated events at the nation's approximately 2 million PMB's, or were part of a general trend;
- Whether postal crimes were more or less likely to occur at other kinds of addresses;
- Whether regulating lawful businesses that used CMRA's might simply hurt these businesses without actually diminishing crime;
- Whether such crime might be better and more cheaply fought in other ways, such as through better CMRA training and better CMRA – postal inspector cooperation;
- And whether these regulations would deliberately or inadvertently aid USPS against a commercial competitor.

With this rationale for attacking the "suite" designation under attack, USPS has developed a new one: the "suite" designation is bad because it is "misleading" or even "deceitful".

Let's be clear. This fundamentally changes the discussion. It is no longer a discussion about crime.[39]

At heart, it's a discussion about people's vanity. The particular target is "vanity addresses".

Which raises the question: why should the resources of the federal government be brought to bear on "vanity addresses" whose users, overwhelmingly, are law-abiding citizens? Where are the victims? What is the federal interest here?

Before embarking on a crusade to end the vanity addresses that are used primarily by *entrepreneurs*, it might be useful to consider other examples of vanity addresses, used by slightly larger organizations.

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[39] Unless, that is, one uses circular reasoning: the evidence relating the "suite" designation to crime is weak, so the "suite" designation will instead be attacked because it is "misleading" – a vanity address. And what's wrong with such "misleading" vanity addresses? Well, they lead to crime.

Just within a few blocks of the Capitol are:

- "1299 Pennsylvania Avenue NW", the address listed by the law offices of **Baker and Botts, LLP**, as well as the Washington offices of **General Electric**, among others. This building lies along E Street NW between 12th and 13th Streets, not on Pennsylvania Avenue, as claimed.
- "601 Pennsylvania Avenue NW North" home of **"The Pennsylvania"** condominiums. This building is at the corner of 6th Street NW and Indiana Avenue. It cannot be entered from Pennsylvania Avenue.
- "Washington, DC 20301". This is the address listed for **The Pentagon**, which, lying on the other side of the Potomac River, looks suspiciously like it's in Virginia.

Farther afield are:

- "Minneapolis, Minnesota 55440" -- listed as the location of the corporate headquarters of **General Mills**. The corporation is in fact situated on General Mills Boulevard, in the city of Golden Valley, Minnesota, some 10 miles west of the Minneapolis city limits.
- "Box 002, Chicago, Illinois" listed as a return address for many remittances to **American Express**. This is not an American Express post office box, however; it is a lockbox belonging to a bank, where American Express funds are directly deposited.
- "Pleasantville, New York", which as Chairwoman Kelly should be especially aware, is described as the home address of **Reader's Digest**. But Reader's Digest is actually located in a nearby town with the less upbeat name of Chappaqua, New York, recently in the news for other reasons.

And last but not least, there is:

- "2 Massachusetts Avenue, NE" -- the address listed for the **National Capital Station of the USPS** itself. But this post office cannot be accessed from the fancy Massachusetts Avenue side of the building. The true entrance is on the less impressive North Capitol Street side. This is clearly an embellished address, if not downright deceitful. It has to go!

It would appear, too, that USPS actually aids and even encourages some of these misleading addresses.

So if entrepreneurs using "suite" in their PMB return addresses are going to have their mail cut off - simply for having a "misleading address" -- then USPS should also cut off the mail for the Pentagon, General Mills, American Express, Reader's Digest, and any other person or organization that similarly attempts to mislead the public.

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October 12, 1999

James Morrison
National Association For The Self-Employed

Dear James,

When my wife and I started our business ten years ago we applied to the local post office for a post office box. No boxes were available so we went to a contract post office in our area. We were told that we could use the suite number in our address.

Since that time we have published a dozen books and sent out over 20,000 flyers with our suite address. Much of our current business comes from printed material already in circulation with our suite address. If the Post Office Department requires that we no longer use the suite address and must use PMB instead, with no forwarding from the suite address, this will limit the way people can contact us and order our books: if their mail is returned to them with a message such as "unable to forward" etc., they may assume we are no longer in business. This will, obviously, affect our ability to do business and will result in loss of potential income. We personally feel that the use of the suite number in our address should be grandfathered.

The use of PMB will require a great deal of expense for the small business person. It is our request that the Post Office re-examine the requirement of PMB for private mail boxes, and allow businesses to get on with their business unhampered.

Sincerely,

Thomas & Judith Coates

cc: Paul Denham
Committee on Small Business
U.S. House of Representatives

Page 2 attachment:

Attachment of a letter from our son, Paul Findlay from Beaverton, Oregon:

To Whom It May Concern:

One week ago (approximately September 29th), I contacted one of my credit card companies to inform them that my address was changing due to the new Postal Regulations. Instead of "# 215", my address would be "PMB 215."

The very helpful customer service representative was baffled at first: She had never heard of "PMB", and so I had to explain what it stood for and how the Post Office was now requiring its use. Once I had educated the representative on "PMBs" and their use, she then tried to change my address on their computer systems ...

... but this proved nearly impossible. She explained to me how their address field screen on the computer system was set up with only the following options: POB, Suite, Apt., #, and a couple others. "PMB" was not an option that she could enter into the system. It took several minutes of trying various different ways to "fool" the system into including "PMB" into my address. However, even then, she couldn't guarantee that this would work.

Paul Findlay
6107 S.W. Murray Blvd, PMB 215
Beaverton, OR 97008

p.s. — I find it very distressing that the Post Office will spend millions of dollars informing the public that there's a new Bugs Bunny stamp, and yet they have apparently spent next to nothing informing the public about "PMBs."

Testimony of

Michael J. Mansfield

Assistant District Attorney,

Chief, Economic Crimes Bureau

Queens County District Attorney's Office

before the

UNITES STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON SMALL BUSINESS

SUBCOMMITTEE ON REGULATORY REFORM and

PAPERWORK REDUCTION

10:00 A.M., Tuesday
October 19, 1999

2361 Rayburn House Office Building
Washington, D.C, 20515-6050

As an Assistant District Attorney of Queens County, I am in charge of the Economic Crimes Bureau for Richard A. Brown, the District Attorney of Queens County, New York. District Attorney Brown represents a constituency of almost two million people. Our office has the responsibility of prosecuting some 60,000 arrest cases each year, cases running the gamut from homicides, forcible rapes, robberies and felonious assaults down to quality of life crimes such as graffiti, street narcotics, prostitution and the like.

In addition, we have a significant investigative role in such areas of criminal conduct as narcotics trafficking, organized crime, labor racketeering, economic crime and criminal activity at John F. Kennedy and LaGuardia airports which are located in our county.

I very much appreciate the opportunity to speak here today in support of the United States Postal Service regulatory changes governing Commercial Mail Receiving Agencies and I very much want to thank the United States Postal Inspection Service on behalf of the prosecutorial law enforcement Community for its aggressive investigative efforts in the fight against white collar financial crimes. However, we, in the City of New York, are fighting an uphill battle against these criminals based on the current status of regulations concerning Commercial Mail Receiving Agencies.

To paraphrase that famous bank robber from the 50's, Willie Sutton, whose response to the question why he robbed banks was "because that's where the

money is", similarly financial crime thieves use Commercial Mail Receiving Agencies because that is where the money goes and "go" it does - the losses attribulate to identity theft and other forms of account takeover thefts number in the billions of dollars - not to mention the financial havoc that is visited on legitimate consumers who are the victims of these crimes. I know from 16 years of economic crime prosecutions that it often takes victims of financial fraud years to undo the damage done to their reputations and to restore their credit status.

Over the past four years my office, in conjunction with the United States Postal Inspection Service and other Federal and State Law Enforcement Agencies has dismantled four multi-million dollar financial fraud enterprises who owed their very existence and survival to the many Commercial Mail Receiving Agencies which operate in the New York metropolitan area.

The problem of the criminal use of Commercial Mail Receiving Agencies has become so widespread that our prosecutions have drawn the attention of the national media - including numerous newspaper and magazine articles as well as being featured on segments of CBS' "60 Minutes" and other news magazine shows.

Our four investigations, dubbed Operation Silver Parrot, Operation Mailstop, Operation Black Leather, and Operation Nigerian Express, involved highly structured ethnic organized crime groups that used New York City as the base of their operations, but their criminal activity extended throughout the United States - they each had the ability to operate in any area where a Commercial Mail Receiving

Agency existed.

Operation Silver Parrot was an 8 month investigation that resulted in a 200 count indictment under New York's Organized Crime Control Act, our equivalent of the Federal Rico Statute, charging 8 Nigerian nationals with operating a multi-million dollar financial fraud ring that specialized in the theft of credit identities of thousands of people across the United States and had contacts throughout the world. All of the defendants in that case were convicted - with the ringleader receiving a 10 year prison sentence - and that was after his cooperation.

The tactic used by this ring was to obtain personal information about a potential victim from any number of available sources and then to in effect "become the victim" - it's commonly known as "identity theft". Once a victim was identified, his/her mail would be diverted from his/her own address to a "temporary" address for a thirty day period - that temporary address was one of hundreds of Commercial Mail Receiving Agencies which were rented by the criminals in the names of the victims. Within a thirty day period, by looking at the victim's mail, an entire financial profile was obtained on the victims and the ring systematically drained the victims of all available credit and cash from credit card accounts - from home improvement lines to pension accounts - even to the point of using the victim's frequent flier miles, all before the victim knew what had hit him or her. Since that investigation I am happy to say the United States Postal Service has tightened its controls on "change of address forms" to where a "move verification letter" is sent to the address from

which the mail was to be delivered - thereby giving a potential victim a warning that he has been targeted by an identity theft ring.

The leader of that group, Olishina Adecombie, told me after he agreed to cooperate that he personally made 8 million dollars operating this ring before he was arrested by United Postal Inspection Service and prosecuted by my office. When we were asked him what he did with the money he stated that he sent it to his native Nigeria where he owned a number of apartment buildings. When he was arrested we recovered documentation on the purchase of a new Mercedes-Benz which had been shipped to Nigeria. When I asked him about this Mercedes he asked me to identify what color the car was so he would know which car I was talking about; it was gold. The last known address on the motor vehicle registration in the United States was also a Commercial Mail Receiving Agency with a purported "apartment number".

As a result of this prosecution, we in the law enforcement community learned much about identify theft rings and their use of Commercial Mail Receiving Agencies, and we, following the adage that "if you can't beat em - join em", decided to commence a sting operation where we set up our own Commercial Mail Receiving Agency which was manned by undercover postal inspectors, other federal agents and detectives from my office. We dubbed the investigation "Operation Mail Stop." I am happy to say that earlier this year, we convicted the last of 13 defendants who comprised a ring of West African Nationals who were also prosecuted under our

State RICO statute. As its name suggests "Operation Mail Stop" was a major financial fraud sting whose success was possible only because of the extensive and pervasive use of Commercial Mail Receiving Agencies by the criminal element.

When we started the sting we did not target any particular group but rather were reacting to the large number of stolen credit cards and other financial access devices which were obtained by fraudulent applications and identity takeovers in the New York City metropolitan area.

Reminiscent of Kevin Costner's movie "Field of Dreams", where he proclaimed "if you build it they will come", our experience was that not only did they come but they came in such overwhelming numbers that we were forced to concentrate our efforts on only one ring of many that were operating out of our Commercial Mail Receiving Agency. Unlike Silver Parrot, there was no wholesale diversion of a victim's mail to the Commercial Mail Receiving Agency; indeed, this was now impossible, due to the regulations being enforced by the United States Postal Service. Rather, financial institutions and department store were contacted individually by the ring and the billing information and merchandise were routed to the Commercial Mail Receiving Agency.

As a result of obtaining court ordered wire-taps we were able to literally hear the ring in operation. Female members of the ring would call credit reporting agencies posing as consumers seeking copies of credit reports to be sent to their "new address". Once this was obtained there would be systematic contacting of

each creditor on the credit report notifying them of the "new address and apartment number", along with requests for replacement credit cards or checks to be sent to the "new address" with the listed "apartment number", which would be a designated box with our Commercial Mail Receiving Agency. One particularly interesting conversation was a call by a member of the ring to a major credit card issuer posing as a consumer whose identity he had assumed. He told the issuer that he was on vacation and staying at the "Hotel Kennedy", and he gave the address of our Commercial Mail Receiving Agency. He indicated he had "lost his credit card" and needed a new card mailed to him at the hotel where he was staying in room 142. Within 2 days that card arrived at our location via Federal Express addressed to "Hotel Kennedy room 142". This example is not an exception to the rule but a common fraud trap and another manner in which criminal groups rely on their ability to use Commercial Mail Receiving Agency addresses in a deceptive manner. During the course of our investigation, we had thousands of dollars worth of merchandise from mail order catalogs and internet sites delivered in the same manner.

My third example of illegal use of Commercial Mail Receiving Agencies is "Operation Black Leather". Again, it was a multi-million dollar merchant fraud enterprise operating in New York, New Jersey, California and Florida. It was investigated by my office and the United States Postal Inspection Service and resulted in the convictions this past year of a group of Middle-Eastern nationals

whose leader Ramesh Sethuraman, aka Ramesh Kumar, a self described economic terrorist, who responsible for defrauding banks and financial institutions of millions of dollars.

In Operation Black Leather, the defendants set up fake store fronts in Queens, as well as throughout the metropolitan area and the country, which purported to sell leather coats, leather apparel, and other clothing, hence the term "black leather". The fake store fronts purported to be legitimate businesses and used the stolen identities of legitimate people as "principals". As such, each business opened merchant processor accounts with banks all over the country.

A merchant processor account is a relationship with a bank or financial institution which processes the credit card numbers for a business, requests payment from the issuer and deposits the money in the merchant's bank account (all in 1 day). In Black Leather the defendants opened accounts with anywhere from three to ten merchant processors. The defendants then stole account information from consumers of gas stations, restaurants and retail stores and placed fake charges on the accounts for proported purchases of leather goods from the store fronts. As soon as the money was placed in the defendants' accounts, it was withdrawn. After a couple of weeks they would close up shop and open up under a different name somewhere else - a classic "bust out merchant scheme." Interestingly, this case came to our attention because a Westchester resident, Sister Margaret Mary, a Dominican Nun, noticed on her credit card bill that she was

charged for the purchase of a leather coat from a Queens, New York store front. Sister Margaret Mary was a very credible witness when she testified that she has never worn a leather coat, much less purchased one.

Operation Black Leather is a case study of the use of Commercial Mail Receiving Agencies to commit massive financial crimes. These defendants used Commercial Mail Receiving Agencies for all aspects of their operations. When they incorporated the fake businesses, the corporate address was a Commercial Mail Receiving Agencies. When they applied for a merchant processor account, the home address of the identity taken over for a principal was a Commercial Mail Receiving Agency with "apt" or "suite". All the bank documents led to Commercial Mail Receiving Agencies. The defendants sent materials to co-conspirators in other states at Commercial Mail Receiving Agency addresses. Two of the fake store fronts actually had no address at all, and were merely mailboxes at Commercial Mail Receiving Agencies. The financial institutions were supplied with a Polaroid of a non-existent storefront complete with a temporary sign. Without the "PMB" designation, a merchant processor bank out West had no idea that they were dealing with a Commercial Mail Receiving Agency. Of course, the mailboxes at the Commercial Mail Receiving Agencies were rented with phony identifications, so that when the defendants "busted out" of a store front, all leads led to an abandoned mailbox at a Commercial Mail Receiving Agency.

In July of this year, my office handed up a 268 count indictment charging nine individuals with a myriad of criminal activity, much of it possible by the improper use of Commercial Mail Receiving Agencies. "Operation The Nigerian Express" was a complex association of Nigerian men and women involved in a variety of crimes. This operation originated as a narcotics investigation, and blossomed into a broader investigation, touching tax evasion, grand larceny, forgery, and a host of other crimes. The Nigerian Express was involved in three distinct, but related, operations. The first was the distribution of heroin in and around Queens County. The second was the filing of false or forged tax instruments. The third was larceny committed through the unauthorized electronic transfer of bank account and credit card funds. Bola Adeola, aka "Prince," was the leader of the Nigerian Express. Adeola oversaw each of the three criminal operations through a separate director; Joseph Omesiete was the director of the narcotics distribution operation; Derrick Rountree was the director of the tax evasion operation; and Ayodele Peters was the director of the grand larceny operation. Our investigation indicated that Commercial Mail Receiving Agencies were used in much the same manner as in the previous cases.

In the same way as with our other investigations, it is clear that the financial crimes of this organization would have been difficult, if not impossible to commit, were if not for the ease with which Commercial Mailing Receiving Agencies could be and were used as purported legitimate addresses.

Not one of these cases would have occurred if the regulations discussed by the Postal Service were in effect at the time these crimes were committed. Accordingly, on behalf of the Law Enforcement Community in the City of New York, I strongly urge your support for the enhancement of these regulations.

Attachments:
Press Releases

Dated February 7, 1996 -
D.A. Brown: EIGHT NIGERIAN NATIONALS INDICTED ON CHARGES ON RUNNING MULTI-MILLION-DOLLAR NATION-WIDE COUNTERFEIT AND STOLEN CREDIT CARD OPERATION; RING LEADERS FACE UP TO 25 YEARS IN PRISON UNDER NEW YORK STATE'S ORGANIZED CRIME CONTROL ACT

Dated February 28, 1996 -
QUEENS COUNTY DISTRICT ATTORNEY RICHARD A. BROWN URGES POSTAL SERVICE AND CREDIT CARD AND BANKING INDUSTRY REFORMS TO PREVENT THIEVES FROM DIVERTING MAIL AND STEALING CONSUMER'S FINANCIAL IDENTITIES

Dated February 7, 1997
D.A.BROWN: MULTI-MILLION-DOLLAR CREDIT CARD AND FINANCIAL FRAUD RING SMASHED; ALLEGED RING LEADER AND EIGHT OTHERS INDICTED UNDER ORGANIZED CRIME CONTROL ACT; 185-COUNT INDICTMENT FILED

Dated July 14, 1998 -
MULTI-MILLION DOLLAR CREDIT CARD FRAUD RING OPERATING NATIONWIDE THROUGH STOREFRONT LEATHER CLOTHING SHOPS SMASHED; NINE ARRESTED

Dated July 12, 1999 -
268 COUNT INDICTMENT CHARGES NINE NIGERIAN NATIONALS WITH NATIONWIDE CREDIT IDENTITY TAKEOVER SCHEME LINKED TO HEROIN DISTRIBUTION, FORGERY AND TAX FRAUD CONSPIRACIES

Statement of
Rick Merritt
Executive Director, PostalWatch Incorporated
before the
Subcommittee on Regulatory Reform and Paperwork Reduction
on the
Postal Regulations governing Commercial Mail Receiving Agencies (CMRA)

October 19, 1999

Chairwoman Kelly and distinguished members of the Subcommittee thank you for this opportunity to appear here before you today.

My name is Rick Merritt; I am the executive director of PostalWatch Incorporated, small business owner and long time CMRA private mailbox customer. PostalWatch is a grass roots organization founded in order to provide the small business community a "voice" in Postal related issues such as this.

Speaking on behalf of our membership and all of the small businesses that utilize private mailboxes, we commend the Subcommittee's tenacious pursuit of regulatory equitability on this issue.

For the record, PostalWatch strongly opposes the US Postal Service regulations published in the Federal Register on March the 25th, 1999 governing Commercial Mail Receiving Agencies (CMRA). We are of the opinion that the Postal Service enacted these regulations without any documented justification, and that the procedural processes surrounding their enactment continues to be so egregiously flawed that these regulations should be rescinded in their entirety immediately.

Additionally for the record, I would like to state that PostalWatch Incorporated and the members of the private mailbox community of whom we represent are very supportive of effectively preventing and reducing criminal activity such as mail fraud and identity

takeover. Our objection to these regulations lies not with their stated goal of crime prevention but with the regulations themselves, the lack of justification for their existence, their low expectation of success in preventing crime and finally the enormous burden they impose on the law-abiding small businesspeople that rent private mailboxes.

REGULATIONS NOT JUSTIFIED, WILL NOT PREVENT CRIME

The Postal Service has failed to produce a single statistical study indicating that the "criminal" problem at CMRAs is significantly higher than at any other type of address, despite requests for such data from several Members of Congress.

The Postal Service has been circulating a list of 19 anecdotal cases from 1998 that in some way involve a CMRA address. Considering the absence of any study, one might conclude that these 19 cases represent the "problem" in its entirety. If this were the case, these 19 CMRA cases would represent less than two-tenths of one percent of the 10,095 total postal related arrests made in 1998.

Criminals conducting mail fraud or identity theft clearly must have an address in order to perpetrate their crime. What little information is available suggests that these criminals utilize all types of addresses including private mailboxes, apartments, office suites, rental homes and Post Office boxes in order to conduct their criminal activities.

Although these regulations make private mailboxes less desirable for everyone including criminals, there is absolutely no evidence that would suggest that those criminals currently using private mailboxes would cease or reduce in any way their criminal activities as a result. Conversely, common sense suggests that these criminals will simply begin using alternative addresses such as office suites, apartments and rental homes to continue their criminal enterprises.

To the criminal conducting mail fraud or identity theft an "address" is a necessary "tool of the trade" in much the same way that a bank robber needs a get-away-car. These regulations are analogous to the FBI deciding, without the benefit of any statistical study,

that several bank robbers have been using Ford Mustangs as get-away-cars, and thus every person who owns Mustang will be required to register with the FBI, produce two forms of I.D. and be required to paint the acronym "SGAC" (Suspected Get-Away-Car) in bold letters down both sides of their car. At the end of the day, there would be just as many bank robberies perpetrated, however the bank robbers would be using Firebirds or Cameros as get-away-cars instead of Mustangs, the FBI would have significant personal information on every law-abiding Mustang owner, and the resale price of used Mustangs would fall while sales of new Mustangs would be virtually non-existent.

QUESTIONABLE MOTIVES

As we enter this next millennium and the hyper-competitive "information age", it will become increasingly more difficult for the Postal Service to remain self-sufficient. Postal revenues will shrink as demand for its primary service, the delivery of first-class mail, erodes due to the availability of more efficient and technologically advanced alternatives.

The Postal Service will become increasingly motivated to replace these lost revenues, thus they will attempt to enter an increasing number of non-postal business activities. As the Postal Service expands into traditionally non-postal private sector lines of business, the potential to cause irreparable harm to entire industries made up of small businesses seems inevitable.

The Postal Service continues to claim that their sole motivation for enacting these regulations has always been to prevent mail fraud and identity theft. Circumstances and common sense however indicate otherwise. The Postal Service has failed to conduct any Needs Analysis, Effectiveness Studies or Cost/Benefit Analysis relative to these regulations which are referred to by members of the CMRA industry as the "Death Regs."

These regulations seriously damage an entire industry which provides *Substantial Competition* to the Postal Service as pointed out in the "United States Postal Service Five-Year Strategic Plan FY 1998-2002" published in November of 1997 which states,

"Substantial competition from private mail and parcel franchises has emerged in recent years. Starting with a few hundred stores in 1980, this industry has grown to include about 7,800 commercial mail receiving agencies, such as Mailboxes, Etc." Referring to UPS, FedEx and CMRAs collectively in the same context the Postal Service goes on to state *"Together, these companies generate over $5 billion in revenues."*

ENDLESS MODIFICATIONS INDICATE DEFECTIVENESS

In an October 14, 1999 press release, the Postal Service announced that it is planning to propose a series of additional modifications to regulations governing CMRAs." The press release goes on to announce that the Postal Service will **open yet another comment period** for these latest modifications. This latest comment period will be the third official comment period relative to these regulations since they were enacted in March of 1999. The Postal Service continues to put a positive spin on the fact that these regulations were so poorly developed that they have been forced to adjust, extend, or modify the initial regulations on what seems to be a weekly basis since their enactment in March. Had the Postal Service performed its due diligence prior to enacting these regulations, there would be no need to modify them ad-hoc after the fact.

VIOLATE PRIVACY RIGHTS

These regulations require that every box holder re-register with the Postal Service. This very moment as we meet here today, renters of private mailboxes all over this great nation are being threatened with the cancellation of mail delivery if they fail to file a new Postal *form 1583*. This so-called "voluntary" form must be accompanied by two pieces of identification including one with a picture. Every box holder has already filed a form 1583 and produced identification when they initially rented their mailbox. Many of these small business owners have had the same mailbox for ten, fifteen or even twenty years.

These regulations require box holders' to choose between their privacy and receiving their mail. The information required on the form 1583 is formidable, intrusive and includes such items as the home address and phone number of every person receiving mail at the mailbox. *<Please refer to a sample Postal Form 1583 attached as Appendix*

"A" to the end of my written testimony >. The Postal Service has gone so far as to require the names and ages of any minor children that may receive mail as well. Virtually every Personal Safety Expert with experience in the field of child abduction recommends that parents NOT divulge the names or ages children to anyone.

Despite repeated Postal Service claims that peoples' privacy concerns will be addressed, box-holders are currently forced to sign *form 1583* with a Privacy Act Statement that states that their personal information "may be released to anyone" if the private mailbox is being used to conduct business. Further the latest "proposed" privacy rule allows the Postal Service to release personal information to a plethora of semi-government and law enforcement types without a warrant, subpoena or in some cases without even a record of the disclosure.

WILL RESULT IN MAIL DISRUPTION

These regulations require ten thousand CMRA operators to hold mail in "Postal Limbo" for six months. One of the more baffling and punitive aspects of these regulations is that Commercial Mail Receiving Agencies are REQUIRED to receive and potentially "hold" prior customers' mail for a six-month period after their relationship terminates. During this period, the CMRA is not allowed to refuse or return-to-sender the previous customers' mail. CMRAs around the country will be storing millions of undelivered mail pieces. During this time the original sender of the (first-class) mail piece will be under the false impression that their mail has been delivered. It is unfathomable how a procedure that fails to return a piece of mail to the sender when an address has been abandoned could ever be viewed as an anti-fraud measure.

DIRECT COST ESTIMATES CONSERVATIVE

Attached to my written testimony is a copy of a Cato Institute Briefing Paper entitled "The U.S. Postal Service War on Private Mailboxes and Privacy Rights. Contained in this paper is a table entitled "Cost of New Postal Service CMRA Regulations" which estimates the potential range of the "direct first year" costs of these regulations to be between $639 million and $1.066 billion dollars.

It is quite obvious by the structure of this table and subsequent discussion that its purpose is to estimate a range of "direct costs" associated with these regulations based on certain assumptions. The use of assumptions is necessary given the lack of available published data. We do not posses the financial resources necessary to perform or commission an exhaustive economic model and impact analysis of these regulations. Conducting such a study is the public policy responsibility of the Postal Service. We are, however, quite well qualified to discuss and evaluate the time and effort required to accomplish a particular task within the burden rich and resource starved environment of a small business.

Since publication of this Briefing Paper, the Postal Service has attempted on several occasions to discredit the "direct cost estimate" by attacking the assumptions used as being "unsupported". The Postal Service has put forth the concept that these "unsupported" assumptions are somehow inflated and have led to an overstated cost estimate. I would contend however that these assumptions, taken in the aggregate, are extremely conservative and have led to an understatement of the estimated impact of these regulations on small business.

USPS has challenged these assumptions without offering any of their own estimates or assumptions. Why is that? We believe that the Postal Service has in its possession a very accurate count of total CMRAs and private mailboxes, which if released, would significantly improve the accuracy of these cost estimates. The Postal Service has not however, offered any alternative estimates as to the economic impact of these regulations on the private sector.

Please note that when forced to make ANY assumption in this model, every attempt was made to strongly error on the side of conservatism. The "direct cost" estimate ended up with a very wide range of total box renters of between 1.5 and 2.5 million at any given time. The reasons for such a large range of box renters include:

- The Postal Service is the only organization that knows exactly how many boxes are being used at any given time, but they apparently have chosen not to share that information with anyone.

- To allow for normal vacancy factor and normal attrition.

- There is a major difference between physical boxes available for rent and box-renters because more than one person or business entity with shared ownership may use a single box. Consequently, there may be significantly more people (box renters) affected by these regulations than there are actual physical boxes in existence. According to several CMRA operators as many as 30- 40% of their physical boxes are utilized by more than one person or entity. Given the fact that in some cases there may be as many as four or more family businesses using one single box, this could result in a situation where the aggregate number of box-renters approaches or exceeds twice the number of total physical boxes. This means that it is possible that the number of box-renters affected by these regulations might actually approach 5 million. In the interest of conservative estimates this was not directly factored into the original estimated range of box-renters

- Rachel Heskin, Senior Communications Manager for Mailboxes Etc indicated that they had 3,300 franchise stores with roughly 800,000 total mailboxes (average 242 boxes per store) during a phone conversation on May 19, 1999.

- "United States Postal Service Five-Year Strategic Plan" published in November of 1997 states, *"...this industry has grown to include about 7,800 commercial mail receiving agencies..."* The Postal Service's 1997 estimate of 7,800 CMRAs, assuming no growth during the two-year period and each with a conservative 200 boxes would result in 1.56 million boxes.

- It is common for CMRAs in entrepreneurial hotbeds such as Dallas, Atlanta, Austin and San Jose to have well over 500 boxes in each location.

- Several of the larger and more established CMRAs such as a 1,000 box operation in Southern California and a 3,000 box facility in Alaska appear to remain independent and are not affiliated with any particular franchise.

DIRECT COSTS ARE ONLY THE "TIP OF THE ICEBERG"

The "direct costs" of these regulations are by far the easiest to get a handle on and only represent a fraction of the total long-term economic burden of these regulations. The largest portions of the true cost are the long-term future costs. No one can accurately predict what these long term costs will ultimately add up to, however no one can deny they exist. The following represents what is believed to be a reasonably conservative guesstimate.

- **$215 million in CMRA net worth equity loss due to lost box rental income.** Over the last few months we have received numerous reports from CMRA operators indicating they have already experienced significant cancellations of box rentals due to these regulations. These reports range from approximately 5-50% loss rate in box rentals. It appears the consensus is somewhere between 10-15%. At the lower 10% number, the ten-year value of this lost revenue stream is a collective loss in net worth of over $215 million dollars alone. The calculation was achieved by applying the universally accepted formula for calculating the "future value" of an income stream, $FV=c*[(1+r)((t-1)]/r$ to the following assumptions: 1.5 million total boxes rented, 10% loss due to regulations, 10 year life, average interest rate at 5.5%, and average box rental of $9 dollars per month

- **$1.5 billion in box holder lost opportunity and future revenue cost**. Assumes the same universally accepted formula, interest rate and life span assumptions for calculating future value, and the very conservative assumption that 1 million

small business box holders will incur the modest future loss of $120.00 per year for the next ten years.

THE MAJOR COST IS IN HUMAN SUFFERING

The Postal Service is quick to point out and leverage the truly sad human suffering and economic devastation caused by the crimes of mail fraud and identity theft. They fail however to acknowledge the truly devastating effect that these regulations will impose on potentially millions of Americans and their families. A small business is for the most part a family institution that represents the hopes, dreams, and many times the life savings of several family members. Starting and operating a small business is an emotional experience that requires long hours, unrelenting dedication and personal sacrifice. The following are excerpts from a few of the hundreds of individual stories we have received from our members on how these regulations are impacting their lives and livelihood

- A small business owner in San Antonio, Texas wrote, "The new regulations (1583 etc) were the last straw, and our small private mail box outfit went out of business. They made arrangements to transfer all boxes to another firm just down the street and furnished the post office with completed change of address forms. However, the Post Office will not release the mail (have been holding it a week) to the box holders, the new private mailbox outfit, or the old one. Do you have any suggestions as to what we might do to get our mail, checks, orders etc? The Post Office just says ---- "we have not decided what to do with the mail" --- return it to the sender, give it to the addressees, or to the new private mailbox company. They imply that if we get a box with them, the mail would instantly appear in the box (blackmail??). We would appreciate your ideas."

- A box holder wrote: "...I was dismayed to read of a needless new postal regulation which will impact me, and I'm sure many others, negatively. ...My objections to this are manifold: 1) I am a psychiatrist. I was previously employed by the state prison system and deliberately use a private mailbox to insulate my

privacy. I do not want my personal information in Postal Service databases of dubious security. 2) I bill insurance companies for my medical practice and will have to change all my stationary, business cards, rubber stamps to the new address. My experience has been that insurance companies are notoriously slow at upgrading their databases to accommodate new addresses. Thus, I risk having payments sent back to the insurance companies instead of my mailbox. 3) I have enjoyed the convenience of using the private mailboxes and it would hamper me professionally should they go out of business due to this new regulation"

- A box holder wrote: "I have a small business that markets a video to Teenage Parent programs in Public Schools, County Health Departments, and Public Libraries. This is a very small business, and I do it as a service to programs that are funded by government money. Now, I have been told ...of new regulations that require me to use a new address, one that is similar to my present one, but different enough to require that I notify all of my business connections of the change. ... I do not have the resources financially to notify all the programs that have purchased my video of a change in address, or to reprint my brochures, and business cards. I purchased large quantities of both to last me years, since I believed my address to be permanent. Also my video cover has my address on it, how am I supposed to change that? My video is carried in educational catalogs by 2 distributors who sell to schools and libraries, it is beyond my ability to know how to make this ridiculous change. And when I am told that if I don't, the Post Office will not deliver my mail to my present address, I am afraid that the government will put me out of business. How ironic since government programs are what I serve. I am a divorced mother of three children trying to make a business to support my family and the government is willing to compromise that. Please explain that one to me. I need to know why this is happening and how the government justifies not delivering mail to a taxpayer. Is the government willing to help me with the expenses involved in making this regulation change? Please understand that this regulation change will have a dramatic effect on my rights to

run my business. It will also have an effect on the teenage parent programs that use this video".

- A CMRA in Fresno, CA wrote "Please keep me informed of your progress in getting support for H.J.Res 55. I am a CMRA who is about to go out of business due to the cancellations by my mailbox holders who are FURIOUS about this insane regulation and invasion of their privacy."

- A CMRA wrote: "I am a CMRA owner, with only one location, and I am outraged at what the Post Office is trying to do us. When they started to require 2 forms of ID from box holders, I complied at a cost to my company of almost $4,000.00, (we had to buy a copy machine because the Post Office requires copies of the box holders ID be kept on file). Now they what to "Label" our clients by making them place a PMB before their box number. This is a basic violation of what I felt is my right to conduct my business as a free enterprise. The majority of my clients are small businesses that are usually run out of their homes and don't want to use their home address as their business mailing address. They have come to me because they need a central location to receive their mail and packages that are sent by the Post Office, UPS, Federal Express and the like.

- A CMRA from Baltimore wrote: "...With box holders dropping like flies (closing boxes because they are fed up with the rules) ... funds are dwindling... just what the Post Office wants... put the competition out of business. Keep up the effort and we will continue to do what we can too."

- A box holder in Arizona wrote, "I am married to a diabetic. To make a long story short, he has had 8 operations since October. He had been in insulin shock so many times I'm on a first name basis with the fire dept. guys. He is now on dialysis four times a day. Besides taking care of him every chance I get, I work most days from 6am to 10pm. Now, the post office comes along and says fill out this form. They want to know EVERYTHING about you except the color of your

kitchen sink AND they want you to change your addresses and advertising. I have been in business for 17 years. Over those years, I have acquired approximately Three Hundred Thousand (300,000) clients, businesses, vendors, and such." "...the costs that will affect my business because of this: Address Change Notices 300,000 @ .33 = $99,000.00 . What on earth is going on here? This regulation needs to be stopped immediately.

CONCLUSION

As time goes on it becomes ever more apparent the Postal Service created these regulations in a "data less" environment. They would have us believe that these are well-crafted regulations that will solve a specific problem for which they have virtually no information.

Millions of small businesses are being forced to absorb a huge economic burden to solve a "perceived" problem the Postal Service has not even bothered to define. Without collecting the criminality statistics about CMRAs prior to enacting these regulations, there will be absolutely no way to ever determine if these regulations were effective at anything other than terrorizing millions of small businesspeople.

This regulatory action on the part of the Postal Service, "by decree" cripples thousands of it's private sector competitors, imposes a huge unfunded mandate on small business, and tramples the privacy rights of two million law-abiding American citizens without as much as a token attempt at justification, cost/benefit analysis or demonstrating the existence of any compelling public interest.

The fact that these onerous regulations found there way so easily into law makes a compelling case for Congress to repeal USC Title 39 section 410 which grants the Postal Service an exemption from the Administrative Procedures Act and thus all other statutes that protect the American people from runaway regulatory agencies.

This concludes my testimony. Thank you for this opportunity to appear here today. I would welcome any questions you may have.

Statement pursuant to rule IX; clause 2(g)(4) of the Rules of the House of Representatives: Neither PostalWatch Incorporated, nor any entity representing it or Mr. Merritt has received any contract, subcontract, or grant from any federal source during the last two fiscal years.

The U.S. Postal Service War on Private Mailboxes and Privacy Rights

by Rick Merritt

No. 48 July 30, 1999

On March 25, 1999, neatly concealed in an obscure and seemingly minor "Procedure Revision," the U.S. Postal Service announced its intent to execute Postal Bulletin 21994. In an alleged attempt to combat mail fraud, the Postal Service required that by June 24, 1999, all commercial mail-receiving agencies (CMRAs) that offer rental of private mailboxes should have collected from their customers confidential information that the Postal Service itself is not allowed to collect. Furthermore, starting as early as October 24, 1999, the USPS will deliver mail only to the private boxes addressed in a particular format that will be unfamiliar to many senders.

Those new requirements violate the privacy regulations that cover the Postal Service. The USPS plans to make available to the public confidential information about any private box holder who uses the box for business with the public. However, access to such information could actually facilitate criminal activity. Moreover, the Postal Service also plans to apply these new regulations to executive suites.

In addition, because it is impossible for box holders to know everyone who might have their private box address on file, many otherwise deliverable pieces of mail will be returned to the sender, marked "address unknown." Finally, the new regulations will foist enormous costs on some 1.5 million to 2.5 million private mailbox holders, which include many of the country's smallest businesses. CMRAs will also incur expenses, not only of compliance with and notification to box holders of the new regulations but also of lost business. A conservative estimate of the direct costs alone of the new regulations could approach $1 billion.

Rick Merritt is executive director of Postal Watch Incorporated (http://www.postalwatch.org).

The USPS plans to make available to the public confidential information about any private box holder who uses the box for business with the public.

The Rise of Private Mailboxes

Before the advent of private mailboxes, individuals and entrepreneurs had essentially three choices of where to receive their mail. They could receive it at home, at an office or the physical address of their business, or from a rented box at a U.S. post office. But those options leave much to be desired for many individuals, especially small-business owners.

First, post offices have limited hours during which customers may pick up mail. Second, U.S. post offices will not accept for their P.O. boxes delivery of packages from private carriers such as Federal Express and United Parcel Service. Third, proprietors of many small and start-up businesses, and certainly businesses operating out of the home, face problems with using their home addresses for deliveries. Those entrepreneurs frequently have very limited human and financial resources and often spend much of their time out of the office servicing customers. Such businesses cannot afford an office suite with a full-time person to answer the phone and receive packages, especially packages requiring a signature for delivery.

Market need thus led to the emergence of commercial mail-receiving agencies (CMRAs). Small-business owners in particular choose CMRAs because they have more convenient business hours, will accept deliveries from private carriers as well as from the U.S. Postal Service, and offer a stable address for enterprises that might change locations. In addition, CMRAs offer other services such as packaging and shipping. Also, small-business owners renting a CMRA box often can list their address as a number or suite, for example, "123 Main St., #401," which gives an enterprise a professional appearance. Furthermore, a CMRA box provides small-business entrepreneurs personal separation and privacy from their business dealings.

There are approximately 10,000 CMRA outlets, with a total number of box holders estimated at between 1.5 million and 2.5 million. The best known is Mail Boxes Etc., which has approximately 3,300 franchises and about 800,000 box holders. Other CMRAs include Pak Mail Centers, Postal Annex, Post Net Postal and Business Centers, and Parcel Space Plus. Many of the outlets are small, mom-and-pop-type operations.

Why Revised Procedures?

On March 25, 1999, the Postal Service issued new regulations in the *Federal Register* for CMRAs and their box holders. In that posting, the USPS offered justifications for imposing those regulations.[1] First, the Postal Service must take special care when delivering mail to a third party, the CMRA, that then passes the mail along to the ultimate recipient, the box holder. Second, the USPS is trying to prevent mail fraud—that is, the use by box holders of their private boxes for nefarious activities (such as bilking customers for purchases of misrepresented or nonexistent products and services). Third, the Postal Service claimed that "current use of APT [apartment], STE [suite] and other address designations by CMRA customers is misleading and does not identify the true location of the mailpiece delivery."

The USPS also claimed that the new regulations would bring the CMRAs in line with the regulations that govern U.S. Postal Service boxes. On October 8, 1998, in its Bulletin 21982, the USPS presented revised requirements for P.O. box holders. For example, new and renewal applicants for P.O. boxes will have to provide two forms of identification. Furthermore, mail going to P.O boxes will be delivered only to individuals who are registered to receive mail at specific box numbers and for whom the Postal Service has a home address on file. Thus, if a particular box is registered only in the name of a husband, mail going to that box addressed to his wife might not be delivered by the Postal Service.

The New Regulations

The new regulations, printed in the March 25 *Federal Register*, informed CMRA operators that by June 24, 1999, they must instruct all their box renters to fill out, sign, and have notarized a new Form 1583. The box renters then must submit the form with "two items of valid identification; one item must contain a photograph of the addressee." The identification must show "the applicant's signature and a serial number or similar information that is traceable to the bearer."[2]

Corporate and business box renters must disclose not only the address and date of formation of the enterprise but also the names and home addresses of the enterprise's officers. Those box holders must also indicate whether the box address will be used for doing business with the "public." The Postal Service offers no definition of "public." For example, if the box renter is doing business only with other businesses, does that constitute doing business with the "public"?

In the past, most CMRAs were required to hold the box renter's Form 1583 in the event that postal inspectors might need it for a criminal investigation. The new rules require duplicate forms, which include private information about the renter, to be sent to the Postal Service. That will allow the USPS to maintain a nationwide database of all CMRA box-renting customers, along with identifying numbers, home addresses, and home phone numbers of those using boxes for business.

The new regulations also give the CMRA operators the authority to collect and maintain photocopies of the identification forms provided by the box renter, an authority not granted to the Postal Service itself under its own privacy rules for P.O. box renters.

The March 25 rules require CMRA box renters to contact every person or entity that has sent them mail in the past and that might send them mail in the future and advise them that the acronym "PMB" (Private Mail Box) must precede the renter's box number on a separate line in the address on all future mail. Thus, an address would have to appear as

John Doe Enterprises
PMB 401
123 Main St.
Everytown, Home state ZIP code

According to the regulations, after a probable October 24, 1999, deadline, all mail addressed to a box renter that does not have the required PMB in the correct place will not be delivered and will be returned to the sender. (The new postal regulations are ambiguous, suggesting several possible dates on which the regulations will take effect.)

Opposition to Regulations

The U.S. Postal Service cannot argue that the new regulations were drafted in response to the demands of CMRAs or their customers. The USPS opened its initial mandatory 30-day comment period on August 26, 1997, and opened an additional 30-day period on November 24, 1997.

Interestingly, the timing of that final comment period coincided with the dramatically disproportionate seasonal demand for the services of the affected CMRA operators. Many of those operators generate up to one-third of their annual revenues during the one-month period preceding Christmas. During this time, the resources of those operators are overwhelmed in meeting the needs of their customers.

Despite such extremely poor timing, the Postal Service reported in its March 25 *Federal Register* posting that 727 CMRA operators and 7,365 of their customers found time to lodge their opposition to the regulatory revisions.[3] Four CMRA franchisers and trade associations, as well as a member of Congress, lodged additional opposition. Conversely, a total of 10 comments was received in support of those revisions. Proponents of the revisions included large companies, financial institutions, trade associations of mailers (direct

The new regulations will foist enormous costs on some 1.5 million to 2.5 million private commercial mailbox holders, which include many of the country's smallest businesses.

marketing groups), consumers, and law enforcement officials.

Thus, 8,097 of the total 8,107 comments received by the Postal Service opposed the regulatory revisions. At a ratio of more than 800 to 1, one wonders exactly what kind of groundswell of public opinion it would take to deter the USPS from enacting whatever regulations it chooses.

The largest CMRA franchiser, Mail Boxes Etc., is in a delicate position with respect to the new regulations. It has expressed concerns about the new information-gathering requirements. However, it is also in partnership with the Postal Service. Specifically, the USPS allowed Mail Boxes Etc. to offer its services in a number of USPS locations nationally where the quality of Postal Service had been low. Mail Boxes Etc. has done an excellent job of improving service. That enterprise now has an incentive not to be too critical of the Postal Service lest that criticism destroy the possibility of a future expansion of the current arrangement.

Questionable Excuses

The Postal Service's arguments in favor of the new regulations are suspect. A first argument is that the USPS offers neither evidence that mail fraud using private boxes has increased nor insight into the possible magnitude of the problem. Those issues are especially important in light of the Government Performance and Results Act of 1993, which requires that government agencies define explicitly what their goals are, what strategies they use to reach those goals, and what evidence they have that their approach is working. The Postal Service and most government agencies will have to submit their first full reports for fiscal year 2000 to Congress for evaluation. The spirit, if not the letter, of this law requires agencies to justify in some detail why they are taking certain actions.

The proposal to match Internet with physical addresses suggests a new goal of the Postal Service—mail delivery to a person, not an address.

Although mail fraud is indeed a problem, any USPS actions to prevent it must be weighed against the monetary costs and the costs to freedom. A November 1998 inspector general's report found that between October 1997 and September 1998 there were 9,642 convictions for mail-related crimes.[4] Of those convictions, the largest number, 3,874, or 40.2 percent, was for mail theft by non-Postal Service employees of a business—for example, theft from home mailboxes. The next-largest number, 1,672, or 17.3 percent, was for sending illegal substances, mainly drugs, through the mail. Some 1,533 cases, or 15.9 percent, involved mail fraud. The inspector general did not report how many of those cases involved the use of private CMRA boxes as opposed to home and office boxes or P.O. boxes. It would be useful for the Postal Service to specify how many of those fraud cases involved private boxes. The costs of new regulations could then be weighed against any expected benefits.

A second argument used by the Postal Service to justify its new regulations is that they bring the CMRAs in line with the regulations governing P.O. boxes. However, the October 1998 registration requirements are only for "new and renewed" P.O. box holders. It seems the Postal Service is grandfathering all current P.O. box holders, who have not been required to turn over additional personal information. Moreover, local postmasters have been using up the old registration forms before giving even new applicants the changed forms that request additional information. There could also be a problem of selective enforcement, with different post offices handling new applicants in dissimilar manners.

In addition, although stricter than before, the new regulations governing P.O. box applicants are still not as onerous as the new regulations governing private box holders. Thus, it is private box holders who are subject to stricter information requirements, not holders of government P.O. boxes. That practice appears to fly in the face of Title 39 of the *U.S. Code*, which states that the USPS shall not "make any undue or unreasonable discrimination among users of the mails, nor

shall it grant any undue or unreasonable preferences to any such user."[5]

These facts suggest that the Postal Service might have an ulterior motive for the new regulations. Because the USPS has lost box holders to the private sector and has regulatory powers over that sector, it would be sad but hardly surprising to conclude that the USPS is using those powers to strangle the competition.

Evidence of another motive comes from the Postal Service's interest in providing Internet services. In May 1998 the USPS proposed to have the exclusive right to assign the underused Internet domain extension .us, which at that time was managed by the Internet Assigning Numbers Authority. And in a May 17, 1999, speech in Austin, Texas, Postmaster General William Henderson asked,

> What if every physical address in the United States had an Internet address? We would own the physical address, and we would maintain it. . . . That would mean that all that information that you our customers have developed around a physical address could now migrate through Internet and be a part of commerce. . . . If you had an Internet address attached to a physical address you could reach someone by way of the Internet.[6]

Ultimately, the Postal Service wants to map postal addresses onto cyberspace addresses to have an Internet address for every physical address. Matching those addresses to private mailboxes may be part of an attempt to create a national database to keep track of every citizen.

This suggests that the Postal Service is making a fundamental change in its approach to delivering the mail. The USPS has been carrying mail to specific places or addresses. Although mail is usually meant for a particular individual, getting that mail to an address has been the Postal Service's priority. The new CMRA regulations and the proposal to match Internet with physical addresses suggest a new goal of the Postal Service—mail delivery to a person, not an address.

The type of problems such a change will entail is evident in a recent case concerning a P.O. box renter. A homeless man, Frank Gomon, in Tarzana, California, had rented a P.O. box, but to keep it the Postal Service required him to register his home address. Gomon listed the address of a homeless shelter, but the USPS refused to accept the shelter as a valid address. Gomon filed a complaint; however, on April 8, 1999, an administrative law judge ruled in the Postal Service's favor.[7] Gomon might still have the option of having his mail sent to "general delivery" at a post office, but that would tip off anyone mailing to him that he probably is homeless. The case also suggests that under the new CMRA regulations, no homeless individual would be able to rent a private mailbox as a means of establishing an address and perhaps a better life. There would be no way for the homeless to meet the identification requirements, and CMRAs do not have a "general delivery" option.

The Postal Service's interest in mapping Internet and physical addresses appears to be a step toward its goal of leveraging its way into a more competitive position with private companies. In his May 17, 1999, speech Henderson stated that the Postal Service wants to be the "residential deliverer of choice for purchases made on the Internet." He also stated that "we do see bill payments in the future being made electronically. . . . We think the Postal Service has a role in E-payments." The USPS places itself in a stronger competitive position by using its regulatory and monopoly powers to enhance its database.[8]

Federal law bars the Postal Service from selling its database to mass mailers and the like. However, the USPS gets around that restriction in part by licensing its change-of-address database to certain companies that then profit by updating mailing lists for pri-

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vate companies. Adding e-mail and private boxes to the database certainly would make it a more valuable commodity.

Violating the Right to Privacy

The Fourth Amendment to the U.S. Constitution states:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

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The new CMRA regulations seem to play fast and loose with the privacy and protection rules that govern the Postal Service. Title 39 of the *Code of Federal Regulations* lays out USPS privacy rules. Section 266.4, concerning the "collection and disclosure of personal information," states that the Postal Service will

> (i) collect, solicit and maintain only such information about an individual as is relevant and necessary to accomplish a purpose required by statute or Executive Order.[2]

The Postal Service's "Privacy Act Statement," which accompanies the new Form 1583, says only, "Collection of this information is authorized by 39 U.S. Code 403 and 404." Subsection 403 of that title of the *U.S. Code* grants, among other things, the Postal Service authority "to maintain an efficient system of collection, sorting, and delivery of the mail nationwide." However, the Postal Service has not made clear why collecting more personal information is necessary to ensure mail delivery to CMRAs. Furthermore, the USPS has not shown that refusing to deliver to a known address because PMB and the box number are not included on a separate line helps "delivery of the mail."

Subsection 404 of Title 39 of the *U.S. Code* grants the Postal Service authority "to investigate postal offenses and civil matters relating to the Postal Service." It is by this mandate that the USPS seems to justify the new regulations to counteract mail fraud. But those regulations must conform to other provisions governing the Postal Service. The USPS is also required by the privacy rules in Title 39 of the *Code of Federal Regulations* to

> (ii) collect information, to the greatest extent practicable, directly from the subject individual when such information may result in adverse determinations about an individual's rights, benefits or privileges.[3]

The Postal Service itself is not collecting that information but instead is forcing CMRA operators to carry out the task. The gathering and dissemination of personal information in conjunction with forced use of PMB on all mail most certainly adversely affects a majority of CMRA box renters.

Most CMRA box renters will comply with the new identification requirements by supplying their driver's license and either their passport or Social Security number. The Postal Service was, however, very careful in wording the regulation to avoid any specific reference to a renter's Social Security number. Title 39 of the *Code of Federal Regulations* states the privacy rules this way:

> (4) The Postal Service will not require individuals to furnish their Social Security account number or deny a right, privilege or benefit because of an individual's refusal to furnish the number unless it must be provided by Federal law.[4]

Although the USPS avoids any reference to an individual's Social Security number in the new regulations, it does not discourage CMRA operators from accepting a Social Security number as one of the two required forms of "traceable" identification. Furthermore, in states that record and "computer match" driver's license numbers with Social

Security numbers, any use of a driver's license by a box renter would mean revealing that individual's Social Security number.

The privacy rules state that

> (b)(1) The Postal Service will not disseminate information about an individual . . . unless:
> (i) The individual to whom the record pertains has requested in writing that the information be disseminated, or
> (ii) It has obtained the prior written consent of the individual to whom the record pertains.[2]

As noted earlier, private box holders are asked on Form 1583 if they plan to use the boxes for doing business with the "public." The Postal Service has informed CMRA operators that "information required to complete this form may be available to the public if 'Yes' in block 5, Form 1583 is checked." Although there is some ambiguity about which organization, the CMRA or the Postal Service, will furnish such information to the public, it is clear that personal information about box holders will be publicly available.

Such a practice violates the Postal Service's own privacy regulations. On June 9, 1999, in the *Federal Register*, the USPS posted its intention to change Title 39, *U.S. Code*, Part 265, the prohibition "against disclosure of information in PS Form 1583." The *Federal Register* entry reads:

> Under the rule change, the recorded business name, address, and telephone number of the addressee using a . . . CMRA private mail box . . . for purposes of soliciting business with the public will be furnished to any person upon request without charge.[3]

The Postal Service seems to acknowledge that it has no authority to release such private information. Thus, the proposed rule change raises a question of the legality of the statement on the new Form 1583 informing CMRA box holders that information may be made available to the public.

That situation became even more confusing on June 25, 1999, when, in response to public pressure and a letter of concern from several members of Congress, Postal Service authorities announced that "a notice for public comment will be published in the Federal Register regarding the proposed update policy which will prohibit release, except for law enforcement purposes, of address information."[4] So now there could be two USPS postings in the *Federal Register* for public comment, one to allow release of information and one to restrict release. That confusion suggests just what a poor job the Postal Service will do in its implementation of those regulations and argues for their repeal.

The release of personal information is one of the most serious problems with the new private box regulations. Business box holders could find their personal information acquired by "identity thieves," criminals who use such data to obtain credit card numbers and other personal facts that would allow them to charge bills to others or steal from bank accounts. In such cases, what are the liability exposures of the Postal Service and the CMRA operator? The new regulations do not address those problems.

In some instances, access to confidential information could be tragic. For example, women who use private boxes for business purposes might find stalkers or other dangerous people acquiring home addresses courtesy of the new regulations. On June 15, 1999, The National Coalition Against Domestic Violence, a group that helps women who face such threats, issued an "Action Alert" on those postal regulations. It stated that "the impact for domestic violence victims is potentially fatal." The alert added that "these unnecessary regulations make it more difficult for a battered woman to effectively use a commercial postal box to keep her location confidential."

The new CMRA regulations also state that "a parent or guardian may receive delivery of

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a minor's mail by listing the name(s) and age(s) . . . of the minor(s)."[15] Thus, if a parent were to use a box for business purposes, a stalker would be able to obtain information about potential victims.

The prospective privacy problems of new CMRA rules must also be seen in light of the Postal Service's plans to map Internet addresses with physical addresses and, presumably, private and P.O. box addresses. Internet privacy is a major concern of millions of Americans, as well as members of Congress and various federal regulatory agencies. Individuals who are online often want to remain anonymous. They want to shield themselves and their children from those who might seek them out in their homes. There are now online enterprises that specialize in allowing individuals to surf the Net without revealing personal information.

The release of personal information is one of the most serious problems with the new regulations.

Recently Congress learned just how seriously Americans take their privacy rights. The Federal Deposit Insurance Corporation proposed rules that would have required bank tellers to ask customers why they were making unusually large deposits or withdrawals and where the money came from. The banks would have been required to report "suspicious" activities to regulators. The stated purpose of this "Know Your Customer" regulation was to thwart money laundering and other criminal activities. But the overwhelming outpouring of opposition from the public and threats of action by Congress forced regulators to withdraw the rule. The Postal Service's comparable new regulations to allegedly thwart criminal activities are being called "Son of Know Your Customer" on Capitol Hill and prompting a similar reaction. Perhaps that is why Postal Service officials on June 25 indicated a willingness to change the rules.

Expanding Powers

Many of the country's small businesses rent private CMRA boxes because they cannot afford to rent a suite in an office building or an executive suite. The latter usually provides tenants with an operator to take telephone calls, a location for delivery of mail and packages, and perhaps a small office with access to office equipment. Where mail delivery is concerned, the only difference between an executive suite and a private mailbox is the size of the rented space and the cost of the rent. Although there are no good figures on how many individuals rent such services, the Executive Suite Association, which makes no claim to represent all similar enterprises, has approximately 1,000 members with about 50 tenants each, or a total of 50,000 tenants.

Until now, such offices have not been subjected to the same regulations as CMRAs. But that is about to change. In an April 29, 1999, memo to USPS vice presidents and operations district managers, Patricia M. Gilbert, the USPS vice president for retail, notes the existence of

> a number of non-traditional businesses that accept delivery of mail from the Postal Service for others, hold it for pickup, or remail it to another address. . . . Examples of these businesses are 1) Corporate Executive Centers that also offer their customers a small suite, office or other workspace, as well as shared office services such as mail receipt and remailing, message centers, FAX and computer systems, conference rooms, and secretarial services; 2) Storage businesses that offer their customer's [sic] storage space and private mailbox services; and 3) Businesses that offer mail forwarding and message services to clients that live and travel in recreational vehicles.[16]

According to that memo, the Postal Service intends to subject those enterprises, which in the past were not treated like CMRAs, to the new private mailbox regulations. That is a significant expansion of USPS power.

Furthermore, few if any of those businesses have been contacted by the Postal Service,

and thus, most of their tenants have not been asked to submit to the new regulations. At some point those tenants might find that their mail is not being delivered because of their failure to comply with regulations of which they were unaware. In addition, because the USPS decided only in late April 1999 that executive suites and similar companies would be subject to those regulations, the businesses and their tenants did not have an opportunity to register their opinions during the 1997 comment period. The move to include executive suites and similar organizations under the new regulations also cuts off a sanctuary of privacy previously offered to small businesses by those organizations.

Undelivered Mail

The new regulations seem to violate a fundamental operating principle of the Postal Service—namely, that the USPS make every reasonable attempt to deliver the mail. Under the new rules the Postal Service will make no effort to deliver mail to a CMRA box holder. The friendly carriers who for years have been delivering to individuals in care of their CMRAs, who know exactly where those boxes are, after October 24, 1999, will be required to withhold mail without the PMB address on a separate line. (In the June 25 press release, USPS officials suggested that they might move that date back to April 26, 2000, but this simply delays the problem instead of eliminating it.) The situation also raises the question of whether the new regulations violate international treaties that require the Postal Service to attempt to deliver international mail.

Refusal to deliver mail without the PMB address is contrary to past USPS practice. When ZIP codes were introduced, the Postal Service did not have the authority to refuse delivery of mail without those codes after a certain day. Even today, although it may take longer, the USPS will deliver mail without a ZIP code.

The new regulations also make it impossible for box holders to know who has information about them filed under the pre-PMB address. Many businesses have in circulation promotional literature, books, and CD/ROMs with the pre-PMB addresses that cannot be changed. And many CMRA renters will simply not think to send notices to individuals or establishments that send mail to them infrequently or irregularly. Most individuals, for example, might not think to send their automobile manufacturer a change-of-address form, or know where to send it. Under the new rules, the Postal Service would refuse to deliver a recall notice without the PMB address, thus possibly subjecting the car owner to serious danger. Others that might not receive change-of-address notices could include customers that have not done business with an enterprise for some time, alumni associations, and hospitals.

Moreover, the new address regulations assume that individuals who mail to CMRA boxes will be as meticulous in observing the new strict rules as is the Postal Service. Many people might continue to put a box number on the same line as the street address—for example, "123 Main St., PMB 4." It will be difficult for many individuals, who assume that mail carriers have the common sense to figure out small variations in address formatting, to learn that obedience to burdensome regulations, not delivery of the mail, is the Postal Service's priority.

The forwarding of CMRA mail creates another problem. People can have mail forwarded to a new address for six months. Usually the CMRA will collect a week's or two weeks' worth of mail and send it via the Postal Service to a new CMRA or a regular mailbox of the box renter's choice. That former box renter must pay the CMRA for the postage.

Under the new CMRA regulations, the Postal Service will not deliver mail addressed to any individual in care of a CMRA without a new Form 1583 and the two forms of identification that must be shown in person at the CMRA. That includes former box renters who were having their mail forwarded before the new regulations took effect and who still

Without the PMB address, the Postal Service would refuse to deliver an auto recall notice, thus possibly subjecting the car owner to serious danger.

The total direct costs of the regulations could reach between $639.9 million and $1.07 billion.

have some time during which their mail is supposed to be forwarded. Thus, a former box renter who has moved from Miami to Seattle would have to fly back to Miami to fill out the new form and show proper identification.

The new PMB rule promises to create serious disruptions of mail service. The new regulations, of course, do not address any liability exposure of the Postal Service if returned mail results in economic loss for the CMRA box holder. For example, a CMRA box holder might incur monetary loss if an automobile title or license renewal, mortgage escrow statement, or IRS notice are returned to sender as undeliverable.

The Direct Costs of Regulations

The new regulations on private mailboxes will place an extreme cost burden on the individuals and enterprises that rent them (Table 1). There are between 1.5 million and 2.5 million private box holders. The costs of mailing each change-of-address notice, including stamp, envelope, and postage, will be about 48 cents. Those box holders will likely have to contact at least 40 individuals or entities (a very conservative estimate) that mail regularly to their boxes. That means the hard costs of notification will be between $56.5 million and $94.2 million.

In addition, labor costs of preparing and sending out notices and looking up addresses must be taken into account. At an average of 17 minutes to prepare a change-of-address notice, times 40 notices, at a labor cost of $16.84 per hour (based on an annual salary of $35,000), each box holder will incur $190.80 in labor costs. That means the total for all box holders for those expenses will be between $286.3 million and $477.1 million. Second notices required for 10 percent of addressees bring those figures to between $377 million and $628.4 million.

Furthermore, each small-business box holder will need to order new business cards and stationery with the new address. That will add another $307 of expenses per box holder for another sum of between $460.5 million and $767.5 million. Thus, the total direct costs of the new regulations for private box holders would be between $837.5 million and $1.39 billion.

However, all private box holders are not businesses. No doubt individuals who do not use their boxes for business will also incur costs for change-of-address notices and the like. Yet, if the costs for the individuals who do not use their boxes for business are excluded to make the calculations conservative (and it is assumed that about 70 percent of box holders are entrepreneurs), the total direct costs for such box holders will still be between $586.3 million and $977.2 million. In addition, the total of those costs to individual box holders will be $558 each.

The CMRAs will also incur processing costs, as well as the costs of lost business. Those expenses can be estimated at between $53.6 million and $89.3 million. Thus, the total direct costs of the new regulations could reach between $639.9 million and $1.07 billion.

There will likely be other direct costs that are hard to measure. For example, the costs to recipients of entering approximately 100 million changes of address in files and databases. That will waste hundreds of millions of dollars.

Indirect costs will be incurred as well. Private delivery companies such as Federal Express and United Parcel Service save money by being able to deliver to a lot of box holders at CMRA locations instead of having to go to individual homes or physical business addresses. If CMRAs lose significant numbers of box holders, the private carriers will encounter higher costs that, eventually, would be passed along to customers.

Reining In the Postal Service

The U.S. Postal Service is exempt from most of the checks imposed on other government agencies, which explains why it can

Table 1
Costs of New Postal Service CMRA Regulations

Description	Qty.	Hourly	Each	Minimum	Probable
Assumptions					
Estimated number of CMRAs				**10,600**	
Estimated number of box renters				**1,500,000**	**2,500,000**
Address-change notifications required per box renter					
Customers			10		
Prospects			10		
Vendors			10		
Official or support contacts (IRS, state, accountant, bank, lawyer, etc.)			10		
Total number of notifications required			**40**	**60,000,000**	**100,000,000**
Initial direct costs to box renters					
Hard costs for address-change notifications					
Letterhead			$0.31	18,720,000	31,200,000
Envelope			$0.28	16,800,000	28,000,000
Ink/toner			$0.02	1,200,000	2,000,000
Postage			$0.33	19,800,000	33,000,000
Subtotal for hard costs			**$0.94**	**56,520,000**	**94,200,000**
Labor costs for address-change notifications					
Find name, address, acct. #, etc.	5	$16.84	$1.40	84,200,000	140,333,333
Write/print notification	4	$16.84	$1.12	67,360,000	112,266,667
Address envelope	2	$16.84	$0.56	33,680,000	56,133,333
Insert notice and apply postage	1	$16.84	$0.28	16,840,000	28,066,667
Mail	1	$16.84	$0.28	16,840,000	28,066,667
Track if notice resulted in proper change	4	$16.84	$1.12	67,360,000	112,266,667
Subtotal for labor costs	**17**		**$4.77**	**286,280,000**	**477,133,333**
Percentage requiring second notification	10%		$5.71	34,280,000	57,133,333
Subtotal for combined notification costs			**$6.28**	**377,080,000**	**628,466,667**
Costs for new office supplies					
Business cards per person	500		$28.00	42,000,000	70,000,000
Stationery	250		$78.00	117,000,000	195,000,000
Envelopes	250		$70.00	105,000,000	175,000,000
Invoices	250		$70.00	105,000,000	175,000,000
Bank checks	250		$45.00	67,500,000	112,500,000
Rubber stamp	1		$16.00	24,000,000	40,000,000
Subtotal for new office supplies			**$307.00**	**460,500,000**	**767,500,000**
Subtotal for combined costs to box renters			**$558.39**	**837,580,000**	**1,395,966,667**
Deduct for boxes not used for business	30%			-251,274,000	-418,790,000
Total initial direct costs to box renters				**586,306,000**	**977,176,667**
Initial direct costs to CMRAs					
Photocopy forms (pages)	5		$0.03	225,000	375,000
Distribute forms to each box (minutes)	1	$10.00	$0.17	250,000	416,667
Explain to/argue with customers (minutes)	5	$16.84	$1.40	2,105,000	3,508,333
Follow up, collect, and file forms (minutes)	10	$16.84	$2.81	4,210,000	7,016,667
Prepare reports and transmit forms (minutes)	5	$16.84	$1.40	2,105,000	3,508,333
Annualized loss of box-rental revenue	15%		$180.00	40,500,000	67,500,000
Annualized additional reporting burden (minutes)	10	$16.84	$2.81	4,210,000	7,016,667
Total initial direct costs to CMRAs				**53,605,000**	**89,341,667**
Average cost per CMRA				5,057	8,428
Total initial direct costs to CMRAs and their customers				**639,911,000**	**1,066,518,333**

Sources: The number of CMRAs (10,600) and the figure of approximately 1.5 million renters are from Rodney Ho, "Post-Office's Rule Incenses Renters of Private Boxes," *Wall Street Journal*, May 4, 1999. The 2.5 million figure for the number of box holders is based on the requirement of Mail Boxes Etc., the largest franchiser, that new franchises have a minimum of 250 boxes, multiplied by the 10,600 total for CMRAs, which rounds off to about 2.5 million. The amounts of time needed by CMRA box holders to process address changes are the author's estimates. The labor costs are based on an annual salary of $35,000. The costs of new stationery, business cards, and the like are based on the lowest costs and minimum quantities from Kinko's price list. For the CMRAs, it is assumed that labor costs will be $10 per hour for distribution of forms, done by a CMRA employee. Other CMRA labor costs will involve the CMRA manager's time, which is assumed to be $16.84 per hour; the same cost is assumed for a small-business owner's time. These are only direct costs to CMRAs and their box holders.

The new regulations on CMRAs and private box holders constitute an unwarranted invasion of privacy and an expansion of the Postal Service's powers.

engage in such questionable policies. For example, the USPS is not subject to Title 5, chapter 7 of the *U.S. Code*, which grants citizens an appeal process for actions that are "arbitrary and capricious."

In addition, the Postal Service does not have to observe the Paperwork Reduction Act, which was enacted in 1995 as a means to cut unnecessary government red tape. Under that act the new USPS private mailbox regulations would have been subject to review by the Office of Management and Budget.

There are means by which the new regulations might be blocked. For instance, in 1996 Congress passed the Congressional Review Act, which created an expedited procedure for members to use to block questionable rules. If a member objects to a new rule, he or she can have it sent straight to the appropriate committee for consideration without amendments. That process also allows for a 60-day moratorium on implementing the rule.

H.J.R. 55, the Mailbox Privacy Protection Act, introduced in the House of Representatives by Rep. Ron Paul (R-Tex.) is much more direct. It states simply that

> Congress disapproves the rule submitted by the United States Postal Service relating to delivery of mail to a commercial mail receiving agency (as published in the Federal Register on March 25, 1999), and such rule shall have no force or effect.

Paul noted, "It is ironic that this regulation comes at a time when the Post Office is getting into an ever increasing number of enterprises not directly related to mail delivery. So, while the Postal Service uses its monopoly on first-class mail to compete with the private sector, it works to make life more difficult for its competitors in the field of mail delivery."[7] Representative Paul is considering having that proposal introduced under the Congressional Review Act.

H.R. 22, the Postal Modernization Act of 1999, introduced by Rep. John McHugh (R-N.Y.), would make the Postal Service subject to most of the regulations that other private companies already observe. That proposed legislation would allow citizens who believe postal regulations are unfair to take complaints to a reconstituted Postal Rate Commission, which could issue binding rulings. In the case of private mailboxes, the commission might rule that the Postal Service must subject its own P.O. boxes to the same regulations as private companies or that the regulations are not valid and should not take effect.

Conclusion

The new regulations on CMRAs and private box holders constitute an unwarranted invasion of privacy and an expansion of the Postal Service's powers. The result will be a financial burden to box holders, especially small businesses, and at least $1 billion in direct costs. Worse, if the USPS refuses to deliver mail without the PMB address, there will be serious disruption of delivery. Furthermore, the Postal Service will set the precedent of refusing to deliver mail unless specific conditions are met. (That is ironic, since the Postal Service has traditionally been proud of its commitment to guaranteed universal service.)

The U.S. Postal Service, which has a legal monopoly on the delivery of first- and third-class mail, and which is exempt from federal, state, and local sales taxes and most government regulations, has come under fire in recent years for competing unfairly with the private sector by offering goods and services outside its core functions and for using its regulatory authority against competitors. The new restrictions on privacy contained in the Postal Service's regulations of CMRAs and private box holders demonstrate why an effective communications and delivery system in this country, as well as protection of privacy, can come only from the private sector.

Notes

1. *Federal Register* 64, no. 57 (March 25, 1999): 14,385.

2. Ibid., p. 14, 390.

3. Ibid., p. 14, 385.

4. Office of the Inspector General, U.S. Postal Service, *Semiannual Report to Congress*, November 1998, Appendix F, pp. 100–101, www.uspsoig.gov/novcor.pdf.

5. 39 U.S.C. § 403 (1998).

6. William Henderson, "Remarks," Opening Session, National Postal Forum, San Antonio, Texas, May 17, 1999.

7. On April 8, 1999, Chief Administrative Law Judge Bruce R. Houston ruled that a shelter did not constitute an address and that the Postal Service need not rent a P.O. box to Mr. Gorron. Postal Service docket no. POB 98-505.

8. For a more detailed discussion of unfair competition by the Postal Service, see Frederick W. Smith, "Competing with the Postal Service," *Cato Policy Report*, March–April 1999. See also Edward L. Hudgins, ed., *The Last Monopoly* (Washington: Cato Institute, 1996).

9. 39 C.F.R. § 266.4 (1998) at 129.

10. Ibid.

11. Ibid., at 130.

12. Ibid.

13. *Federal Register* 64, no. 110 (June 9, 1999): 30,929.

14. U.S. Postal Service, "Postal Service Proposes Revisions to Private Mailbox Regulations," Release no. 52, June 25, 1999.

15. *Federal Register* of March 25, 1999, p. 14,390.

16. U.S. Postal Service, "Commercial Mail Receiving Agency," Memo from Patricia M. Gilbert, USPS vice president for retail, to vice presidents and area operations district managers, April 29, 1999.

17. Ron Paul, Extension of Remarks, *Congressional Record*, May 25, 1999, p. E1079.

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United States Postal Service

Application for Delivery of Mail Through Agent

See Privacy Act Statement on Reverse

1. Date

n consideration of delivery of my or our (firm) mail to the agent named below, the addressee and agent agree: (1) the addressee or the ıgent must not file a change of address order with the Postal Service upon termination of the agency relationship; (2) the transfer of my ›r our (firm) mail to another address is the responsibility of the agent; (3) all mail delivered to the agency under this authorization must ›e prepaid with new postage when redeposited in the mails; (4) upon request the agent must provide to the Postal Service all addresses ɔ which the agency transfers mail; and (5) when any information required on this form changes or becomes obsolete, the addressee(s) nust file a revised application with the Commercial Mail Receiving Agency (CMRA).

NOTE: The applicant must execute this form in duplicate in the presence of the agent, his or her authorized employee, or a notary ›ublic. The agent provides the original completed signed Form 1583 to the Postal Service and retains a duplicate completed signed :opy at the CMRA business location. The CMRA copy of Form 1583 must at all times be available for examination by the postmaster (or lesignee) and the Postal Inspection Service. The addressee and the agent agree to comply with all applicable postal rules and egulations relative to delivery of mail through an agent. Failure to comply will subject the agency to withholding of mail from delivery ıntil corrective action is taken.

This application may be subject to verification procedures by the Postal Service to confirm that the applicant resides or conducts ›usiness at the home or business address listed in boxes 8 or 11, and that the identification listed in box 9 is valid.

2. Name in Which Applicant's Mail Will Be Received for Delivery to Agent. *(Complete a separate Form 1583 for EACH applicant. Spouses may complete and sign one Form 1583. Two items of valid identification apply to each spouse. Include dissimilar information for either spouse in appropriate box.)*

3. Address to Be Used for Delivery Including ZIP + 4

4. Applicant Authorizes Delivery to and in Care of *(Name, address, and ZIP Code of agent)*

5. Will This Delivery Address Be Used for Soliciting or Doing Business With the Public? *(Check one)*

☐ Yes ☐ No

6. This Authorization Is Extended to Include Restricted Delivery Mail for the Undersigned(s)

7. Name of Applicant

8. Home Address *(Number, street, city, state, and ZIP Code)*

Telephone Number ( )

9. Two Types of Identification are Required. One Must Contain a Photograph of the Addressee(s). Agent Must Write in Identifying Information. Subject to Verification.

a.

b.

Acceptable identification includes: driver's license; armed forces, government, or recognized corporate identification card; passport or alien registration card or other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer. A photocopy of your identification may be retained by agent for verification.

10. Name of Firm or Corporation

11. Business Address *(Number, street, city, state and ZIP Code)*

Telephone Number ( )

12. Kind of Business

13. If Applicant Is a Firm, Name Each Member Whose Mail Is to Be Delivered. *(All names listed must have verifiable identification. A guardian must list the names and ages of minors receiving mail at their delivery address.)*

14. If a CORPORATION, Give Names and Addresses of Its Officers

15. If Business Name of The Address *(Corporation or Trade Name)* Has Been Registered, Give Name of County and State, and Date of Registration.

Warning: The furnishing of false or misleading information on this form or omission of material information may result in criminal sanctions (including fines and mprisonment) and/or civil sanctions (including multiple damages and civil penalties). *(18 U.S.C. 1001)*

16. Signature of Agent/Notary Public

17. Signature of Applicant *(If firm or corporation, application must be signed by officer. Show title.)*

Privacy Act Statement

Collection of this information is authorized by 39 USC 403 and 404. This information will be used to authorize the delivery of the intended addressee's mail to another. The Postal Service may disclose this information to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the Postal Service is a party or has an interest; to a government agency in order to obtain information relevant to a USPS decision concerning employment, security clearances, contracts, licenses, grants, or other benefits; to a congressional office at your request; to an expert, consultant, or other person under contract to the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to a labor organization as required by the National Labor Relations Act; for the purpose of identifying an address as an address of an agent to whom mail is delivered on the behalf of other persons; and to anyone when the delivery address is being used for the purpose of doing or soliciting business with the public. Completion of this form is voluntary; however, without the information, the mail will be withheld from delivery to the agent and delivered to the addressee, or, if the address of the addressee is that of the agent, returned to the sender.

Regulating Mail Private Boxes
Dr. Edward L. Hudgins
Director of Regulatory Studies
The Cato Institute
House Small Business Subcommittee
October 19, 1999

Thank you for the opportunity to testify today on the problems of the U.S. Postal Service's new regulations on commercial mail-receiving agencies (CMRAs) that offer private mailboxes for rent.

The sloppy, capricious and arbitrary manner in which the Postal Service has made and implemented those regulations have harmed small businesses and customers of those businesses alike. But the Postal Service not only is exempt from all taxes and most regulations to which its private competitors are subject, it is exempt from most federal regulations to which other federal agencies are subject. For example, it is not subject to Title 5, Chapter 7 of the U.S. Code which grant citizens an appeals process for actions that are "arbitrary and capricious." The new regulations on CMRAs illustrate why the Postal Service, a government monopoly with regulatory powers that it can use against its competitors, at minimum, should be made subject to the Paperwork Reduction Act, Regulatory Flexibility Act, the Results Act, and other federal statutes meant to protect citizens against abuses by government agencies, and why the new regulations on private mail boxes should be repealed immediately.

When the government uses its power to restrict the freedom of citizens or to impose upon them financial burdens, it must make the case why this is absolutely necessary for the protection of the lives, liberties and property of the citizens. The burden of proof is on the peoples' servant, the government. The Postal Service has failed in its responsibility to make the case for the new regulations on private mail boxes. Let us review the Postal Services actions.

Ignoring the Public Will

The Postal Service has ignored the will of the people concerning the new regulations. It opened its initial mandatory thirty-day comment period on those regulations on August 26, 1997. It also held an additional thirty-day comment period from November 24, 1997 to December 24, 1997.

There were 8,107 comments registered. All except ten opposed those regulations. Further, it appears that some of those positive letters were in fact solicited by the Postal Service. Yet despite the overwhelming opposition to the proposed regulations, the Postal Service decided to implement them anyway.

Failure to Demonstrate the Magnitude of the Problem.

The Postal Service has failed to demonstrate the magnitude of the problem it seeks to alleviate through its regulations. It maintains that those regulations on private mail boxes are meant to deal with problems of mail fraud. While this is a legitimate concern, the USPS did not establish the nature and magnitude of the problem. Such a demonstration is necessary if the Postal Service is to show the compelling public interest that requires its actions. If no such interest exists, the regulations are unnecessary.

A November, 1998 Inspector General[1] report found that between October, 1997 and September, 1998 there were 9,642 convictions for mail-related crimes. Of those, the largest number, 3,874 or 40.2 percent were for mail theft by non-employees of a business, e.g. thieves stealing from home mail boxes. The next largest number, 1,672 or 17.3 percent were for sending illegal substances, mainly illegal drugs, through the mails. Some 1,533 of cases, or 15.9 percent, involved mail fraud. The Inspector General did not report how many of those cases involved the use of private, CMRA mail boxes as opposed to homes and office boxes, or PO boxes. The Postal Service has failed to supply this information, but it seems that the new regulations are

meant to deal with about 1,500 cases annually at most.[2]

Failure to Show How the Regulations Will Solve the Problem.

The Postal Service has failed to show exactly how its new regulations will deal with the mail fraud problem, or how much of the problem the regulations will eliminate. For example, it maintains that eliminating the use of the address designation "suite" or "apartment" for mail that goes to private mail boxes will reduce mail fraud. But what studies does the Postal Service have indicating how many cases of mail fraud involve unscrupulous individuals using private mail boxes with the "suite" or "apartment" designation? The Postal Service cannot even define the magnitude of the problem. Thus it is difficult for it to show how effective its new regulations might be.

Failure to Balance Costs and Benefits.

Because it has failed to show the magnitude of the problem, the Postal Service has not examined what the costs of its new regulations might be, and whether those costs in fact outweigh the benefits, that is, whether it is using a cannon to kill a fly.

Figures by Rick Merritt, published by the Cato Institute, find that the costs in changing addresses on stationary and business cards, the time wasted by CMRA managers and customers alike in trying to figure out what the new regulations mean and to comply with them, as well as other expenses could be $1 billion. If, say, two-third of the 1,500 mail fraud convictions each year involve private mailboxes, that works out to $1 million to prevent each case. Is that too costly? Maybe no; probably yes. But because the Postal Service did not conduct a cost-benefit analysis, we do not know what the burden of regulations will be.

Failure to Consider Alternative Approaches.

The Paperwork Reduction Act wisely requires that government agencies, when making regulations, consider which regulations are least costly and intrusive for small businesses. Unfortunately, the Postal Service is not covered by this Act and thus is free to act with reckless disregard for the effects of its regulations on smaller private enterprise or to consider alternative approaches to dealing with problems such as mail fraud.

For example, USPS maintains that the use of the designation "Suite" or "Apartment" in an address on mail is going to a private mail box helps facilitates mail fraud and, thus, the new regulations would ban such designations. But many CMRAs are no longer allowing new customers to use such designations. In other words, the market in part seems to be taking care of this problem. Further, those individuals who have had private mail boxes for some years and have used the "Suite" or "Apartment" designation are not likely to be the quick hit-and-run con artists misuse private boxes to defraud others. In addition, large credit card companies and other such enterprises that might be in doubt about an address can consult a currently available data base that will tell them whether an address is a CMRA. Finally, CMRA operators do not want their boxes used for fraud, and, thus, perhaps better education by local postmasters of CMRA managers, done in a spirit of cooperation rather than confrontation, would help head off mail fraud.

All of these points taken together suggest 1) that the current regulations are not necessary, 2) that the Postal Service merely needs to take up the last-mentioned education task, and 3) that this approach might take care of 90 percent of the fraud problem. Yet this minimalist approach, which would be the least intrusive to small businesspersons either operating CMRAs or using CMRA boxes, was not considered.

Postal officials might argue that a minimalist approach is not 100 percent full-proof. That is true. But the Postal Service has not shown that its approach is perfect either. Further, it is

typical of government bureaucrats to argue that in the name of perfection, of dealing with that final 5-10 percent of a problem, that extreme measures are necessary. This is the kind of discussion that should go on in the cost-benefit analysis stage of the regulation-making process. Unfortunately, the Postal Service is exempt from this process.

Reckless Disregard of Privacy.

The USPS posted in the Federal Register on March 25, 1999 its intention to impose the new CMRA regulations. It stated that as of June 24th, all CMRA operators had to collect from their customers filled-out copies of the new Form 1583, with copies of two forms of identification, one a photo ID. Customers were asked on that form if they planned to use their boxes for doing business with the public. The Postal Service instructed CMRA operators that "information required to complete this form may be available to the public if `Yes' in block 5, Form 1583 is checked." This includes home addresses and phone numbers. In other words, CMRA business customers might have personal information made available to the public.

But release of such information seems to violate the Postal Service's own regulations. Title 39 of the *Code of Federal Regulations* concerning privacy establishes that

> *(b)(1) ... The Postal Service will not disseminate information about an individual ... unless:*
> *(i) The individual to whom the record pertains has requested in writing that the information be disseminated, or*
> *(ii) It has obtained the prior written consent of the individual to whom the record pertains.* (p. 130)

This disregard for privacy generated political opposition to the new regulations. For example, women who use private boxes for business purposes might find unstable ex-husbands or stalkers obtaining home addresses through the new regulations. The National Coalition

Against Domestic Violence, a group dedicated to helping women who face such threats, in a June 15th "Action Alert," announced that "The impact for domestic violence victims is potentially fatal." The Alert added that "These unnecessary regulations make it more difficult for a battered woman to effectively use a commercial postal box to keep her location confidential."

Making Up Regulations on the Fly.

The Postal Service seemed to be making up its new regulations on the fly. For example, it seemed to have recognized that it did not in fact have the authority to release private customer information that it was asserting it had in Form 1583 and that its new regulations violated its own privacy regulations. This is seen in the fact that on June 9, 1999 in the *Federal Register*, the USPS posts its intention to change Title 39, *U.S. Code,* Part 265, the prohibition "against disclosure of information in PS Form 1583." The *Federal Register* entry reads that:

> *Under the rule change, the recorded business name, address, and telephone number of the addressee using a ... CMRA private mail box ... for purposes of soliciting business with the public will be furnished to any person upon request without charge.*[3]

The Postal Service's erratic path towards new private mail box regulations continued when, on August 26, 1999, it posted yet another *Federal Register* notice, this one rescinding the June 9th notice and proposing that personal information only be released "to federal, local, and state government agency requesters, including those engaged in law enforcement activities."[4]

The Postal Service also has changed the dates after which it said it would refuse to deliver mail to CMRA customers who had not supplied private information on Form 1583, or to refuse to deliver mail to CMRA boxes with address designations other than "PMB." The Postal Service has had a number of meeting with critics and has proposed some cosmetic changes to the regulations, for example, allowing a number or "#" sign to be used on mail going to CMRA boxes in addition to the PMB designation. While these meetings are welcomed, the Postal

Service in effect is doing now on an ad hoc basis what it should have done two years ago in its formal rule-making process, that is, think out the implications of its regulations and consider alternatives.

We see here a pattern of the Postal Service making regulations on the fly, stating one thing and then changing policy to something else.

No Opportunity to Comment on Regulations.

Under our system of government, a government agency that wants to promulgate new regulations must first post them for comments by those who might be effected. The Postal Service denied this opportunity to many enterprises that now find themselves subject to the new mail box regulations.

Those regulations ostensibly were aimed at CMRAs. Many of the country's small businesses rent private CMRA boxes because they cannot afford to rent a suite in an office building. Executive office suites usually provides tenants with an operator to take telephone calls, a location for delivery and shipment of mail and packages, and perhaps an office with access to office equipment. The only real difference between these and a private mail box is the size of the rented space and the cost of the rent. The Executive Suite Association, which makes no claim to represent all such enterprises, has around 1,000 members, each with about 50 tenants, for a minimum total of 50,000 tenants of such suites.

Until now such offices have not been treated like CMRAs. But that changed with an April 29, 1999 memo from Patricia M. Gilbert, the USPS Vice President for Retail, to other USPS Vice Presidents and operations district managers. It noted the existence of:

> a number of non-traditional businesses that accept delivery of mail from the Postal Service for others, hold it for pickup, or remail it to another address... Examples of these

> businesses are 1) Corporate Executive Centers that also offer their customers a small suite, office or other workspace, as well as shared office services such as mail receipt and remailing, message centers, FAX and computer systems, conference rooms, and secretarial services; 2) Storage businesses that offer their customer's [sic] storage space and private mailbox services; and 3) Businesses that offer mail forwarding and message services to clients that live and travel in recreational vehicles.

The Postal Service thus decided to subject another group of enterprises and their customers to regulations on which they had no opportunity to register their opinions during the original 1997 comment periods. This is also a significant expansion of USPS power without consideration by Congress.

The move to include executive suites and the like under the new regulations also cuts off a sanctuary of privacy of which small businesses seeking to avoid those regulations applied to mail boxes might avail themselves. Of course, the Postal Service has made no attempt whatsoever to show that any cases of mail fraud, the target of the new regulations, have originated from executive office suites or other mail forwarding services.

Inconsistent Enforcement.

The Postal Service also has been erratic and inconsistent in its enforcement of the new regulations. For example, few executive office suite managers have been contacted by the Postal Service and told to have their tenants submit personal information under the new regulations. This suggests that at some point those tenants might find that their mail is not being delivered because of their failure to comply with regulations of which they were unaware.

The enforcement of the new regulations seem to vary from postmaster to postmaster. In some areas postmasters have done little to enforce regulations, in others they have acted in a heavy-handed manner. It is a throw of the dice for any given CMRA manager how these

regulations are enforced.

Take the case of Sabiha Zubair who operates a Mail Boxes Etc. franchise in Fairfax, Virginia. She has tried diligently to abide by the new regulations. She collected the two forms of identification from her customers, including a photo ID, usually a driver's license. But this was not good enough for local postmaster, Gerea Hayman. That postmaster insisted that Ms. Zubair verify that addresses given by customers were home addresses. In one case, for example, a police officer listed the address on his driver's license as a PO box. The postmaster insisted on calling many of Ms. Zubair's customers to find out home addresses.

Further, in a letter dated September 20, 1999 that postmaster threatened to refuse mail delivery to Ms. Zubair's CMRA. Ms. Zubair spent countless hours trying to abide by unclear rules and harassment by the local postmaster, confirming Rick Merritt's estimates of the costs in time and effort incurred by CMRA operators. In the end Ms. Zubair went from having 221 box renters down to 159, principally because renters resented having to turn over personal information and being harassed about their addresses. In other words, the harsh enforcement of the new mail box regulations cost this small business operator 30 percent of her business.

Attacking Competitors.

While the stated purpose of the new mail box regulations is to prevent mail fraud, it is necessary to ask whether the Postal Service might have an additional, ulterior motive. CMRAs have arisen because of the inconveniences of using government PO boxes. The Postal Service will not accept delivery from private carriers such as Federal Express or United Parcel Service for customers renting PO boxes. Further, the hours during which customers have access to their PO boxes are limited. Private CMRAs are much more convenient for customers and thus attract customers away from government PO boxes.

The Postal Service plans to remain competitive in the future in part by maintaining an

integrated data base of email addresses, websites and physical addresses. For example, in May, 1998 the Postal Service proposed that it have the exclusive right to assign the under-used Internet domain extension, .us, which then was managed by the Internet Assigning Numbers Authority. And in a May 17, 1999 speech in San Antonio, Texas, Postmaster General William Henderson asked:

> What if every physical address in the United States had an Internet address? We would own the physical address, and we would maintain it. ... That would mean that all that information that you our customers have developed around a physical address could now migrate through Internet and be a part of commerce. ... If you had an Internet address attached to a physical address you could reach someone by way of the Internet.[5]

The Postal Service ultimately wants to map postal addresses onto cyberspace addresses, to have an email address for every physical address. This, of course, would require matching private mail box addresses to home addresses or, better yet for USPS plans, forcing current CMRA customers to use PO boxes.

Thus, we need to question the motives of the Postal Service when it makes places regulations on its competitors, in this case CMRAs. In any case, its regulatory power against its competitors must be strictly controlled by Congress through the various safeguards to which other government agencies are subject but from which the Postal Service is exempt.

The Future of an Unrestrained Regulator.

This latest incident gives businesses small and large a preview of what can be expected in the future. The U.S. Postal Service has been losing much of its profitable first-class mail to emails, faxes and private express carriers. In the future, with most billing and payments done electronically, the Postal Service could lose as much as $15 billion in annual revenues off of a current annual revenue base of $65 billion.

In recent years the Postal Service has begun to offer many services that are not part of its postal monopoly, services in which it competes head-to-head with private firms. We see it offering for sale phone cards, neckties, and other such souvenirs. We see it renting out unused space in parking lots for broadcast facilities. We see it offering a check-clearing service. And we see it moving into ecommerce. Of course, the Postal Service pays no taxes, is not subject to most government regulations, can borrow from the U.S. Treasury, and has regulatory authority that it can use against its competitors. In the future, as it moves into these areas in competition with the private sector, we can expect more regulatory abuses.

I note also that we can expect the Postal Service to form partnerships with private sector service providers, coopting some firms or siding with them against their competitors. In the current dispute over mail boxes regulations we find the corporate spokepersons from Mail Boxes, Etc. remarkably conciliatory toward the USPS, much more so than many for its franchisees or box holders. This might be because it also is in partnership with the Postal Service. Specifically, the USPS allowed Mail Boxes Etc. to offer postal services in their facilities in a number of locations in the country where the quality of postal service has been low. And recently Postmaster General William Henderson announced that he wants to open operations in all Mail Boxes Etc. outlets. Since this is an experimental service, the Postal Service can keep this arrangement exclusively with Mail Boxes Etc. for the next year or so, to the exclusion of other competitors. Thus Mail Boxes Etc. now has a vested interest in not being too critical of the Postal Service lest it destroy this arrangement.

Conclusion.

The bottom line is this. The U.S Postal Service should be brought under all of the rules and regulations to which other government agencies are subject, including the Administrative Procedures Act, the Paperwork Reduction Act, Regulatory Flexibility Act, and the Results Act. Under these regulations the Postal Service would be required to state exactly what goals it seeks

to accomplish through its regulations, where it gets the authority to seek such goals, how its policies are meant to obtain such goals, and what evidence it has that those goals are achieved through those regulations.

When it makes new regulations it should be required to show that show exactly what the expected benefits will be, what the expected costs will be, and how those benefits outweigh the costs. It should be required to show that the regulations it chooses are the least costly compared to other alternatives and are the least burdensome for small businesses.

Postal officials might argue that such a regulatory regime will harm its efficiency. But the Postal Service has used its regulatory powers to harms private competitors large and small, as well as consumers. Other countries have discovered a means to deal with this dilemma. They are privatizing their postal services. New Zealand and Sweden already have done so. The largest mail carrier in Europe, Deutsche Post in Germany, is now under private management. It pays taxes on its competitive services and is subject to the same regulations that are imposed on other businesses. Next year it makes an initial public offering of its stock, and on January 1, 2003 its monopoly on mail delivery will be abolished.

In conclusion, the Postal Service's new regulations on CMRAs have been enacted and enforced in a sloppy, capricious and arbitrary manner. The Postal Service should be subject to the same checks on its power to which other government agencies are subject. And until it can make its case in accordance with those safeguards, the new regulations on private mail boxes should be rescinded.

1. *Semiannual Report to Congress*, Office of the Inspector General, U.S. Postal Service, November, 1998, Appendix F, pp. 100-101. On Inspector General's website at www.uspsoig.gov/novcor.pdf.

2. The number of indictments per year are about the same magnitude as the number of convictions. But it is assumed that the indictments for one year will show up as convictions in the following years. Thus to avoid double counting, only convictions

are given in this discussion.

3. *Federal Register*, Vol. 64, No. 110, June 9, 1999, p. 30,929

4. *Federal Register*, Vol. 64, No. 165, August 26, 1999, p. 46630.

5. William Henderson, "Remarks," Opening Session, National Postal Forum, San Antonio, Texas, May 17, 1999.

RON PAUL
14TH DISTRICT, TEXAS

BANKING AND
FINANCE COMMITTEE

SUBCOMMITTEES:
FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT

DOMESTIC AND INTERNATIONAL
MONETARY POLICY

EDUCATION AND
WORKFORCE COMMITTEE

SUBCOMMITTEES:
WORKFORCE PROTECTIONS

EARLY CHILDHOOD, YOUTH
AND FAMILIES

Congress of the United States
House of Representatives
Washington, DC 20515–4314

Ron Paul

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WASHINGTON, DC 20515
(202) 225–2831

312 SOUTH MAIN
SUITE 228
VICTORIA, TX 77901
(512) 576–1231

301 GUADALUPE
ROOM 105
SAN MARCOS, TX 78666
(512) 396–1400

200 WEST 2ND STREET
SUITE 210
FREEPORT, TX 77541
(409) 230–0000

MOBILE OFFICE
(512) 753–5553

Statement of Ron Paul
before the House Subcommittee on Regulatory Reform and Paperwork Reduction
Hearing on Postal Regulations Governing Commercial Mail Receiving Agencies (CMRA)
10-19-99

I wish to thank Chairperson Kelly for holding this hearing on the Post Office's regulations requiring customers of Commercial Mail Receiving Agencies (CMRAs) to provide personal information to the Post Office and affix a special designation to their mailing addresses. These regulations will invade the privacy of millions of Americans as well as stigmatize them as potential criminals simply because they chose to receive their mail through a CMRA. This is why I have introduced the Mailbox Privacy Protection Act (HJ Res. 55), which overturns this rule, and why 57 of my colleagues, have joined me as cosponsors of this bill. I especially wish to thank Chairperson Kelly for her cosponsorship of HJ Res. 55.

In response to the protests of outraged CMRA customers, the Post Office has made several modifications to the initial rule. However, no modification can address the massive privacy violation this regulation represents. Only repeal of the regulation will protect the rights and reputations of the millions of law-abiding Americans who use CMRAs.

For example, one of the Post Office's modifications is to "allow" CMRA customers to place a pound sign on their address instead of the designation "PMB". While providing CMRA customers an option to avoid the PMB designation may seem like a step foreword, the Post Office is still forcing CMRA customers to affix a scarlet letter to their addresses.

While there is never an excuse for abridging the rights of innocent citizens, in this case the Post Office does not even appear to have attempted to establish that its new policies are necessary to prevent crime. In fact, the Post Office has yet to respond to a request from Congressman Todd Tihart and myself for official statistics regarding the use of PMBs in mail fraud. The only evidence the Post Office has circulated is anecdotal evidence of 19 cases involving CMRAs in 1998. Of these, 13 involved foreign nationals and several involved PO Boxes and/or apartments as well as CMRAs.

While this rule's effectiveness as a crime fighting tool is doubtful, no one can doubt that this rule will discourage people from using CMRAs instead of PO Boxes. At a time when Congress is considering allowing the Post Office greater latitude to compete with private businesses, this rule raises disturbing questions about allowing the Post Office to regulate its' competitors.

Small and home-based businesses that use CMRAs may lose business if the Post Office is successful in branding CMRA customers as potential criminals. Many small businesses have found CMRAs instrumental in helping the growth of their businesses, now the Post Office wants to label all these entrepreneurs as criminal suspects.

The Post Office has also revised its' original rule which would have required CMRAs to produce information about their business customers to any one who requested such information to one restricting the available of information to law enforcement and other government officials. While this did represent an improvement over the original rule, the lack of any requirement for a judicially-authorized subpoena or search warrant before Postal Officials may releasing personal information raises serious fourth amendment concerns as well as leaving CMRAs customers vulnerable to abuses of their privacy by unscrupulous government officials. The fact that this rule applies the same standards for access to a CMRA customers' personal information as applies to release of information regarding those renting a Post Office Box in no way justifies this rule. Rather this is an argument for the Post Office to change its regulations to likewise protect PO Box customers from warrantless searches.

In conclusion, I wish to once again thank Chairperson Kelly for holding this hearing and highlighting the Post Office's attempt to label all Americans who use CMRAs as *de facto* criminals. Despite the cosmetic changes made by the Post Office in the hope of appeasing the millions of Americans who have objected to this rule, the fact remains that only repeal will protect the civil liberties of CMRA customers. Therefore, I hope that the Congressional leadership follows up on these hearings by scheduling a vote on my HJ Res. 55, the Mailbox Privacy Act, which repeals this ill-advised rule.

GOVERNMENT RELATIONS

UNITED STATES
POSTAL SERVICE

July 13, 1999

Honorable James M. Talent
House of Representatives
Washington, DC 20515-2502

Dear Congressman Talent:

This responds to your May 19 letter to Postmaster General William J. Henderson, regarding revised policies affecting commercial mail receiving agencies (CMRAs).

I regret the delay in responding to you on this issue. I also appreciate and share your concern for CMRA operators and customers who will be impacted by the revised regulations. It is for this reason that we have taken the time to study the issues that have been raised. Please be assured that the new regulations were never intended to harm the CMRA industry and its customers or to benefit the Postal Service financially. In fact, they should improve the nation's confidence in the CMRA industry. It may be helpful if I provide some background information to clarify the issue.

During the notice and comment period, the Postal Service received 8,107 letters. They included expressions of support from organizations representing thousands of leading businesses, key law enforcement agencies, and millions of American consumers, including: the National Consumers League, the American Bankers Association, the Advertising Mail Marketing Association, the Parcel Shippers Association, the American Financial Services Association, and the International Association of Financial Crimes Investigators. The Secret Service and numerous state attorneys general also support the changes. Mail Boxes Etc., the leader in the commercial mail receiving business, also acknowledges the need for the regulations. Most of the letters opposing the changes were form letters.

The Postal Service believes that a strong national postal system, one that consumers and both large and small businesses count on every day, must command the trust and confidence of the American people. Today, there are millions of vulnerable Americans, particularly among the elderly, who can be easily defrauded through the use of private mailboxes. Just as our customers deserve to be protected from deceptive sweepstakes mailings, they deserve protection from the unscrupulous use of private mailboxes. Honest Americans have been cheated out of millions of dollars, because it has been all-too-easy to skirt the CMRA regulations formerly in place. I am enclosing a list of some examples of Postal Inspection Service investigations of such misuse that occurred just last year.

Nevertheless, as we work to combat fraud, it is also important for us to strike the right public policy balance on this issue. Businesses and citizens who use CMRAs have raised some valid concerns. We have had a series of discussions with representatives of the CMRA industry, the

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-3500

National Coalition Against Domestic Violence, and others in recent months in an effort to address their concerns. On June 23, the Postal Service reached agreement with industry representatives on several key issues and agreed to do the following:

- Issue a Federal Register notice for public comment proposing a modification to our regulations. The modification would prohibit the release of address information (except for law enforcement purposes) of individuals who use either private mailboxes or post office boxes for business purposes. This change will protect the privacy of individuals doing business from their homes. In the interim, we are directing our employees not to release to the public any information from Form 1583, Application for Delivery of Mail Through Agent.

- Give CMRA customers an additional six months, until April 26, 2000, to notify correspondents of the new address requirement and deplete stationery with their former CMRA address. Mail without the PMB designation will not be returned if the CMRA box holder makes a reasonable effort to notify customers.

- Give CMRA customers who have not completed the revised Form 1583 an additional 60 days, until August 26, to do so.

- Clarify the definition of a CMRA to account for such entities as corporate executive suites and shelters.

- Reemphasize that acceptable forms of identification do not include social security numbers, credit cards, and birth certificates.

I am confident that the changes we have proposed will enable us to protect the American people from fraud and deception, ensure their privacy, and address the concerns of CMRA operators and customers. Please contact me if I can be of assistance with other postal issues.

Sincerely,

Sheila T. Meyers
Government Relations Representative

Enclosure

United States Postal Service

Application for Delivery of Mail Through Agent

See Privacy Act Statement on Reverse

1. Date

n consideration of delivery of my or our (firm) mail to the agent named below, the addressee and agent agree: (1) the addressee or the ıgent must not file a change of address order with the Postal Service upon termination of the agency relationship; (2) the transfer of my ır our (firm) mail to another address is the responsibility of the agent; (3) all mail delivered to the agency under this authorization must ıe prepaid with new postage when redeposited in the mails; (4) upon request the agent must provide to the Postal Service all addresses o which the agency transfers mail; and (5) when any information required on this form changes or becomes obsolete, the addressee(s) nust file a revised application with the Commercial Mail Receiving Agency (CMRA).

NOTE: The applicant must execute this form in duplicate in the presence of the agent, his or her authorized employee, or a notary ıublic. The agent provides the original completed signed Form 1583 to the Postal Service and retains a duplicate completed signed :opy at the CMRA business location. The CMRA copy of Form 1583 must at all times be available for examination by the postmaster (or lesignee) and the Postal Inspection Service. The addressee and the agent agree to comply with all applicable postal rules and egulations relative to delivery of mail through an agent. Failure to comply will subject the agency to withholding of mail from delivery ıntil corrective action is taken.

'his application may be subject to verification procedures by the Postal Service to confirm that the applicant resides or conducts ıusiness at the home or business address listed in boxes 8 or 11, and that the identification listed in box 9 is valid.

2. Name in Which Applicant's Mail Will Be Received for Delivery to Agent. *(Complete a separate Form 1583 for EACH applicant. Spouses may complete and sign one Form 1583. Two items of valid identification apply to each spouse. Include dissimilar information for either spouse in appropriate box.)*

3. Address to Be Used for Delivery Including ZIP + 4

4. Applicant Authorizes Delivery to and in Care of *(Name, address, and ZIP Code of agent)*

5. Will This Delivery Address Be Used for Soliciting or Doing Business With the Public? *(Check one)*

☐ Yes ☐ No

6. This Authorization Is Extended to Include Restricted Delivery Mail for the Undersigned(s)

7. Name of Applicant

8. Home Address *(Number, street, city, state, and ZIP Code)*

Telephone Number ( )

9. Two Types of Identification are Required. One Must Contain a Photograph of the Addressee(s). Agent Must Write in Identifying Information. Subject to Verification.

a.

b.

Acceptable identification includes: driver's license; armed forces, government, or recognized corporate identification card; passport or alien registration card or other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer. A photocopy of your identification may be retained by agent for verification.

10. Name of Firm or Corporation

11. Business Address *(Number, street, city, state and ZIP Code)*

Telephone Number ( )

12. Kind of Business

13. If Applicant Is a Firm, Name Each Member Whose Mail Is to Be Delivered. *(All names listed must have verifiable identification. A guardian must list the names and ages of minors receiving mail at their delivery address.)*

14. If a CORPORATION, Give Names and Addresses of Its Officers

15. If Business Name of The Address *(Corporation or Trade Name)* Has Been Registered, Give Name of County and State, and Date of Registration.

Warning: The furnishing of false or misleading information on this form or omission of material information may result in criminal sanctions (including fines and mprisonment) and/or civil sanctions (including multiple damages and civil penalties). *(18 U.S.C. 1001)*

16. Signature of Agent/Notary Public

17. Signature of Applicant *(If firm or corporation, application must be signed by officer. Show title.)*

Privacy Act Statement

Collection of this information is authorized by 39 USC 403 and 404. This information will be used to authorize the delivery of the intended addressee's mail to another. The Postal Service may disclose this information to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the Postal Service is a party or has an interest; to a government agency in order to obtain information relevant to a USPS decision concerning employment, security clearances, contracts, licenses, grants, or other benefits; to a congressional office at your request; to an expert, consultant, or other person under contract to the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to a labor organization as required by the National Labor Relations Act; for the purpose of identifying an address as an address of an agent to whom mail is delivered on the behalf of other persons; and to anyone when the delivery address is being used for the purpose of doing or soliciting business with the public. Completion of this form is voluntary; however, without the information, the mail will be withheld from delivery to the agent and delivered to the addressee, or, if the address of the addressee is that of the agent, returned to the sender.

CLARENCE E. LEWIS, JR
CHIEF OPERATING OFFICER
EXECUTIVE VICE PRESIDENT

UNITED STATES
POSTAL SERVICE

July 1, 1999

VICE PRESIDENTS, AREA OPERATIONS
DISTRICT MANAGERS, CUSTOMER SERVICE AND SALES

SUBJECT: Disclosure of Information about CMRA Customers from Forms 1583

Concerns have been expressed to the Postal Service that information from Forms 1583 submitted by commercial mail receiving agency (CMRA) customers who use their private boxes for business purposes is being released to members of the public upon request. Release of the information at this time is improper and **must not be made until further notice.**

New regulations concerning CMRAs were published in the Postal Bulletin on March 25. However, the provision in Administrative Support Manual (ASM) 352.44h that governs disclosure of information from Form 1583 has not been changed. Until such time as the ASM is changed, information from the Form 1583 or the new 1583-A **must not be released** to any member of the public, except for the limited purpose of identifying an address as the address of a CMRA.

Please ensure that each office within your district is notified immediately and complies with this instruction.

C. E. Lewis, Jr.

cc: Mr. Hunter
Ms. Elcano
Mr. Potter
Ms. Wilhite
Ms. Gibert
Mr. Rapp

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-0080
202-268-4842
FAX: 202-268-4843

UNITED STATES
POSTAL SERVICE

August 25, 1999

DISTRICT MANAGERS, CUSTOMER SERVICE AND SALES

SUBJECT: Disclosure of Information about CMRA Customers from Forms 1583

This is a reminder of Chief Operating Officer and Executive Vice-President Clarence Lewis's memo of July 1 on the same subject.

Concerns have been expressed to the Postal Service that information from Forms 1583 submitted by commercial mail receiving agency (CMRA) customers who use their private boxes for business purposes is being released to members of the public upon request. Release of the information at this time is improper and must not be made.

New regulations concerning CMRAs were published in the Postal Bulletin on March 25. However, the provision in Administrative Support Manual (ASM) 352.44h that governs disclosure of information from Form 1583 has not been changed. Section 352.44h reads as follows:

> Form 1583. Except as provided by this paragraph, information on Form 1583, *Application for Delivery of Mail Through Agent*, is not available to the public. Information continued in Form 1583 may be disclosed to the public only for the purpose of identifying a particular address as an address of an agent to whom mail is delivered on behalf of other persons. No other information, including, but not limited to, the identities of persons on whose behalf agents receive mail, may be disclosed from Form 1583.

Until such time as the ASM is changed, information from the Form 1583 must not be released to any member of the public, except for the limited purpose of identifying an address as the address of a CMRA.

Please ensure that each office within your district is reminded immediately and is in compliance with this instruction.

Frederick J. Hintenach
Manager, Retail Operations

cc: Mr. Lewis
Mr. Hunter
Ms. Elcano
Mr. Potter
Ms. Wilhite
Mr. Kane
Ms. Gibert
Mr. Rapp
Vice Presidents, Area Operations

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260

MAIL BOXES ETC.®

MAKING BUSINESS EASIER® WORLDWIDE.

MAILBOX SERVICE AGREEMENT

CUSTOMER NAME: SANDI M. TAYLOR
COMPANY: STRATEGIC TECHNOLOGIES
ADDRESS: [redacted]
HOME PHONE: [redacted] WORK PHONE: Same FAX: [redacted]
E-MAIL ADDRESS: [redacted] MAIL BOXES ETC. CENTER NO.: 383
MAILBOX NUMBER: 232 SIZE OF MAILBOX: _____

1) This Mailbox Service Agreement ("Agreement") is made and entered into by the customer identified above ("Customer") for the use of and services related to a mailbox (the "Mailbox") at the Mail Boxes Etc. Center identified above (the "Center") under the terms set forth herein.

2) Customer agrees that Customer will not use the Center premises or any Center services for any unlawful, illegitimate or fraudulent purpose or for any purpose prohibited by U.S. postal regulations. Customer further agrees that any use of the Mailbox shall be in conformity with all applicable federal, state and local laws. Each individual or entity must complete a separate U.S. Postal Service Form 1583 ("Form 1583") to be authorized to receive mail or packages at the Mailbox. However, spouses may complete one Form 1583, as long as both spouses include their separate information on the Form.

3) This Agreement and Form 1583 shall remain confidential, except with a legal search warrant that this Agreement and Form 1583 may be disclosed upon request of any law enforcement or other governmental agency, or when legally mandated. Additionally, Customer acknowledges that pursuant to postal regulations the information required to complete Form 1583 ~~may be made available by the U.S. Postal Service to the public if "yes" in block five (5)~~ on Form 1583 is checked. Upon request, Customer agrees to complete all necessary documents, including Form 1583 and any required acknowledgment form relating to service of process. Customer further agrees to sign an updated version of this Agreement and Form 1583 upon request.

Do not agree to sign USPS change this 6/99

4) Possession of the Mailbox key shall be considered valid evidence that the possessor is duly authorized to remove any contents from the Mailbox. In the event of death or incapacity of Customer, the Center will require the appropriate documents from the Probate Court, the executor of the estate, the trustee or other similar person or entity before releasing mail or packages to a requesting party.

5) Customer agrees to pay an initial set-up fee of 0 and a refundable security/key deposit of $5.75, as well as applicable monthly service fees. The security/key deposit is refundable upon expiration, cancellation or termination of this Agreement, provided that Customer returns the key, key card and/or other similar device, and pays all sums owed to the Center. Mailbox service fees are all due and payable in advance and Customer agrees that the Center may hold mail and packages pending payment. There will be no prorations or refunds for cancellation of any service. Customer agrees to pay a late fee of $5.00 if any payment is not received within five (5) days of when due. In the event the Mailbox lock is changed upon the request or fault of Customer, Customer agrees to pay a fee of $5.00. Mailbox service fees and other related fees stated herein are subject to change. In the event that Customer receives an unreasonable volume of mail or packages at the Mailbox according to the Center's reasonable judgment, the Center may require Customer to upgrade to a larger size mailbox and pay any additional charge. The Center reserves the right to increase the Mailbox service fees in the event that Customer adds additional individuals or entities to the names of those individuals or entities authorized to receive mail and packages at the Mailbox pursuant to Form 1583.

6) Upon expiration, cancellation or termination of this Agreement, the Center will:

a. Re-mail (i.e., forward) Customer's mail for six (6) months, provided Customer pays the postage, packaging material, and forwarding fees in advance. Additionally, Customer must pay a monthly storage fee

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Revised April 1999

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of $10.00 for month 1, and $10.00 for months 2 through 6 in advance for the time period that mail is to be forwarded. It is Customer's responsibility to make arrangements with the Center to identify any mail forwarding needs prior to the expiration, cancellation or termination of this Agreement.

b. Discard or destroy any "Unsolicited Mail" (e.g., bulk mail; mail addressed as "occupant," "current resident" or similar designation; or coupons, advertising or other promotional material) delivered to or remaining at the Center.

c. Retain Customer's mail, other than Unsolicited Mail, at the Center for a period of thirty (30) days from the date of delivery or six (6) months after the expiration, cancellation or termination of this Agreement, whichever comes first, if Customer leaves no forwarding fees or forwarding address. After such time, any mail or package may be discarded or destroyed. In order to pick up any mail or package during the six (6) month period, Customer must pay a storage fee of $10.00 per month for the time period in which the Center holds the mail or package(s), plus a service fee of 0 for each time Customer visits the Center to pick up such items.

d. Refuse any package addressed to Customer delivered by any party other than the U.S. Postal Service, such as a commercial courier service.

7) Six (6) months after the expiration, cancellation or termination of this Agreement, the Center may:

a. Refuse any mail or package addressed to Customer and delivered to the Center.

b. Discard or destroy any of Customer's mail or package delivered to or remaining at the Center at such time.

8) The term of this Agreement shall be the initial period paid for by Customer and any renewal period paid for by Customer from time to time. Renewal of this Agreement for additional terms shall be at the Center's sole discretion.

9) Customer agrees that the Center may terminate or cancel this Agreement for good cause at any time by providing Customer thirty (30) days written notice. Good cause shall include but is not limited to: 1) Customer abandons the Mailbox; 2) Customer uses the Mailbox for unlawful, illegitimate or fraudulent purposes; 3) Customer fails to pay monies owed the Center when due; 4) Customer receives an unreasonable volume of mail or packages; 5) Customer engages in offensive, abusive or disruptive behavior toward other customers of the Center or the Center's employees; and 6) Customer violates any provision of this Agreement. Customer acknowledges that, for the purpose of determining good cause for termination of this Agreement as provided herein, the actions of any person authorized by Customer to use the Mailbox will be attributed to Customer.

10) Any written notice to Customer required or permitted under this Agreement shall be deemed delivered twenty-four (24) hours after placement of such notice in Customer's Mailbox or at the time personally delivered to Customer. In the event of a termination notice based upon abandonment of the Mailbox, notice shall be deemed delivered (a) on the next day after placing in the hands of a commercial courier service or the United States Postal Service for next day delivery, or (b) five (5) days after placement in the United States Mail by Certified Mail, Return Receipt Requested, postage prepaid, and addressed to Customer at Customer's address as set forth in Form 1583, or on the date of actual receipt, whichever is earlier.

11) As Customer's authorized agent for receipt of mail, the Center will accept all mail, including registered, insured and certified items. Unless prior arrangements have been made, the Center shall only be obligated to accept mail, or packages delivered by commercial courier services which require a signature from the Center as a condition of delivery. Customer must accept and sign for all mail and packages upon the request of the Center. Packages not picked up within 10 days of notification will be subject to a storage fee of $2.00 per day per package, which must be paid before Customer receives the package. In the event Customer refuses to accept any mail or package, the Center may return the mail or package to the sender and Customer will be responsible for any postage or other fees associated with such return. C.O.D. items will be accepted ONLY if prior arrangements have been made and payment in advance is provided to the Center.

12) Customer agrees to protect, indemnify, defend and hold harmless the Center, Mail Boxes Etc. USA, Inc., and their respective affiliates, subsidiaries, parent corporations, franchisees, officers, directors, agents and employees from and

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Revised April 1999

against any and all losses, damages, expenses, claims, demands, liabilities, judgments, settlement amounts, costs and causes of action of every type and character arising out of or in connection with the use or possession of the Mailbox, including without limitation, any demands, claims and causes of action for personal injury or property damage arising from such use or possession, from failure of the U.S. Postal Service or any commercial courier service to deliver on time or otherwise deliver any items (mail, packages, etc.), from damage to or loss of any package or mail, or to the Mailbox contents by any cause whatsoever, and from any violation by Customer of applicable federal, state or local laws.

13) Customer acknowledges and agrees that the Center is an independently owned and operated franchisee of Mail Boxes Etc. USA, Inc. ("Franchisor") and that Franchisor is not responsible for any acts or omissions of its franchisees.

14) CUSTOMER HEREIN AGREES THAT THE TOTAL AMOUNT OF LIABILITY OF THE CENTER AND FRANCHISOR, IF ANY, FOR ANY AND ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED $100.00 REGARDLESS OF THE NATURE OF THE CLAIM.
(INITIAL)

15) Customer must use the exact mailing address for the Mailbox without modification as set forth in Section three (3) of Form 1583. Mail received by Customer must bear a delivery address that contains at least the following elements, in this order:

(1) Intended addressee's name or other identification. Examples: Joe Doe or ABC Co.
~~(2) "PMB" and number. Example: PMB 234~~ *
(3) Street number and name or post office box number or rural route designation and number. Examples: 10 Main St. or P.O. BOX 34 or RR 1 BOX
(4) City, state, and ZIP Code (5-digit or ZIP+4). Example: Herndon VA 22071-2716.

Per USPS changes to rule, "PMB" is an option. 10/7/99

The Postal Service will return mail without a proper address to the sender endorsed "Undeliverable as Addressed."

16) Delivery by commercial courier services must be made to the Center street address only (and not to a P.O. Box). "P.O. Box" may be used only if it is part of Customer's "Caller Service" (arrangement for delivery of mail through Centers using a U.S. Postal Service address) address format. In such case, the ~~"PMB" designation must also be used.~~ Upon signing this Agreement, Customer shall provide two forms of valid identification, one of which shall include a photograph. This Agreement may not be amended or modified, except in a writing signed by both parties.

CUSTOMER SIGNATURE: DATE: 20 August 1999

AUTHORIZED CENTER REPRESENTATIVE

SIGNATURE: _____ DATE: _____

HOW DID CUSTOMER HEAR ABOUT US? _____

©Mail Boxes Etc. USA, Inc.

Revised April 1998

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United States Postal Service

Application for Delivery of Mail Through Agent

See Privacy Act Statement on Reverse

BOX # 232

1. Date 20 Aug 1999

In consideration of delivery of my or our (firm) mail to the agent named below, the addressee and agent agree: (1) the addressee or the agent must not file a change of address order with the Postal Service upon termination of the agency relationship; (2) the transfer of my or our (firm) mail to another address is the responsibility of the agent; (3) all mail delivered to the agency under this authorization must be prepaid with new postage when redeposited in the mails; (4) upon request the agent must provide to the Postal Service all addresses to which the agency transfers mail; and (5) when any information required on this form changes or becomes obsolete, the addressee(s) must file a revised application with the Commercial Mail Receiving Agency (CMRA).

NOTE: The applicant must execute this form in duplicate in the presence of the agent, his or her authorized employee, or a notary public. The agent provides the original completed signed Form 1583 to the Postal Service and retains a duplicate completed signed copy at the CMRA business location. The CMRA copy of Form 1583 must at all times be available for examination by the postmaster (or designee) and the Postal Inspection Service. The addressee and the agent agree to comply with all applicable postal rules and regulations relative to delivery of mail through an agent. Failure to comply will subject the agency to withholding of mail from delivery until corrective action is taken.

This application may be subject to verification procedures by the Postal Service to confirm that the applicant resides or conducts business at the home or business address listed in boxes 8 or 11, and that the identification listed in box 9 is valid.

2. Name in Which Applicant's Mail Will Be Received for Delivery to Agent. *(Complete a separate Form 1583 for EACH applicant. Spouses may complete and sign one Form 1583. Two items of valid identification apply to each spouse. Include dissimilar information for either spouse in appropriate box.)*
SANDI M. TAYLOR
STRATEGIC TECHNOLOGIES
~~BOX~~ # 232
2183 Buckingham Road
Richardson, Texas 75081- 5499

3. Address to Be Used for Delivery Including ZIP + 4
MAIL BOXES ETC. #383
PMB 853903
2183 Buckingham Road
Richardson, Texas 75085-3903

4. Applicant Authorizes Delivery to and in Care of *(Name, address, and ZIP Code of agent)*

5. Will This Delivery Address Be Used for Soliciting or Doing Business With the Public? *(Check one)*
☑ Yes ☐ No

6. This Authorization Is Extended to Include Restricted Delivery Mail for the Undersigned(s)

7. Name of Applicant
SANDI M. TAYLOR

8. Home Address *(Number, street, city, state, and ZIP Code)*
[redacted]
Telephone Number ([redacted])

9. Two Types of Identification are Required. One Must Contain a Photograph of the Addressee(s). Agent Must Write in Identifying Information. Subject to Verification.
a.
b.

Acceptable identification includes: driver's license; armed forces, government, or recognized corporate identification card; passport or alien registration card or other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer. A photocopy of your identification may be retained by agent for verification.

10. Name of Firm or Corporation
STRATEGIC TECHNOLOGIES

11. Business Address *(Number, street, city, state and ZIP Code)*
2183 BUCKINGHAM RD., #232
RICHARDSON, TX 75081
Telephone Number ([redacted])

12. Kind of Business
EXECUTIVE SEARCH CONSULTING

13. If Applicant is a Firm, Name Each Member Whose Mail Is to Be Delivered. *(All names listed must have verifiable identification. A guardian must list the names and ages of minors receiving mail at their delivery address.)*
SANDI M. TAYLOR

14. If a CORPORATION, Give Names and Addresses of Its Officers

15. If Business Name of The Address *(Corporation or Trade Name)* Has Been Registered, Give Name of County and State, and Date of Registration.
DALLAS, TX
MAY 10, 1988

Warning: The furnishing of false or misleading information on this form or omission of material information may result in criminal sanctions (including fines and imprisonment) and/or civil sanctions (including multiple damages and civil penalties). *(18 U.S.C. 1001)*

Signature of Agent/Notary Public

17. Signature of Applicant *(If firm or corporation, application must be signed by officer. Show title.)*
Sandi M. Taylor

Form 1583, March 1999

This form on Internet at www.usps.com

UNITED STATES
POSTAL SERVICE

September 20, 1999

Sabiha Zubair
Mail Boxes Etc.
10310 Main Street
Fairfax, Va. 22030-2410

Dear Ms. Zubair:

Based on a review of your agency, it has been determined that Mail Boxes Etc., does not comply with applicable standards for the operation of commercial mail receiving agencies. These findings are discussed in detail below. In accordance with postal regulations, delivery service to Mail Boxes Etc., will be suspended effective 14 days from your receipt of this letter unless it is demonstrated that your agency is in compliance with postal regulations.

Under Domestic Mail Manual (DMM) D042.2.6, a Form 1583 must be submitted by each customer receiving mail addressed to your agency.

A review of your agency's operations was conducted on 9-20-99. This review identified the area in which your agency fails to comply with postal standards. It was determined that fifty-four (54) customers have not submitted updated application form 1583. Based on this evidence, I find that your agency does not comply with DMM D042.2.6.

In accordance with DMM D042.2.6, delivery service to your agency is suspended, effective 14 days from your receipt of this letter, unless you provide, by that date, a written statement and evidence demonstrating compliance with the standards applicable to the operation of commercial mail receiving agencies. This statement should be directed to the undersigned. Please call Bonnie Fairbrother at 273-5571 if you have any questions concerning this determination or the standards applicable to commercial mail receiving agencies.

Gerea Hayman
Postmaster
Fairfax, Va. 22030-9998

Rec'd 9/28/99

Questions for the Record to Mr. Anthony J. Crawford
From Subcommittee Chairwoman Sue Kelly

Mr. Crawford, during the filming of a CMRA Postal Training video, you said, "The primary purpose for the changes are to protect the integrity for the mail and deter those who would use the anonymity of the mail to prey on unsuspecting citizens and businesses. Inspection Service investigations have revealed a sharp increase in fraudulent activity involving the use of CMRA addresses. The schemes usually often involve fraudulent credit card applications and mail order transactions using an address different from that of the victim. There are numerous cases on record relating to these activities and the losses to the public and businesses are in the hundreds of millions of dollars."

1. By what Postal Inspection Service "investigations" did you base the statement where you said there was an "increase in fraudulent activity?" Please provide the documents or a summary thereof.

2. Do credit card companies and other financial institutions already have the ability to recognize the address of Commercial Mail Receiving Agencies through a Delivery Sequence File (DSF) database, provided by the United States Postal Service (USPS)?

3. If financial institutions used the DSF, would they know when an individual is changing an address to a CMRA?

4. Why did USPS officials ignore an invitation from the Small Business Administration to participate in a roundtable discussion to discuss the regulations on June 11, 1999?

On Page 6 of your testimony, you state that "we have been urged by many different groups to take action, and that is what we have done. On August 27, 1997, we published the original proposed revisions to the regulations in the *Federal Register* for a 60-day comment period. At the request of the CMRA industry we republished the proposed regulation in the November 24 *Federal Register* to allow an additional 30 days for comments."

5. Please list the different groups that urged the Postal Service to "take action" during the first comment period?

6. Please list the different groups that urged the Postal Service to "take action" during the second comment period?

On July 13, 1999, Government Relations Representative Sheila T. Myers wrote Chairman Talent stating, "during the notice and comment period, the Postal Service received 8,107 letters. They included expressions of support from organizations representing thousands of leading businesses, key law enforcement agencies, and millions of American consumers, including: the National Consumers League, the American Bankers Association, the Advertising Mail Marketing Association, the Parcel Shippers Association, the American Financial Services Association, and the International Association of Financial Crimes

Investigators. The Secret Service and numerous state attorneys general also support the changes. Mail Boxes Etc., the leader in the commercial mail receiving business, also acknowledges the need for the regulations. Most of the letters opposing the changes were form letters."

7. How many times did USPS disseminate this statement to Congressional offices? Please list the names of the offices affected.

8. How many times did USPS disseminate a similar statement to Congressional offices? Please list the names of the offices affected.

9. During the 1997 notice and comment periods, list the names of the key law enforcement agencies that expressed support for the rule.

Mr. Crawford, on page 3 of your testimony you also stated that "nearly half of the nation's state attorneys general, have expressed support of the revised CMRA rules as a way to curb fraud."

10. Did a State Attorney General or an organization representing a collection of State Attorneys General provide comments to the USPS during the 1997 comment periods?

11. During, before and after the comment period, please provide the Committee every letter of support from an office of a State Attorney General.

12. USPS claims that victims of CMRA fraud are the real catalyst behind the regulations. Did any victims of CMRA fraud support the regulations by providing comments?

13. Ms. Rachel Heskin testified that most of the comment letters opposing the proposed regulation came from stakeholders affiliated with her organization. Did Mail Boxes Etc. support the regulations during the 1997 comment periods?

14. Mr. Spates submitted a copy of a March 10, 1999 letter from Vermont Assistant Attorney General Elliot Burg to Mail Boxes Etc. Senior Franchise Counsel Isabel Weeks-Lambert to Committee staff one week prior to the hearing. Is this the same letter Mr. Spates submitted for the record during the hearing? If not, please provide a copy of the letter.

15. Considering the Postal Service supplied the aforementioned document to the Committee, can we assume the Postal Service met with the Vermont Attorney General's office about its plans to finalize the rule?

16. Mr. Crawford, did an official for the Postal Service ask the Vermont Attorney General's office to write a letter to Mail Boxes Etc. fifteen days before issuing the final rule?

17. Please produce copies of the laws and court decisions in Pennsylvania and Arizona that prohibit the use of "suite" or "apartment."

18. Does USPS believe states have the right to regulate address designations on interstate mail?

19. Does USPS believe Sandi Taylor is committing a crime for using "Suite" as her address designation?

20. On Page 10, Mr. Crawford, you state that, "some small business representatives still want to use the designation 'suite' in their private mailbox addresses, even though it is a deception." Do you think the costs of complying with the regulation might be a legitimate rationale for Sandi Taylor refusing to change her "deceptive" address designation? If not, please provide analyses that show the costs of compliance are negligible.

21. Is USPS planning to regulate the "misleading and deceptive" addresses listed in Mr. Morrison's attached testimony?

Mr. Crawford, you stated on page 8 of your testimony that, "we began the process of revising the regulations back in the fall of 1997. We gave interested parties two separate opportunities to voice their concerns, and we studied and considered those comments for well over a year before issuing the March regulations. After we published the revised rules, however, we began receiving calls and letters from Members of Congress and others about the impact these changes would have on the CMRA industry and their customers. Some of these concerns were familiar to us. Some, however, were entirely new."

22. Please list the stakeholder "concerns" that "were entirely new" to USPS officials after it issued the final rule.

23. Does any proposed regulation or the Domestic Mail Manual contain a definition of a CMRA?

    a. If so, Please provide a copy of a document stating the definition.
    b. If not, does Patricia M. Gibert's April 29, 1999 attached memorandum to USPS "vice presidents, area operations, district managers" entitled "Commercial Mail Receiving Agency" represent the first effort by USPS to establish a definition of a CMRA?
    c. Was this also the first time USPS officials included "Corporate Executive Centers" (CECs) in its definition of a CMRA?
        1. If not, please provide previous documents where CECs are included in the definition of a CMRA.

DEBORAH K. WILLHITE
SENIOR VICE PRESIDENT
GOVERNMENT RELATIONS AND PUBLIC POLICY

UNITED STATES
POSTAL SERVICE

November 19, 1999

Sue Kelly
Chairwoman
Subcommittee on Regulatory Reform
and Paperwork Reduction
Committee on Small Business
House of Representatives
Washington, DC 20515-6319

Dear Chairwoman Kelly:

This is in response to your request for written responses for the record following the October 19 CMRA hearing before your Subcommittee on Regulatory Reform and Paperwork Reduction. Our responses are enclosed, hard copy version and on diskette.

I trust this information responds to your concerns. Please let me know if I may be of further assistance.

Deborah K. Willhite

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-3500
202-268-2506
FAX: 202-268-2503

U.S. House of Representatives
Subcommittee on Regulatory Reform and Paperwork Reduction
Committee on Small Business

Questions for the Record to Mr. Anthony J. Crawford
from Subcommittee Chairwoman Sue Kelly

Mr. Crawford, during the filming of a CMRA Postal Training video, you said, "The primary purpose for the changes are to protect the integrity for the mail and deter those who would use the anonymity of the mail to prey on unsuspecting citizens and businesses. Inspection Service investigations have revealed a sharp increase in fraudulent activity involving the use of CMRA addresses. The schemes usually often involve fraudulent credit card applications and mail order transactions using an address different from that of the victim. There are numerous cases on record relating to these activities and the losses to the public and businesses are in the hundreds of millions of dollars."

1. By what Postal Inspection Service "investigations" did you base the statement where you said there was an "increase in fraudulent activity?" Please provide the documents or a summary thereof.

Answer: This statement is based on a number of criminal cases reviewed during 1997 and 1998 involving CMRAs. Attached is a summary of some of these cases. Also attached is an industry newsletter that indicates the CMRA industry was aware of the increase in fraudulent activity at CMRAs as early as 1994. (See Attachment #1)

2. Do credit card companies and other financial institutions already have the ability to recognize the address of Commercial Mail Receiving Agencies through a Delivery Sequence File (DSF) database, provided by the United States Postal Service (USPS)?

Answer: Mailers do not have direct access to the Delivery Sequence File (DSF) from the Postal Service. The DSF contains all addresses to which the Postal Service delivers. The Postal Service does not maintain a database solely consisting of CMRA addresses. Large mailers present their address lists to commercial licensed vendors to match their addresses for accuracy against the DSF. During this process, mailers may request that the vendor identify any of the addresses on their lists that are CMRA addresses. Small businesses and individuals do not use this service.

3. If financial institutions used the DSF, would they know when an individual is changing an address to a CMRA?

Answer: The DSF does not contain names. The institution will become aware that an addressee is using a CMRA address only if the individual's address is listed on the address lists submitted to the commercial licensed vendor.

4. Why did USPS officials ignore an invitation from the Small Business Administration to participate in a roundtable discussion to discuss the regulations on June 11, 1999?

Answer: The Postal Service did not ignore the invitation. A postal representative discussed the roundtable invitation with the Small Business Administration (SBA) representative by telephone and advised that schedule conflicts would preclude a representative from the Postal Service attending the conference on June 11. The postal representative did offer Postal Service attendance at future events if sufficient time was provided to schedule a participant. A SBA representative has participated in the CMRA working group discussions.

On Page 6 of your testimony, you state that "we have been urged by many different groups to take action, and that is what we have done. On August 27, 1997, we published the original proposed revisions to the regulations in the Federal Register for a 60-day comment period. At the request of the CMRA industry we republished the proposed regulation in the November 24 Federal Register to allow an additional 30 days for comments."

5. Please list the different groups that urged the Postal Service to "take action" during the first comment period?

Answer: Mr. Crawford's testimony was referring to groups such as the credit card industry who were working with the Inspection Service jointly to develop initiatives to deter mail fraud or the organizations that provided comments to our proposed rule published in November 1997. The Postal Service received no written comments from the August 27, 1997, *Federal Register* notice of proposed rule with request for comments. The comment period was 30 days, from August 27 to September 26, 1997.

6. Please list the different groups that urged the Postal Service to "take action" during the second comment period?

Answer: During the second comment period the Postal Service received comments from American Express, Parcel Shippers Association, National Consumers League, Visa USA and Visa International, Wells Fargo, International Association of Financial Crimes Investigators, American Bankers Association, American Financial Services Association, Novus Services, Inc., and the Advertising Mail Marketing Association. Attached are copies of these letters. (See Attachment #2)

On July 13, 1999, Government Relations Representative Sheila T. Myers wrote Chairman Talent stating, "during the notice and comment period, the Postal Service received 8,107 letters. They included expressions of support from organizations representing thousands of leading businesses, key law enforcement agencies, and millions of American consumers, including: the National Consumers League, the American Bankers Association, the Advertising Mail Marketing Association, the Parcel Shippers Association, the American Financial Services Association, and the International Association of Financial Crimes Investigators. The Secret Service and

numerous state attorneys general also support the changes. Mail Boxes Etc., the leader in the commercial mail receiving business, also acknowledges the need for the regulations. Most of the letters opposing the changes were form letters."

7. How many times did USPS disseminate this statement to congressional offices? Please list the names of the offices affected.

Answer: As far as we can determine, a statement concerning the types of organizations who supported the changes in CMRA regulations was disseminated to every member of Congress. We do not have a record of the number of times this statement or a similar statement was disseminated to Members of Congress.

8. How many times did USPS disseminate a similar statement to Congressional offices? Please list the names of the offices affected.

Answer: As far as we can determine, a statement containing the precise or similar language concerning the types of organizations who supported the changes in CMRA regulations was disseminated to every Member of Congress. We do not have a record of the number of times this statement or a similar statement was disseminated to members of Congress.

9. During the 1997 notice and comment periods, list the names of the key law enforcement agencies that expressed support for the rule.

Answer: The Postal Service did not receive any expressed support from key law enforcement agencies during the 1997 comment period. However, comments were received from the International Association of Financial Crimes Investigators, Wells Fargo Fraud Disputes and Investigations, and American Express Worldwide Security.

Mr. Crawford, on page 3 of your testimony you also stated that "nearly half of the nation's state attorneys general, have expressed support of the revised CMRA rules as a way to curb fraud."

10. Did a State Attorney General or an organization representing a collection of State Attorneys General provide comments to the USPS during the 1997 comment periods?

Answer: Neither a State Attorney General nor an organization representing a collection of State Attorneys General provided comments to the Postal Service during the 1997 comment period. It was after the final rule was published and the negative reaction from the interested groups surfaced that the collection of State Attorneys General came to the support of the original final rule.

11. During, before and after the comment period, please provide the Committee every letter of support from an office of a State Attorney General.

Answer: Attached are the following copies of letters we received from the Vermont State Attorney General's Office:

Letter dated September 30, 1999 from Mr. Elliot Berg, Assistant Attorney General State of Vermont:

Letter dated October 14, 1999 from Mr. Elliot Berg
Letter dated October 22, 1999 from Mr. Elliot Berg representing of states of Alabama, Arizona, Georgia, Hawaii, Idaho, Kansas, Nevada, Oklahoma, Pennsylvania, South Carolina, Tennessee, and Wisconsin, as well as the District of Columbia Office of the Corporation Counsel. (See Attachment #3)

12. USPS claims that victims of CMRA fraud are the real catalyst behind the regulations. Did any victims of CMRA fraud support the regulations by providing comments?

Answer: We did not receive any comments directly from victims. Some of the organizations that responded, and that continue to provide views through our workgroup, represent or do business with individual consumers and businesses that are victims of crimes perpetrated by criminals using CMRA addresses. These organizations, which include the National Consumers League, are aware of the increased fraudulent activity at CMRA addresses because they receive telephone calls and letters from individual consumers and businesses with reports of being victimized by these criminals. The Postal Service has a responsibility to protect the American consumers from mail fraud.

13. Ms. Rachel Heskin testified that most of the comment letters opposing the proposed regulation came from stakeholders affiliated with her organization. Did Mail Boxes Etc. support the regulations during the 1997 comment periods?

Answer: Mail Boxes Etc did not provide any supporting documentation during the 1997 comment period. On March 26, 1999, Mail Boxes Etc. Public Relations Director Richard Hallabrin submitted a statement on CMRA regulations. That statement is attached. (See Attachment #4)

14. Mr. Spates submitted a copy of a March 10, 1999 letter from Vermont Assistant Attorney General Elliot Burg to Mail Boxes Etc. Senior Franchise Counsel Isabel Weeks-Lambert to Committee staff one week prior to the hearing. Is this the same letter Mr. Spates submitted for the record during the hearing? If not, please provide a copy of the letter.

Answer: Mr. Spates did not submit any letter for the record. Mr. Crawford submitted a letter from Elliott Burg dated October 14, 1999. A copy of this MBE letter is contained in Attachment #5. The March 10 letter came from U.S. Postal Service Government Relations in an information packet before the hearing.

15. Considering the Postal Service supplied the aforementioned document to the Committee, can we assume the Postal Service met with the Vermont Attorney General's office about its plan to finalize the rule?

Answer: The Postal Service did not meet with the Vermont Attorney General's office about its plans to finalize the rule.

16. Mr. Crawford, did an official for the Postal Service ask the Vermont Attorney General's office to write a letter to Mail Boxes Etc. fifteen days before issuing the final rule?

Answer: The Postal Service did not ask the Vermont Attorney General's office to write a letter to Mail Boxes Etc. at any time. On May 11, 1999, Mr. Craig Stewart of Mail Boxes Etc. faxed a copy of the March 10, 1999 letter addressed to them from the State of Vermont, Office of Attorney General requesting that Mr. Spates assist them in addressing the issue. A copy of the letter and fax request is attached. (Attachment #5)

17. Please produce copies of the laws and court decisions in Pennsylvania and Arizona that prohibit the use of "suite" or "apartment."

Answer: Attached is a copy of the court decision regarding the Commonwealth of Pennsylvania and Mail Boxes Etc. USA, Inc. There is no court decision in Arizona regarding Mail Boxes Etc. Complaints in the State of Arizona were pursued through a local consumer protection regulation. (Attachment #6)

18. Does USPS believe states have the right to regulate address designations on interstate mail?

Answer: States are not permitted to enact statutes or regulations that are inconsistent with postal laws or regulations or adversely affect postal operations.

19. Does USPS believe Sandi Taylor is committing a crime for using "Suite" as her address designation?

Answer: No, the Postal Service does not believe Ms. Taylor is committing a crime for using "Suite" as her address designation. However, the use of "suite" as part of a CMRA address will be in violation of postal regulations after April 26, 2000. The Postal Service feels the CMRA regulations are specific in explaining the acceptable address options a CMRA box holder may use.

20. On Page 10, Mr. Crawford, you state that, "some small business representatives still want to use the designation 'suite' in their private mailbox addresses, even though it is a deception." Do you think the costs of complying with the regulation might be a legitimate rationale for Sandi Taylor refusing to change her "deceptive" address designation? If not, please provide analyses that show the costs of compliance are negligible.

Answer: No, the Postal Service does not believe the costs associated with complying to the CMRA regulations is a reason for a CMRA box holder to refuse to change their address designation. The Postal Service took specific steps to ensure that such costs are minimized. The original 6-month grace period to deplete old stationery and advise correspondents of a new address was extended to one year, to April 26, 2000. Based on our experience with other similar address changes, such as ZIP Code changes, the Postal Service believes one year will permit the vast majority of businesses to use up old stock and advise correspondents of the change during the course of ordinary

business instead of special mailings. The Postal Service is also sensitive to the possibility of potential customers using old addresses from older catalogs or promotions. The Postal Service has explained that receipt of this type of mail with the old address will not be returned to the sender if the box holder has made the effort to advise his or her correspondents of the new address. (See Attachment #7)

For the October 19th hearing the Postal Service included, as part of its written statement, an attachment that addressed the proposed costs associated with the revised regulations. A copy of the attachment is provided for your review.

21. Is USPS planning to regulate the "misleading and deceptive" addresses listed in Mr. Morrison's attached testimony?

Answer: The use of addresses listed in Mr. Morrison's testimony are not comparable to the "misleading or deceptive" practice in the use of "suite" in the address of a box holder renting a private mailbox. The addresses listed by Mr. Morrison specify the true identity of the physical or mailing address. The businesses listed with "vanity" addresses within a few blocks of the Capitol are physically located and operate out of these buildings, although the entrance to the building is not on street listed in the address. The Washington DC government assigned the street addresses, not the Postal Service. The Pentagon and most other federal government agencies located in the Washington, DC Metro area have a unique Washington, DC ZIP Code mailing address. The intent of these mailing addresses is not to identify the location of the building (s) that these agencies occupy. The unique ZIP Codes are designed to separate mail at origin or during the primary process at destination for large organizations that generate vast amounts of mail volume. This process reduces handling for the Postal Service and provides an earlier receipt of mail for the large organizations. The addresses listed in Minnesota, Illinois and New York are PO Box mailing addresses located in those cities. The use of the term "PO Box" eliminates any impression that the addressee operates out of a suite at that location. There is no requirement that a post office box holder (or a CMRA box holder for that matter), be physically located in the same city where he or she rents a mailbox.

Mr. Crawford, you stated on page 8 of your testimony that, "we began the process of revising the regulations back in the fall of 1997. We gave interested parties two separate opportunities to voice their concerns, and we studied and considered those comments for well over a year before issuing the March regulations. After we published the revised rules, however, we began receiving calls and letters from Members of Congress and others about the impact these changes would have on the CMRA industry and their customers. Some of these concerns were familiar to us. Some, however, were entirely new."

22. Please list the stakeholder "concerns" that "were entirely new" to USPS officials after it issued the final rule.

Answer: After the final rule was issued, the National Coalition Against Domestic Violence contacted the Postal Service regarding the need for privacy by battered women and their children. They voiced concern about the release of information from Postal Service Form 1583. We also received information from the Homeless Coalition. They were concerned that CMRA mailbox rental would not be available to homeless persons since they don't have home addresses. The Corporate Executive Centers (CEC) contacted us concerning the extent to which their businesses might be defined as CMRAs. The CMRA working group made a sincere effort to accommodate the concerns of each of these groups.

23. Does any proposed regulation or the Domestic Mail Manual contain a definition of a CMRA?

Answer: The *Domestic Mail Manual* CMRA regulation D042.2.5a defines a commercial mail receiving agency as an agent that receives delivery of mail for others and holds it for pickup or re-mails it to the addressee, prepaid with new postage.

a. If so, please provide a copy of a document stating the definition.

Answer: A copy of the final regulations was published in the March 25, 1999, *Postal Bulletin* and the *Federal Register (*attached). The Postal Service's original definition and promulgation of regulations for CMRAs was in 1960 (attached). The Postal Service addressed issues regarding CECs in the early 90s, i.e., requests for individual delivery to CEC customers, rather than bulk delivery to CEC management. As an incidental part of this effort, the Postal Service also addressed the possibility that the CEC might be a CMRA. (See Attachment #8)

b. If not, does Patricia M. Gibert's April 29, 1999 attached memorandum to USPS "vice presidents, area operations, district managers" entitle "Commercial Mail Receiving Agency" represent the first effort by USPS to establish a definition of a CMRA?

Answer: Answered in part a.

c. Was this also the first time USPS officials included "Corporate Executive Centers" (CECs) in its definition of a CMRA?

Answer: Answered in part a.

1. If not, please provide previous documents where CECs are included in the definition of a CMRA.

Answer: July 1991 document is attached. (See Attachment #8)

EXAMPLES OF INSPECTION SERVICE INVESTIGATIONS INVOLVING PRIVATE MAIL BOXES AT COMMERCIAL MAIL RECEIVING AGENCIES

MAIL THEFT AND IDENTITY FRAUD

Chicago, IL; April 1997 - A suspect opened an investment club account at a large stock brokerage firm in an alias name. Credit card convenience checks stolen from the mail issued by a large bank were used to open the investment account. The mailing address listed for this account with the brokerage firm was a Commercial Mail Receiving Agency (CMRA) in Chicago. Inspectors arrested the suspect at the CMRA as he received a $26,000 account closeout check from the brokerage firm. Other fraudulent identification was also in his possession at the time of his arrest.

Washington, DC; August 1996 - A group of Nigerian nationals submitted several fraudulent credit card applications to banks including CMRA return addresses to receive credit cards. There was a connection with another gang also operating in the Houston area. This gang also used post office boxes to receive credit cards obtained fraudulently. The total loss is expected to exceed $800,000.

Champaign, IL; August 1997 - A Nigerian national was arrested by Champaign police officers for use of fraudulent bank and credit card accounts with losses totaling over $69,000. Stolen personal checks were used to establish bank accounts at several area banks. Several personal addresses also given by the suspect were CMRA addresses in the area. A total of thirty-four fictitious identities were used during the course of the scheme.

Colorado Springs, CO; May 1997 - A Nigerian national residing in Houston opened fraudulent bank accounts in Colorado Springs, Pueblo, Boston, and Houston with the help of an accomplice. CMRA addresses in all locations were used to receive the account checks and banking information. Bank convenience checks stolen from the mails were used to kite money between the bank accounts. Upon conviction, the defendant received 10 months in federal prison, and forfeited over $86,000.

New York, NY; October 1997 - A Russian national was convicted of Racketeer-Influenced and Corrupt Organizations (RICO) violations and other charges such as bank and credit card fraud. Stolen checks, credit cards and account numbers were used by Russian gang members who opened more than 150 bank accounts in NY, NJ, Boston, Cleveland, Baltimore, Washington, DC and Miami to negotiate the stolen items. The attempted fraud was in excess of $3 million. The stolen

credit card numbers were used to order merchandise from mail order companies which was then sent to CMRA addresses in the New York and Miami areas.

FRAUDS AGAINST BUSINESSES

Springfield, VA; June 1997 - A suspect was arrested in a "failure to pay" mail fraud scheme after he used several different CMRA addresses and false identities to order through the mail collectible coins and currency from coin dealers throughout the United States. The suspect also created a fictitious business using a CMRA address and mailed worthless checks to "pay" for the merchandise he ordered for the "business". Postal inspectors forcibly arrested the suspect who was armed and had resisted arrest upon leaving the CMRA.

Richmond, VA; October 1996 - A suspect tried to obtain a corporate investment check for $900,000 to be sent to a dry cleaners which also operated as a CMRA and rented private mail boxes. The operators of the CMRA had the private mail box applications completed on the back of dry cleaning receipts. Postal inspectors intervened in this matter and helped prevent the interception of the check.

Bealeton, VA; June 1995 - A suspect used a series of CMRA addresses to perpetrate his "false-billing" mail fraud scheme of sending false invoices to churches across the country for cleaning supplies they neither ordered nor received. He also used CMRA addresses for his car registration and driver's license to avoid detection. When he opened a private mailbox at one CMRA, his box rental application would only lead to another CMRA in another town. Even the suspect's bank accounts were set up using CMRA addresses.

FRAUDS AGAINST CONSUMERS

Little Rock, AR; March 1997 - A Georgia resident pleaded guilty to mail fraud with potential losses of approximately $196,000 in a scheme which involved sending fake prize notifications to over 5,000 people in 39 states. The fake notices were mailed in Atlanta, but the recipients were requested to return the $39 "judging fee" to a CMRA private mail box address in Little Rock. Postal inspectors recovered an additional 2,107 victim letters sent to the private mailbox that contained cash, checks or money orders related to this scheme.

Tampa, FL; October 1997 - An investment scheme promising very high rates of return was directed against elderly victims using direct mail solicitations and a

return address to a CMRA private mail box. Loss to 35 known victims was over $1 million.

Philadelphia, PA; April 1997 - A suspect ran an illegal sweepstakes promotion using a CMRA private mail box return address for the receipt of mail from victims. Over 50,000 mailings were made between May and July 1997. The suspect was previously convicted of mail fraud for a "cents off coupon" mail fraud scheme. The suspect signed a consent agreement to cease operation of the scheme.

San Francisco, CA; June 1996 - A "work-at-home" envelope stuffing mail fraud scheme using a CMRA business return address was shut down with a civil administrative action stopping the suspect's receipt of mail.

Lemoyne, PA; April 1997 - A suspect mailed solicitations throughout the U.S. to postal customers requesting $25.00 for an alleged "psychic" prediction and a potential "financial windfall" for the recipient. The solicitation contained misrepresentations designed to mislead the consumer, and the mailing address of the psychic was a CMRA private mail box. Mail sent to this CMRA address by victims was then forwarded by the CMRA operator to various addresses in Canada.

FRAUDS AGAINST THE GOVERNMENT

Washington, DC; May 1997 - A suspect pleaded guilty to mail fraud and filing a false tax return in a million-dollar scheme to defraud the IRS, HUD, and the Department of Education. The suspect worked with at least 11 other persons to mail 800 phony tax returns and 30 fraudulent student loan applications. At least 11 CMRA addresses were used to avoid detection while conducting the various schemes.

Allenwood, PA; January 1997 - Inmates at the Allenwood Federal Penitentiary were filing false income tax returns in numerous states and the monies realized from the scam were used to purchase narcotics. The narcotics were then smuggled back into the prison. CMRA addresses were used by groups on the outside to receive the tax refund checks.

Boston, MA; May 1997 - A suspect devised a scheme to defraud the states of Connecticut, Pennsylvania, New Jersey, and District of Columbia by submitting false interstate unemployment claims in the names of fictitious individuals. CMRA addresses were used extensively to perpetrate the scheme.

PROHIBITED MAILINGS - OBSCENITY

Houston, TX; Springfield, VA; Wilmington, DE; Dallas, TX - In each of these locations, there were cases in which child pornography was received at CMRA private mail box addresses controlled by the suspects and rented under assumed names. These suspects did not want the illegal mailings received at their residence addresses, so they utilized CMRA addresses to remain anonymous. In obscenity cases of this type, postal inspectors often make controlled deliveries of the obscene material and conduct surveillance on the CMRA private mail box address until a suspect picks up the illegal mailings. Then the arrest is made and evidence of the crimes is recovered.

PROHIBITED MAILINGS - NARCOTICS

Antioch, TN; May 1997 - Profiles of outgoing Express Mail packages resulted in the seizure of over $19,000 in cash in drug proceeds. The return address used on the packages was a CMRA private mail box address and the personal information used to rent the private mailbox was false.

Los Angeles, CA; November 1997 - A CMRA owner/operator operated a scheme whereby he would use closed out private mailboxes turned over by legitimate customers to receive money for narcotic purchases from Atlanta, Pittsburgh and Washington areas. The suspect had prior narcotics trafficking and credit card fraud arrests.

Wichita Falls, TX; September 1997 - A controlled delivery (surveillance used) of 116 grams of methamphetamine was made to a CMRA private mail box address and the female suspect was followed to another address where she was arrested with the package which was now open. She admitted to receiving at least 20 other mailings containing narcotics. It is common for private mail boxes to be used to receive illegal mailings, including narcotics.

END

EXAMPLES OF INSPECTION SERVICE INVESTIGATIONS INVOLVING PRIVATE MAILBOXES AT COMMERCIAL MAIL RECEIVING AGENCIES

MAIL THEFT AND IDENTITY FRAUD

San Clemente, CA; August 1998-A suspect caused to be mailed over 15 fraudulently acquired credit cards utilizing the personal information of victims acquired via fraudulent methods. The total loss to the credit card industry via this scheme was over $500,000.

Philadelphia, PA; October 1998- Three suspects were arrested for operating a credit card scheme and using false identification. Credit cards were received at CMRAs from local banks. The suspects would request emergency replacement cards. The CMRA owner alerted the Inspection Service of the suspected illegal activity.

Newark, NJ; December 1998- A suspect was arrested in North Bergen, NJ by postal inspectors, FBI and U.S. Secret Service Agents of the West African Task Force. Several fraudulently obtained private mailboxes were identified at the North Bergen address, and the multi-agency team subsequently established surveillance. On December 17, 1998, the suspect entered the CMRA and was observed removing financial mail not addressed to him from a private box. The suspect was arrested after leaving the CMRA. At the time of the arrest the suspect was in possession of checks and other bank mail. The suspect stated that he had been paid several hundred dollars by an acquaintance he knew only as "John"" to pick up mail at the CMRA. This investigation is continuing.

FRAUD AGAINST BUSINESSES

Rutland, VT; October 1998- Suspects from Montreal, QC, and Ottawa, Ontario conducted a telemarketing prize promotion involving false representations victimizing Canadians. In furtherance of the scheme, they incorporated National Clearing House Inc. in New York, showing a mail drop as its address. They received money in and laundered it out of a bank account at one of the suspect's bank in Rutland, Vermont.

FRAUD AGAINST CONSUMERS

Cyrpress, CA; October 1997-The defendants in this case were doing business as Air Supply Heating and Air Conditioning. They were charged with misrepresenting and coercing victims, mostly elderly, into purchasing

equipment or repairs at inflated prices. The defendants were arrested in April 1998. In June 1998 a notice of withholding mail pursuant to 39 USC, 30B/3004 were initiated against the CMRA controlled by the defendants.

Williamsport, PA; July 1998- A suspect has been placing ads in various newspapers offering, for a fee, workshops and/or seminars to train people interested in taking a postal employment exam. In addition to the $30 registration fee, the suspect collects an additional $20 for providing a 1-800 number, which he claims provides locations where postal exams will be given. For an additional $179.00 the suspect promises to supply additional study materials, including video and audio tapes, and give the applicant the ability to transfer their test scores from one post office to another.

San Francisco, CA; August 1998-This case involves a Beanie Baby scam using the Internet and a failure to render service. An unknown subject was advertising at an AOL Internet site to trade expensive collectible Beanie Babies, which are small stuffed toys. The agreed upon item was not provided to the consumers. Mail was being received at a CMRA address and false information was used to open the box. A notice of withholding mail was subsequently issued. No one came forward to claim the detained mail. On September 17, 1998, another order was issued to return all mail to the sender.

Elmira, NY; September 1998- Various individuals opened boxes at numerous CMRAs (MBE) promoting a work-at-home scheme (envelope stuffing). Respondents were directed to submit CMRA owner per the instruction of the boxholder forwarded orders to the address on the advertisement, orders to Elmira, NY. Twelve (12) CMRAs in eight (8) states were identified.

Seattle, WA; December 1998-A suspect pled guilty and was sentenced for conspiracy for involvement in a scheme that allegedly began in 1990 and continued until August of 1996. The suspect used direct marketing methods, including mailing and telemarketing to collect more than $128 million from consumers in 14 states. Approximately 25 CMRAs were used to accept and forward mail. As part of the guilty plea, the suspect was ordered to pay $11.7 million in restitution to victims in the United States. During the investigation, postal inspectors compiled a database of information on 880 individuals, each of whom purchased lottery chances from the suspect. Of the 192 respondents, inspectors found that victims averaged 74 years of age and losses averaged from $10,000 to $329,000. For more details see the NEWS RELEASE that is attached and is listed on the Postal Service's WEB page.

PROHIBITED MAILING-OBSCENITY

Lansing, MI; January 1998- A controlled delivery of child pornography was made to a suspect at Mail Boxes Etc., in Lansing, MI. The suspect indicated that receiving pornography through a private mailbox was not as "high risk" as the post office.

PROHIBITED MAILING-NARCOTICS

Houston, TX; June 1998- On June 16, 1998, two suspect parcels were identified by Houston postal inspectors during a routine transfer of mail between planes. On June 17 the parcels arrived in St. Paul and search warrants were obtained and executed disclosing roughly 12 pounds of marijuana in each parcel. On June 18, with surveillance in place, a postal inspector made a controlled delivery to the addressee. The suspect acknowledged he expected the parcel, however, indicated that he received it on behalf of a friend and agreed to cooperate with inspectors. Inspectors observed the suspect selling approximately 10 pounds of marijuana to a second suspect. Both suspects were arrested on possession charges.

Attachment 1

Do We Need Big Brother?

I am going to voice a personal opinion this month, and I hope I don't offend our members. For many years, I have watched the proliferation of ads in *Entrepreneur, Inc.*, etc. that tout "mail service - privacy guaranteed" or "confidential suite address." The ads seem to target that segment of society that needs to "hide" from creditors, law enforcement or their ex-wives by promising secrecy. There are also books that promote "Disappear and Never Be Found" and the like by use of mail drops. The article discusses neighboring companies that use mail centers to hide from the paying public. These companies advertise, accept money from unsuspecting people and then leave without fulfilling orders. When the dissatisfied customer comes looking for them, they're faced with a small mailbox and an operator who can't, or won't, give them any information.

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I think it's time that we try to put a stop to this.

Editorial

If the legitimate mail center operator does not help to police the industry, we are going to be regulated by state and national government. All it's going to take is a few persistent calls from upset constituents to members of their state Senate or Congress, and you can bet that these regulation-happy bureaucrats will jump on this industry with both feet (It's already happened to a degree in Pennsylvania). We need to more strictly monitor to whom we rent boxes and what type of activity is conducted by those boxholders. Unless, of course, we would rather have our lawmakers do it for us.

Some of the signs to watch out for include:

- The "I lost my ID" routine. (How many times have we heard that one?)
- Boxes of checks arriving from more than one bank right after the box was opened.
- People renting a box for a business name but not having so much as a business card to show they have the business.
- Mail arriving for several other businesses names immediately after the box was opened.
- The only "mail" the boxholder gets is overnight letters or packages.

Most of us run clean, above board mail centers, and we would like to continue without government interference. Will we be able to continue, or will the few "bad apples" spoil it for the rest? The choice is ours – regulate ourselves or let Big Brother further into our lives. ❖

Florida Newspaper Blasts Mail Centers

An article in the Ft. Lauderdale Sun/Sentinel earlier this year details the way that scam artists use mail centers to hide from the public. Florida is a state that allows the use of "suites" for box renters, and within the past year over 2,400 complaints were lodged with the Florida Better Business Bureau regarding businesses hiding at mail drops. The article states "For those in the business of fraud, renting private boxes is like playing a game of hide and seek – hide your identity and seek legitimacy."

Detailed in this article are horror stories from individuals who have lost money, in some cases thousands of dollars, to shysters renting boxes at private mail centers. The Florida BBB has reportedly gone so far as to compile a list of mail drops, and has circulated same to banks, police departments, and consumer agencies. At least one bank, First Union, has refused new accounts based on information from this list.

Two mail center operators (neither one is an AMPC member) interviewed in the article make no bones about checking ID's and reviewing incoming mail. They recommend self-policing in the industry and cooperation with law enforcement agencies.

Ed. note: The article described above was based on information about mail centers in Florida. AMPC does not take the position that Florida mail centers are operated in a fraudulent manner – we are merely showcasing an article that was very negative about mail centers. ❖

The road to success is always under construction.

Associated Mail & Parcel Centers...

News & Ideas

Professionals Working Together

NOVEMBER 1994

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If It Walks Like A Duck...

The scams perpetuated by mail box renters continue unabated. As soon as one is stopped in one location, it pops up somewhere else. In this issue alone, we reveal information from members who have willingly shared their experience with these scoflaws. (See Letters, pg 8) The most blatant case we've seen lately, however, is the tale told to us by Randy Osborne of Packages & More in Elizabethtown, KY.

Randy received a call from a man who said he had been called out of the country as his father needed emergency surgery. This man wanted Randy to package and ship wedding gowns. He also wanted him to ship bail bonds for overnight delivery across the country. How a man would be connected with wedding gowns and bail bonds was Randy's first clue that something was not right.

The caller sent Randy a fax outlining their conversation, stating that a certified check for $3,000 would accompany his first order, and that the bail bonds were to be charged to a credit card. He even offered to pay Randy a 6% handling charge for accepting the credit card. It just happens that Randy is a good friend of the president of the bank mentioned in this fax, so he called to check on this guy. Sure enough, the bank had never heard of him, and when Randy brought this to his attention when he called back, the man hung up and was not heard from again. (Surprise, surprise, the credit card was not his, either.)

Not again, that is, until a week later when another member in Oklahoma City called the AMPC office to report a scam. It was the same man, now operating under a different alias, but pulling the same scam. Randy had previously notified the authorities in Kentucky, and he forwarded the name of a Secret Service agent that was investigating the case. We provided that name to the other Secret Service agent in Oklahoma City, and can only hope that they catch this clown before he manages to really rip someone off.

Please keep in mind that if something looks too good to be true, it probably is.

Luckily, neither of these two members fell for his line, but other operators who are either too new, naive or hungry could get taken in and really end up in trouble. *Please keep in mind that if something looks too good to be true, it probably is.* No one will pay you an outrageous fee to handle something or give you a huge deposit up front if they are legitimate. Take the time to investigate anyone offering you a "great deal". When in doubt, call the AMPC office for help in determining if you are being victimized.

If you run into the caller running the scam above, or have any information on this individual, please contact Secret Service Agent Joe Bowles at (205) 731-1144.

Member Speaks Out

Bill Frierdich

(This feature will appear when a member submits a column or a lengthy letter. AMPC welcomes contributions from our members. The opinions expressed here are those of the writer.)

FEDERAL EXPRESS POWERSHIP PROGRAM

The REAL reason for crossing out your FedEx account number on outgoing packages is: It is there for the "world" (corrupt world) to see. They can write down your number, then start using it elsewhere around the country, at drop boxes, etc., as it is a good, working FedEx number in the system.

We all know what the corrupt world does with credit cards, phone credit cards, FedEx numbers. FedEx has a REAL problem with this at their drop boxes! (In private they will admit this to you, but NOT publicly!!) We are part of the solution to stop this, plus they now have someone to bill . . . US!!

When we received the PowerShip computer, the box also contained some literature, promotion items, and CUSTOMER SERVICE SURVEY CARDS.

I personally suggest we ALL toss these survey cards into the trash. Why?

A) They ask for the customers' address, Then does he have a FedEx account number? What better way for FedEx to offer, and set up, more FedEx accounts than by finding out who is using a Next Day type service. We all know in the past they set up every Tom, Dick, Mary and Sally on the street. Now they can increase this ... plus WE the Commercial Counter will no longer make ANY money off of them. We'll be just a drop location, and we, of course, will be there in person to help the customer make sure their paperwork is all done correctly , eliminating more of FedEx's work - free!

B) The survey card also asks what other type of service the customer used in our place of business. Once FedEx finds out the number who have mailboxes, packaging, etc., etc., are you naive enough to think they (FedEx) will not add some of these profit makers to all of their FedEx locations? Thus, we'll lose again.

At every meeting, we all want to know what else we can do to make more money. One of the main things is to PROTECT WHAT WE HAVE NOW.

Look at the number of Direct Prepaid Returns by the catalog companies.

Look at the Post Office wanting to do packaging.

Look at FedEx already supplying some shipping supplies.

Look at UPS, not offering shipping supplies and setting up accounts, just like FedEx.

We need to work with them, but should not let them pick our brains for where the most profit is. Supermarkets, etc., have already done that. (There is a test program with KMart and Target stores to put POSTAL Stations in their stores.)

We all need to write to FedEx, in a businesslike manner, of what we like about PowerShip, and what could be changed to benefit our type of industry and improve for us Customer Counters.

(Bill Frierdich is the owner of Mail 'n' Office in Scottsdale, AZ)

Get Rid of Scamming Boxholders

You KNOW you've got boxholder trouble when the scenarios written about on pg. 15 occur in your store. What should you do? AMPC recommends GETTING RID OF ANY SCAM ARTISTS - even if you only *suspect* they're rotten. Your mailbox rental agreement should contain wording that allows you to terminate service upon suspicion of fraud or other illegal activities. Here is a suggested clause to insert in your agreement – it might save you a lot of grief later.

"If you are hiding from creditors or the law, do not rent a box here. **We will not shield you.** (Name of store) will cooperate with all local, state and federal agencies and will release information about you to such agencies and all postal inspectors upon request. (Name of store) also reserves the right to immediately terminate service upon suspicion of fraud or suspected illegal activities."

If you have boxholders who have already signed an agreement and you want them out, or at least want to notify them that they MIGHT be out in the future, print the above clause on your letterhead as an "Official Notice". Be sure to date it and place a copy in each boxholders' box and paper file.

As to the eternal question "But... can't they sue me?" Of course, anyone can sue for any reason these days, but do you really think some scoflaw will draw further attention to themselves by suing you? Probably not.

Boxholder Scam-A-Rama

o any of these situations sound familiar?

M.D. from Florida told us of the new boxholder that immediately began receiving several overnight letters from around the country. This "customer" received no other mail and had hassled M.D. about showing ID to rent the box. What was he up to? More than likely, the boxholder was calling unsuspecting older people and telling them they had won a major sweepstakes prize, but in order to receive it, they would have to pay the taxes up front by overnight mail. AMPC recommended that M.D. immediately terminate service and advise the local district attorney of suspected fraud.

M.M. from California notified her local postmaster when a boxholder began receiving mail for over 20 last names, all slight variations in spelling of the name of the renter. M.M. also received calls from creditors looking for this boxholder, and wondered what to do. We again advised immediate termination and return of all mail to sender.

Then there's the fine citizen renting another box in California. This crook was answering "parts wanted" ads in national auto enthusiast magazines, stating he had the rare part and would be happy to ship it upon receipt of a money order or cashier's check. After pulling this at several bay area mail centers, the clown was finally caught and prosecuted.

What have you got to lose by renting a box and turning your head to whatever scam is being played by the renter? Plenty. Just ask D.L. from the Chicago area. He had a major fight on his hands trying to get mail service reinstated to the rest of his customers when postal inspectors determined illegal activities were being conducted by one renter. The Postal Service does have the right to terminate service to YOU if they suspect you're harboring criminals.

No matter how dire the situation, always keep your cool.

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Will CMRAs Face Stiff Regulations?

Mailbox-renter scams continue to proliferate. Not a day goes by that the AMPC office does not receive a call asking for advice on how to deal with a customer that the store operator knows is committing fraud. We also receive our share of calls from credit granting agencies, district attorneys, state legislature officials and all varieties of law enforcement officials checking on addresses of known mail drops. The crooks are using our locations to rip-off the public, and the public guardians are getting tired of it.

The concept of the private mail receiving agency is one that provides benefits for many consumers. Legitimate small business operators who work out of their homes need a commercial address. College students and military personnel need safe, stable

Editorial

addresses to receive their mail. Battered women need the confidentiality provided by a CMRA. Unfortunately, the con artists and thieves have adopted our industry as their personal hideyholes, and we now face attempts in several states to regulate our operations.

California has had a law on the books since January '95 that forces customers of CMRAs to provide the actual street address of any boxholder to "any law enforcement personnel" or officers of the Consumer Protection Agency. Banks and other creditgrantors in Florida will not grant credit cards or loans to customers who provide their address as that of a CMRA. There are strong rumblings in the states of Florida, Washington, Oregon and New York to require CMRAs to be licensed by the state and to be closely monitored by the Consumer Protection agencies in these locales. We have even heard talk of CMRA operators facing possible prosecution for knowingly harboring the lowlifes that prey on the elderly and the gullible.

We've said it many times before – if we fail to regulate ourselves, we will be regulated, and we probably won't like it. To those who say "Hey, their (scammers) money's as good as the next guys – I just turn my head" – how would you like to have to be fingerprinted and have a background check performed on you and your employees? Is this what you want to face for the privilege of operating a mail center? Would you like to be held

The industry we save from restrictive regulations may be our own.

accountable for crooked customers? All this and more can be ours if we don't do a better job of policing our own businesses.

Remember the old "We reserve the right to refuse service to anyone" signs that were ubiquitous in every mom & pop grocery store? This is a concept that we should embrace and put a stop to scamming customers. We do indeed have the right to refuse to rent a box if we don't like the 'feel' of a customer, and we certainly have the right to cancel service for anyone suspected of fraud. What exactly do we fear that keeps us from more aggressively screening our boxholders? Do we think that they will retaliate in some manner? Won't happen. Boxholders who are sent packing will not hang around to sue or harass the store. We should also notify all local, state and postal authorities so that these sleaze bags can be caught and jailed.

Those stores who run clean, professional operations and do screen their box applicants deserve an accolade. Help is always available at AMPC for stores needing support in removing a crooked boxholder. The industry we save from restrictive regulations may be our own.

If you make something idiot-proof, someone will just come along with a better idiot.

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California CMRA's Hit By New Law

The California state government, in it's infinite wisdom, has passed AB 171 which will become law January 1, 1995. This new law DIRECTLY AFFECTS all mail receiving operations in California. In this new attempt to "protect" California consumers, the state legislature has gone way overboard and has placed some extremely onerous regulations on California operators. Some of the provisions of this new law are:

1) CMRA'S will be required to disclose address information about any boxholder upon the request of any "law enforcement official."

2) CMRA's will be required to keep photocopies of the two forms of picture ID now required, for 2 years after the boxholder has terminated service with the CMRA.

3) Boxholders will be required to sign a separate agreement which authorizes the CMRA to act as an agent for service of process, again for two years after termination of service.

4) THE LAW WOULD PROHIBIT A CMRA FROM PROVIDING MAILBOX SERVICE TO ANY CUSTOMER, UNLESS EVERY CUSTOMER SIGNS THE NEW AGREEMENT.

The only Californians to benefit from this "overkill" will be the process servers, as they will be guaranteed a proof of service whenever the plaintiff has been a boxholder at a CMRA. Any unscrupulous individual that learns of this new law can simply take even further advantage of the privacy "shield" currently offered at most stores. A lawbreaker will know that while a CMRA can legally refuse his/her mail after they have terminated service, the CMRA would have to accept legal service for up to two years after the renter has left. This will be true even if the CMRA terminated the service due to suspected fraud!

Not only will CMRA's be forced to accept this service, but they will then have to immediately forward (at the CMRA's expense), via first class mail, the subpoena or other documents to the boxholders "last known address". As we all know, these documents can be quite lengthy, and can easily cost $2.90 or more to mail. No provision is made for the CMRA to recoup this money. So in addition to the extra aggravation and record keeping, the small business owner must fork out forwarding postage for a legal action to which he is not really a party.

The other portions of the law which require maintaining actual copies of ID and the release of address information to any law enforcement agent are another bitter pill for CMRA's, because in recent months there has been a wave of store operators trying to police themselves and get rid of scammers.

No "grandfathering" period is mentioned, so California CMRA's are supposed to hassle their existing customers until everyone has signed the new agreement.

Of course, who is going to enforce this law is another story – the State of California lacks the funds to publicly staff its libraries or schools, so the idea of "mailbox police" is probably not a big threat. It is, however, another law that all California AMPC members will be expected to obey.

Just because this has happened in California and you don't live there, don't think it can't happen to you. Florida is poised to pass equally restrictive legislation because of the huge number of consumer complaints about "boiler room" operations hiding behind a private mail box. A bill-happy assembly person in any state can jump on this bandwagon in the name of "consumer protection" and make it law in your state. ◻

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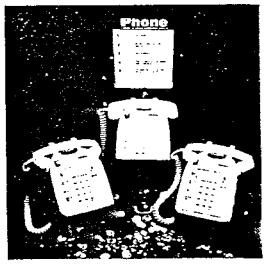

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New Postal Rule May Help Fight Fraud

The Postal Service has a new rule that may help credit card issuers and others cap the growing problem of fraud perpetuated through unscrupulous CMRA customers. The final rule (39 CFR Part 265) amends the Postal Service regulation which governs the disclosure to the public of information contained in PS Form 1583. The amendment authorizes the disclosure of information from Form 1583 for the purposes of identifying addresses as CMRAs.

As amended, 39 CFR 265.6(d) (8) authorizes disclosure of information from Form 1583 for the sole purpose of identifying an address as belonging to a Commercial Mail Receiving Agency. The regulation does not authorize the disclosure of any other information concerning CMRAs or their customers. As such, the regulation will not invade the privacy of legitimate persons who receive mail through CMRAs. The information will be disclosed primarily by means of annotations to the Postal Service's Delivery Sequence File (DSF), and by means other than the DSF.

The Postal Service has concluded that the identification of CMRA addresses will be an effective tool in combatting credit card fraud and other types of consumer fraud. By adding such an annotation to the Delivery Sequence File, credit card issuers and others who have legitimate interests in determining an applicants correct address will be alerted that the address is that of a CMRA.

This new rule may have a slight impact on CMRAs, if a legitimate customer is turned down for credit because his address is shown to be a CMRA. Such a customer would probably complain and may wish to terminate service. According to a representative of Fireside Thrift, a California loan agency, a customer who is denied credit based on a "fictitious" address would merely have to provide the credit grantor his actual physical address to be reconsidered. ☐

Authorized Shipping Outlet

Continued from page 1

Qualification Standards Raised

New qualification standards help to assure that only professional, businesslike operations will qualify as ASO's. The new requirements are:

- Provide packaging materials and services to the public.
- Ship 50 or more UPS packages per week.
- Maintain an excellent UPS credit history.
- Use a scale that is certified for commercial use in your state.
- Offer clear and safe access for customers.
- Maintain a neat and orderly appearance.
- Display professionally printed or prepared signs.
- Carry indemnity insurance.

AMPC supports the upgraded requirements and applauds the idea of requiring professional appearance and equipment. There has never been a better time to be an Authorized Shipping Outlet – if you're not one and meet the requirements, call your UPS rep today. ☐

Closing Business – The Right Way

Many members have faxed to AMPC an article that appeared in the USPS's *Memo To Mailers* regarding a CMRA in Florida that closed abruptly. The local post office stepped in to help the stranded boxholders receive their mail, and helped these patrons change their addresses for a smooth transition. Some members felt the article was defamatory to CMRA's, but in reality, it pointed out a common problem. How does one handle their boxholders if circumstances force them to close their business?

The best way to close of course, is to give plenty of notice and help make individual address changes as permitted. This is not what usually happens, however. Unfortunately, the industry suffers a black eye whenever someone locks the doors and leaves in the dead of the night. Boxholders are not likely to trust another private operator if they've been burned once.

If you should find that, due to financial reasons, you must close immediately, please call the AMPC office. We will help you transfer your boxholders to either another CMRA or to the local post office. Otherwise, you could be facing possible criminal prosecution for breach of contract, tampering with mail, etc.

Boxholders do not react rationally when the sign simply says "out of business". Your local postmaster will be willing to work with you if you are up front with him/her and try to make it as painless as possible for your customers to continue receiving their mail. ☐

Facing 1996 With Determination

Postal Stores. Kinko's. Automated shipping machines. Grocery stores that ship parcels. Wells Fargo bank branches out into parcel shipping. Everyone wants a piece of our pie. It's hard to believe that in an industry that has such a low profit margin, we would be faced with so many competitors.

The challenges to running a profitable mail & parcel center continue to grow. If it's not the Post Office offering Pack & Send services at their local counters, it's mail order companies hooking up with promoters who divert our customers to supermarkets. Even 'our own' carriers end up taking some of our business. Both FedEx and UPS drivers note names and phone numbers from our out-going packages and set these customers up with their own accounts. The carriers admit

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that this occurs, although the marketing departments that work closely with AMPC members don't like to see it.

We've taken a very pro-active step by helping to form the Coalition Against Unfair USPS Competition, and this organization will proceed against the threats posed by the Postal Service. But we'd like to know what else you would like to see happen. How can AMPC best serve its members in response to the other 'occupational hazards' that we face in increasing numbers? We receive some feedback that says keep doing what you're doing, providing information in a positive manner. Other members would rather see us aggressively explore other profit center opportunities, feeling that parcel shipping is not a huge part of their business.

What do you think? Won't you please give this issue some thought and forward your ideas to the AMPC office? We need your input as we marshal our resources to face 1996. To make it even easier to reach us, we have a Fax Survey form on page 11. Just fill it in and fax it back. AMPC membership now stands at over 1,100 – if we hear from even one-third of you, we'll have some good information to use to help strengthen the industry.

The difference between stumbling blocks and stepping stones is the way a person uses them.

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Boxholder Scams-Without The Box

By the time you've operated a mail center for 10 years or more, you probably think you've seen it all. Unfortunately, there's always a new 'wrinkle' turning up somewhere – some other con artist looking to rip off someone. Yves Melanson has contributed many ideas and much information during his tenure as an AMPC member. His store in Colorado Springs is one that new members are often referred to when seeking advice for bulk mailing, etc., and Yves is a pretty sharp guy. It's not easy to put something over on him. The story Yves shared with AMPC, however, is one for the books.

Like many stores, Yves rents boxes to customers he's never met, requiring that the 1583 form be notarized. After receiving a telephone inquiry regarding box rentals, Yves forwarded the 1583 and box rental application to a Mr. Pollard. He did not ever hear directly from this customer again, and forgot about him. Forgot, that is, until he received a call from the FBI looking for "Yves Electronics". Apparently Mr. Pollard had used Yves' name and credit rating to create a false company and purchase electronic items and computer supplies, having them delivered to another mail center in Ft. Lauderdale, FL.

At press time, the Florida Attorney General's office was to fly Yves down to Ft. Lauderdale to testify against Mr. Pollard, who has apparently tried the same thing with other mail center operators. A lesson from this story might be to screen and double-screen long distance box rental applicants.

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Rent A Mailbox – Go To Jail

Most mail center operators want to avoid the criminal element, but not Joby Sawyer. Joby operates PostMark of Hedwig Village in the Houston area, and he has another way of dealing with scofflaws.

He rents a box and carefully checks ID, but instead of booting out customers who he suspects of committing fraud, he keeps close tabs and notifies the authorities. Over the past few years, Joby has been instrumental in helping local law enforcement arrest and convict many bunko artists who rented mailboxes at his facility.

This type of personal service does not come cheap, either. At the New Orleans Regional meeting, Joby related how he charged a few crooks up to $500 a month for the privilege of continuing their mail service. They were all eventually arrested, and Joby made the big bucks while aiding in the investigation. So, all of you mail fraud and money laundering types – beware! Joby Sawyer will rent you a one-way ticket to jail.

It Really IS Fraud

An AMPC member contacted the office recently seeking assistance because their bankcard accepting agent had canceled their agreement.

Seems the hapless member had agreed to run several credit card drafts through his terminal to "help out" another new merchant in his area. Although this member had seen a warning regarding this very issue in a previous issue of 'News & Ideas', he was "trying to be nice". Nice guys, however, finish last.

It is a violation of your bankcard accepting agreement to process card drafts for anyone else. This even applies if you enter into an actual business partnership with another party not previously reported to the card processing company. New partnerships and any change in partnership status must be reported and your bankcard agreement amended, subject to re-approval.

Not only will the accepting company terminate existing processing agreements, but criminal penalties may apply for fraud as well. Terminated companies will not be accepted by another processor, and the lease on the terminal will probably still apply, even if no cards can be accepted. It's just not worth the risk to play fast and loose with the rules.

The Fundamentals of Mailbox Rentals

It has become very clear over the last few months that many CMRA operators do not know, or choose to ignore, the basic tenets of renting mailboxes to the public. Here is a step by step guide to handling mailbox rental services.

Starting A CMRA Business

When a person decides to go into the CMRA business, he or she must advise their local post office in writing of the following:

* Name and address of CMRA location
* Name and telephone number of primary contact person who will be responsible for CMRA operation at that location. In addition to being good business etiquette, this is a written directive in the Domestic Mail Manual.

Store operators who close or sell are also to notify the postmaster that they are no longer responsible for that location.

The 1583 Form

Every customer utilizing the mail receiving service of a CMRA is to complete a PS Form 1583. This means *every* customer, not just those that the store operator feels like making comply. Each addressee - meaning husband and wife, all individuals listed for a business, or other names added to the box at a later time - are to provide two forms of acceptable identification. This is not a rule that can be overlooked, rather, it is a postal requirement. The completed original Form 1583 is sent to the postmaster and a copy is kept with the store records. *No mail is to be received at a CMRA for the prospective customer until a completed 1583 has been sent to the postmaster.* The only state that currently requires photocopies of a customers' ID is California - the information entered on the 1583 will suffice in other states.

Mailbox Rental Application

Every applicant should also complete a mailbox rental application. This form should specify exactly what the store will and will not provide as far as services, hours of operations, etc. (A suggested sample is available for members from the AMPC office.) Very specific information regarding late payment, amounts and types of mail to be received, and reasons for termination of service should be described in sufficient detail to avoid complaints or possible legal involvement with unhappy customers.

Terminating Service

Customers in any other business would not receive a service unless they paid for it, and so it should be in every CMRA. Mail should not be placed in the box of a customer whose rent is past due. A notice of delinquency should be put into the box, and the mail held until payment is received. If the customer does not pay for their box by the stated termination date, service should be cancelled and mail returned to sender. The post office closes a mailbox if rental is even one day late, so customers are not being treated unfairly if their mail is held pending payment.

Frequently Asked Questions

Q - A customer wants to rent a box, but says he lost his wallet and all his ID. He seems like a nice guy otherwise. Should we rent to him?

A - This is probably the oldest line in the mail center industry. Funny how such a large percentage of prospective boxholders "lose their ID". Insist on proper ID from all customers.

Q - I've just purchased a store, and the mailbox system is really in a mess. How can I obtain completed 1583s on customers who have been here longer than I have?

A - Explain in a form letter to all boxholders that you are bringing the store into compliance with postal regulations. Customers who continue to balk are hiding something, and will probably cause problems down the line. Holding the mail for stubborn customers works wonders in getting those 1583s turned in.

Q - I'm asked all the time for information on my boxholders - from creditors, ex-spouses, private investigators, law enforcement officials, etc. To whom do I have to give information, and how much?

A - You are not obligated to give any information to any of the first three requestors at all. Private investigators, and their evil twins, attorneys, will try to threaten or cajole you into providing information. The only folks you have to worry about is anyone from any law enforcement agency (or in California, any one from Consumer Affairs).

Q - I just don't like the 'feel' of a prospective boxholder. May I deny him service?

A - You have the right to refuse service to anyone, but be sure to handle your refusal so that it cannot be construed as discrimination. By advising a potential customer that you will check his/

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Letters From Our Members...

Continued from page 14

want to get involved". He did suggest that I might want to call the police.

Interruption: Just got off the phone with the local police department. They have a suspect under arrest. Something else for association members – the detective told me that the word "profile" is NEVER used. It is "tips that I received about possible behavior" that is the proper wording. It seems that courts are not receptive to the use of profiles since they possibly will violate a suspects' civil rights (ain't this a wonderful country).

Another bit of information – the police would not open the package. They told me if I was suspicious, I had to open it. Also, they did not intend to pursue the consignee. The detective said "we have a good case on intent to distribute, which is a first degree felony". I guess the locals don't care about someone in another state like the feds would.

Ed Dawson
Post & Parcel Service
Houston, TX

■ ■ ■

Unnecessary Sign

Our post office has a professionally (expensive) made sign posted in their lobby that lists the places of business in town where people can buy postage stamps without paying an "extra charge". As far as we know, we are the only one who charge extra (we charge $1 per book), so we take this as a direct and on-purpose notice against us. We think we know who might have initiated it (one of the businesses on the sign), as well as the new postmaster. We did have a very good relationship with the old postmaster, but it appears that the new one doesn't want to have that kind of relationship.

Jeannine Verdier
Parcel Express Plus
Rockford, MI

■ ■ ■

Thank You

I wanted to take the time to thank you and the other members for some of the great information and ideas that I've read in the past newsletters.

As our industry grows and diversifies I can't help but think we need to stick to our "bread and butter": packing and shipping. I see too many stores that have turned into copy centers and offer many services that are not cost efficient such as office supplies, laminating, key making and phone cards. We've found that most of our customers like the quick and easy service of packing and shipping that we offer. I do agree that as many other businesses are beginning to offer shipping services, we need to differentiate ourselves with more aggressive ad campaigns and quality service and knowledge. How many of those businesses are going to handle tracing and claim procedures for their customers? Probably not many. That's just one way we can outperform stores like Office Max, Office Depot and Kinkos.

Chris Taylor
The Mail Box
Lawrence, KS

The great mistake made by the public is paying attention to price instead of value.

Mailbox Rentals

Continued from page 15

her references, and will not cash the check until everything checks out, you can weed out those who are suspect. They won't hang around.

Q - How about a customer who looks suspicious after the fact. Say, they start receiving boxes of checks from several banks, or the only mail they receive is overnight letters. Can I cancel their service, and what would be the repercussions if I did?

A - This is why your rental agreement needs to contain a clause that states if you suspect a boxholder of fraud, their box is cancelled with no refund. While some customers may bluster a lot, the real criminal types will never be seen again, they will simply move across town and rent a box from some uninformed mail center.

Q - My new postmaster demands new, updated copies of 1583s and photocopies of all my boxholders' IDs. Do I have to provide her with his information?

A - No. 1583s are furnished to the postmaster whenever a box is newly rented. You are not required to "update" these files, except for extra names and IDs for additional renters. Even if your are in California, you are not required to provide the Postal Service with photocopies of any customers' IDs. The California ID requirement is for law enforcement and consumer affairs personnel only, and has nothing to do with the post office. Postmasters who demand this type of information should be referred to their district manager for help in dealing with CMRAs.

Crooked Operators Hurt Everyone

Most CMRA operators try to handle their box rental operations in a professional, law-abiding manner. They require correct, complete 1583s for every adult box renter. They refuse mail for other names that "crop up later". They are not intimidated by shady customers or influenced by offers of payment to "look the other way". These operators comply with requests for information from properly identified law enforcement and postal officials. And, they do not hesitate to suspend or cancel service for boxholders suspected of committing fraud.

Unfortunately, these operators receive little recognition for jobs well done. The local district attorneys do not send certificates of merit to those stores who abide by all the rules. Postmasters don't invite good operators out to lunch in appreciation of running a top

Editorial

flight store. The emphasis and public exposure is on those stores that do not abide by regulations and allow their criminal customers to fleece innocent people.

A recent *60 Minutes* episode outlined a scam in which a group of Nigerian nationals had made a business out of stealing people's identity. They targeted people in affluent professions (doctors, lawyers, etc.) and placed change of address orders with the postal service for the unsuspecting victim. The mail was forwarded to a CMRA in Brooklyn. After receiving bank statements or credit card bills, the crooks obtained credit reports on the victims to gain information on all credit cards, bank accounts, etc. that might exist. Using the stolen information, false identification and fake credit cards were counterfeited. In addition, bank and stock market accounts were cleaned out. Many times, the victims were robbed of most of their accounts before they were even aware of a problem. In some cases, the victims will face years of unstable credit history to overcome.

These incidents of fraud could have been completely avoided if the CMRA operators had simply complied with existing regulations. Mail should not have been accepted in the victims names without proper identification on file. As the fake identification was devised after the stolen mail was delivered to the CMRA, the operators could not possibly have been in compliance with postal regulations. While the victim who was interviewed on *60 Minutes* blamed the post office for allowing change-of-address orders to be filed by mail, the true problem lies with th CMRA that knowingly accepted mail for "invisible" customers.

If it were just one store in Brooklyn that aided these criminals, it would be one thing. But the same scenario is perpetuated in mail centers in every state, either through ignorance, apathy or greed. AMPC has described other areas of fraud committed by boxholders in several past issues of *News & Ideas*, and for the most part, it is not our members who are causing problems. But there are a few who have openly admitted that "as long as the customer has cash, I don't care what kind of mail they receive". These operators hurt everyone in the industry who try to run clean operations.

AMPC is here to help stores that really don't know the regulations, or need help determining if a scam is happening. Resources and referrals exist to aid CMRAs to conform to the law and to help protect innocent consumers. Unless we work together to improve the industry, we can depend on increased government regulations that would increase the paperwork burden on everyone.

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WANTED

PICK UP ARTISTS

No, we're not looking for a date. What we do need is information from members who offer parcel pick up service. How do you determine your fees? Is the service available to residential as well as commercial customers? Do you lug your scale and cashbox to the location, or charge the customer's credit card or charge account at the store? Please forward any pertinent information to the AMPC office for inclusion in a future article.

New Mailbox Scam

One of the newest ways to separate the hardworking mail & parcel center from their profits involves the sale of Harley Davidson motorcycles. It appears there is a shortage of bikes, and dealers are only issued a limited number to sell. A purchaser must have a local address to buy from his local dealer, and they are not supposed to sell to out of area buyers.

The would-be buyer inquires as to the cost of renting a box for a month, which would be just long enough to receive the title and registration forms. When informed that the store rents boxes for three months only, the buyer leaves, but he still uses the store's address for his motorcycle purchase. When the title and registration are expected the Harley owner returns to the store and attempts to intimidate the store management into giving him the mail. Of course, he has never completed a 1583 or paid the store for the service. It is unclear whether the Harley dealers are recommending that the purchasers use a private mail service, or if the word has just spread among riders.

AMPC members are reminded that all customers who receive mail at your address must complete a 1583 form. Whether you choose to rent for a three month minimum or simply provide occasional one-time mail service, each customer must have the 1583 completed prior to receiving mail. Under no circumstances should ANYONE be given mail, even on a one-time basis, if they have not complied with this postal regulation. You risk your reputation and indeed your mail receiving privileges if your customers don't comply.

Burlington Air Express Adds Fuel Surcharge

Effective September 16, 1996, all shipments tendered through Burlington Air Express are subject to a fuel surcharge of $0.42 per pound. This surcharge is in response to current fuel prices, which have hit a 5 year high. It is anticipated that the surcharge will last through December 31, 1996.

Unless you try to do something beyond what you have already mastered, you will never grow.
-Ronald E. Osborn

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A Word To The Wise

The following is a letter from one of our members expressing concern about the high percentage of non-complying businesses. Editorial comments follow immediately after this letter:

"I was chatting with my local Postal Inspectors and he let me in on something. Seems that in the last year or so, the (Postal) Inspection Service did a random sampling of Commercial Mail Receivers in Houston. (Yes, he actually called us that.) They wanted to see if the owners were getting ID, et. al. I quipped, "Let me guess, half of them didn't". "No", he said, "less than 8% even came close".

This inspector went on to say that great discussions are taking place. They want to have the route supervisors do random checks of the names on file, that are on the 1583s. If the supervisor finds that mail is being delivered to names not listed

Editorial

on the 1583, the Postal Service will not deliver it. Now, he wasn't specific as to whether or not they were going to penalize the whole CMRA or just not deliver mail (to names) not on file.

I told him that it was their own fault. There are such huge differences from area to area about how things are handled. One postmaster on the east coast of Florida does not allow CMRA's to mark the mail "Box Closed – No Forwarding" and insists that if the CMRA is not forwarding, she must throw it out. Here, they encourage us to return to sender, so that if any fraud is occurring, the financial institutions are made aware ASAP.

I told him also that the 1583s allows for numerous names and no ID on those extra names. It really only requires it of the box holder. He agreed and said that the 1583s are likely to be changed to demand ID on every name on the box, including businesses.

Furthermore, and of great concern, he said they are considering (forcing) CMRA's to use the word "Lockbox" as a part of their addressing and prohibit the use of "suite", "dept.", "apt.", etc. I argued back that 98% of our customers are legit and only 2% were crooks or crook wanna-bes. The word "lockbox" would annihilate the street address and cause some serious problems for us and the good customers.

The argument there is that in most areas it is not legal to operate a business from your residence. For example, our county doesn't allow realtors to operate from their houses. So... I've got a couple of landlords as box-holders. Since they use our box, thereby having a street address, they are "legal". Only, they really aren't since they work out of their homes.

In the next breath he went on to tell me about a scam he was working on at a post office box that had 20 names on it. Not missing the chance, I pointed out what was good for the goose was good for the gander. If we were to be required to get ID on every name, they should be held to the same standards on their post office boxes.

I humbly recommend that we, the Association, try to address the fraud problems that our services can perpetuate. If we can appear to be tackling this problem from within, in an organized manner, as a group, I think we can throw some weight behind our demand not to lose the "street address" function of our boxes. Otherwise, consider it a foregone fact that it will happen."

This member has asked for anonymity, which we have gladly provided. If nothing else will serve as a wake up call to the store operators who do not comply with postal regulations, maybe this letter will.

As there appears to be genuine confusion regarding what is actually required in the way of paperwork for your boxholders, here are the facts once again:

- Every addressee must complete the 1583 and provide two pieces of ID to the CMRA operator. The Domestic Mail Manual (DMM), section 42.2.6 (issue 50, dated 07-01-96) very clearly spells out that it means "each addressee". This means *every* adult name on the box must have ID on file and must

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Add This To Your Scam File

Here's another scam that has happened with a mailbox renter: Customer rents a box long distance (that is, he has the 1583 and mailbox application mailed to him – he never actually sets foot in the mail center), providing a copy of his driver's license and has the 1583 notarized. The store operator feels that everything is okay, the boxholder has never given her any trouble, and besides, he never even comes in, just has his mail forwarded. In fact, he has it forwarded on his FedEx number to a FedEx hold-for-pickup location, so the operator only has to fill the overnight envelope and send it off. The boxholder doesn't receive unusual mail, no credit cards or other "red flags", so she assumes all is well.

All *is* well until the operator starts receiving calls from people from all over the country. It turns out that Mr. Boxholder has been answering ads in Hemmings Motor News for people who are looking for hard-to-find antique auto parts. He swears he has the fender for the '53 Pontiac or what-have-you, and assures the person seeking that part that he will send it after he receives a money order for payment in full. He collected thousands of dollars with this scheme, but was finally arrested after police staked out another northern California mail center that he was using.

The moral of this story – keep alert to the types of mail received by your boxholders. Most legitimate folks won't need to have it forwarded by FedEx to a hold-for-pickup location on a routine basis. It would especially warrant attention if the box was rented by long distance.

Electronic Postage May Replace Meters

From A Report In Memo To Mailers

U.S. Postal Service

Mail and parcel center operators may soon be able to use their desktop computer and printer to apply postage directly onto envelopes or labels while applying an address. A new proposed 'information-based' indicium consists of a two-dimensional barcode containing hundreds of bytes of information about the mailpiece which can be produced on a PC. It includes a digital signature to preclude the forgery of indicia by unauthorized parties.

The Postal Service recently published a notice of proposed specifications under the title of Information-Based Indicia Program (IBIP) that includes both proposed specifications for the new indicium and proposed specifications for a postal security device (PSD).

The IBIP is a unique security device that provides a cryptographic digital signature to the indicium and performs the function of postage meter registers. A PSD could eventually replace all current metered postage imprints.

Working closely with the four leading postage meter firms, the Service has begun the process of decertifying mechanical meters.

There are about 1.5 million postage meters in use accounting for about $20 billion of postal revenue annually. For several years, the USPS has been actively proposing a solution to the problem of inadequate postage meter security,

Currently, hardware technology exists that will allow for the electronic transmission of postage similar to the way customers currently obtain postage-by-phone. In time, it is possible that products will be developed that could allow customers to obtain postage through the Internet.

(This article contains exerpts from a Memo to Mailer, published by the US Postal Service.)

B.A. Pargh Winter Catalog Ready

Hot off the press is the 1997 winter catalog from B.A. Pargh, the Nashville, TN national office supply wholesaler. In additional to traditional office supplies, B.A. Pargh now offers new merchandise in the categories of office furnishings, lamps, clocks and business gifts. Totaling 552 pages, the catalog begins with 30 color pages of designer and specialty paper products, including coordinated business stationery sets, letterhead, envelopes, brochures and business cards.

More information regarding B.A. Pargh or their catalog is available at 1-800-BAP-1000.

I never did a day's work in my life - it was all fun!
-Thomas Edison

We have too many people who live without working, and we have altogether too many who work without living.

Throw Da Bums Out

Just because a customer has rented a mailbox from you does not mean that you owe them lifetime tenancy.

Customers who are obnoxious, late-paying, or otherwise troublesome may be denied service, or their service may be terminated at will – your will.

It's easiest, of course, if you wait until their box rental term is up, and then advise them that you will not be renewing their box. By giving them at least a month's notice, you will ease the transition for the mildly obnoxious. (See example 1.) At term's end, they will simply go their way and you'll go yours. This is by far the most pain-free method – you'll have some argument, no doubt, but they will be gone in a month.

Boxholders who are (or are suspected of) committing a fraud of some sort can be terminated without notice, *as long as your mailbox rental agreement states this very clearly*. If you have a nogoodnik that you know is up to something shady, you may terminate service and not refund any portion of his payment. These criminal types have not ever been known to seek retribution in other stores – they simply move on to another unsuspecting mail center.

How about the belligerent jerk who just does nothing but cause trouble? He complains, often loudly, about things that you have no control over, such as mail or parcel delivery. He accuses your employees of reading or stealing his mail. He's just a worthless customer, and you want him gone NOW. What do you do?

If you can't wait until his rental term expires, prepare a letter that indicates that you are terminating his service, because he is rude, etc. (See example 2). Be prepared for major flack, as this loudmouth will try to raise hell. AMPC has never heard of a terminated customer suing a mail center and prevailing. Just as you want to cater to your decent customers, you don't need to put up with garbage from one unsavory individual.

Dear Mr. Customer:

The box rental for suite # _____ expires on _____, and will not be renewed. Please make arrangements immediately for a new address, as the post office will not provide free mail forwarding. Attached to this letter are change-of-address cards for your correspondents. Your key deposit will be refunded upon return of all mailbox keys in your possession.

After _____, no mail will be accepted for you, and you are instructed not to enter these premises for any purpose after that date. All communication after _____ with this office shall be done by mail or by telephone.

Sincerely,

Joe Mail Center Operator
Phone #_____

EXAMPLE 1

Dear Mr. Customer:

Your box rental service at _____ has been terminated as of this date because you are obviously unsatisfied with the services provided. We will forward your mail once a week for 30 days upon receipt of your new address. A check in the amount of _____, which is the prorated amount of your prepaid box rental, less $_____ for weekly forwarding postage will be issued to you upon receipt of all mailbox keys in your possession.

You are hereby instructed not to enter these premises again, for any purpose, or you will be considered trespassing. All communication with this office shall be done by mail or by telephone.

Sincerely,

Joe Mail Center Operator
Phone # _____

EXAMPLE 2

'Mystery Shopper' Might Be Scam

Boxholders who apply for a business box with names like"Supermarket Secrets", "Secret Shoppers", etc. may be attempting once again to rip-off people far and wide. This is just another reincarnation of the old "Stuff Envelopes At Home For Profit" ruse that has moved into the private mailbox sector.

The boxholder will generally run ads in magazines, seeking people who want to train as supermarket mystery shoppers, rating store personnel for the management. They will charge for an application, generally in the $10 - $20 range, and will usually only stay around for a few months. Experience shows they will disappear right around the time the first inquiry is received from one of their victims.

Supermarkets hire from reputable mystery shopper placement companies, of which there are many. Legitimate operations generally do not need to hire people in this manner, so the boxholder is probably a no-good-nik. Just a warning – each operator should look carefully at applications of this type.

ATMs At MBEs

Banc One Corp. recently announced it will install automatic teller machines in Mail Boxes Etc. stores across the United States. The automated machines will also be used to sell retail products such as pre-paid phone cards and postage stamps.

Banc One and MBE also have agreed to pilot the offering of additional financial services in selected MBE Centers, featuring Automated Loan Machines, interactive video banking, and an area where business bankers can meet with clients. As part of this pilot program, modified MBE Centers also will be established in selected Banc One branches. Banc One Corporation operates more than 1,500 offices nationwide.

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FAQ's FREQUENTLY ASKED QUESTIONS AND THEIR ANSWERS

Although we've covered the rules for operating a CMRA several times in the last few years, many operators call with the same questions. Here are a few of the most common:

Q: *"Must I have a 1583 and ID on file for every name, or just for the person who opened the box?"*

"I give my postmaster the originals of the 1583, but she doesn't seem to know what to do with them. What should I do?"

"My postmaster now tells me I need a list of boxholders, cross-referenced by box number. They never asked for this before – are they trying to obtain names for marketing purposes, or what?"

(My personal favorite) "What are they going to do – shut me down if I don't play mailbox police with my boxholders?"

A: Make no mistake – the USPS can and *will* cease delivery of mail for *all* of your customers if they find that you are not in compliance with the very simple regulations that govern our operations. These regulations are contained in the Domestic Mail Manual, Section D042.2.507. Here's a handy Clip and Save version for you to post for all personnel:

1) Any person who establishes or assumes operation of a CMRA must register with the local post office responsible for the delivery of mail to that CMRA.

2) The CMRA operator must have on file a copy of a completed PS Form 1583, Authorization to Receive Mail Through Agent, for each addressee whose mail is accepted from the Postal Service. The original form must be provided to the Postal Service.

3) The CMRA operator or a notary public must personally witness the signature of the applicant on this form. The applicant must also furnish two forms of identification, the particulars of which must be included at the top of the form.

4) When the agency relationship between the CMRA and the addressee is terminated, the CMRA must return its copy of the Form 1583 to the post office, endorsed with the termination date.

5) By accepting mail through a CMRA, the addressee (i.e., the applicant) and the agent agree that:

   A) No change-of-address order will be filed with the post office when the addressee/agent relationship is terminated.

   B) The CMRA is solely responsible for forwarding mail intended for the addressee.

   C) This mail is subject to payment of new postage.

   D) The CMRA must provide annually, by June 1, an updated alphabetical list of its clients. This list must be cross-referenced by name and box number.

The Postal Inspection Service has noted an increase in the use of CMRA's by criminals to facilitate fraud schemes and illegally receive narcotics through the U.S. Mail. Recent investigations by the Postal Inspection Service have revealed that in some instances the operators are not aware of the postal regulations applicable to such enterprises.

As stated earlier, the CMRA must obtain a completed Form 1583 from each person whose mail is delivered, and not simply one form from the person renting the box. In other words, if John Doe rents Box 12 and properly completes a Form 1583, you are then lawfully entitled to receive John Doe's mail from the Postal Service. However, if John Doe also tells you he will be receiving mail at his box for other persons, or if mail addressed to other persons begins arriving for his box, you cannot legally act as the agent for those persons unless each of them fully completes a separate Form 1583. Without this completed form, you are legally required to return this mail to sender.

By acting contrary to these guidelines, CMRA managers and employees are placing themselves in both a criminal and civil dilemma. If mail is accepted and subsequently delivered without the required written authorization, the CMRA operator is not only violating postal regulations but could also be acting in violation of federal criminal statutes. From a civil standpoint, the CMRA operator exposes himself/herself to liability if the person whose mail was delivered without authorization can show damages or negligence on the part of the CMRA operator.

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Landlord Relations...

Continued from previous page

we advertise like crazy, but I don't like to be told to do so, in those kind of terms, and we got it dumped.

- **Signage Approval.** The higher class malls want certain types or limited window signage. Because of all we do, we need lots of signs. Work it out now, not after you've spent $1,000 on neon the landlord now says you have to take down.
- **Renewal Terms.** Get an option now. Repeat, get it now, before you've spent thousands on leaseholds and customer goodwill. Leasing without a defined renewal is like putting money in a bank... in someone else's account. I've seen businesses spend years building up a clientele, fail to re negotiate their lease, get evicted, and *have a competitor move in immediately and assume all their customers.* You've never been screwed like you'll get screwed when you wisely pick a location in hot market, build up a successful business, and have to renew without an option, or another vacancy nearby. Your short hairs will be pulled so hard you'll need Rogaine.
- **Escape Clause.** If you're new, you want a 2 or 3 year bail-out possibility. Our first lease term was for 3 years, with two 5 year options. See comments Rule 1 re: "Greedy Slime". They don't care who died. They want their rent, and they're going to get it. I've seen landlords take homes. Likewise, try and get a **Sub-lease Option.** If things change, or you sell out, or McDonald's calls and wants to pay you $100,000 for your lease, are you going to have that right? The Landlord will want to be entitled to approval authority – otherwise, you don't really have an option, do you?
- Finally, never underestimate the burden of CAM (Common Area Maintenance) and Taxes, especially unknown SID's. C-A-M should stand for "Costs Always More" than you budgeted for. There's not much you, as the tenant, can do to control it, but you should insist on three things: first, a summary of past or estimated charges; second, a fair explanation of how it's divided among the other tenants; third, an annual accounting of how it's spent.

Now, it's reasonable to ask, why would this rich, powerful Landlord want to give us all these concessions? See rule #1 re: "Greedy Slime" – and this column next month, for that info, and some ideas on how to renew your lease without getting completely fleeced. Also, if there's a lease tip, or trap, you think I've missed, *please fax it to me at 406-549-7165, or e-mail me at shapres@montana.com.* I'd appreciate it – we may be shopping for another property soon.

(David Shappee, a professional trainer and co-owner of four Shipping Depot stores in Missoula, MT, is a regular contributor to News & Ideas.)

Spotted at the liquor store where AMPC staffers frequently buy their lunch:

"If you are grouchy, irritable, or just plain mean, there will be a $10 charge for putting up with you."

FAQ's

Continued from page 11

Under other circumstances, a CMRA operator could face similar litigation for accepting credit cards, check books, insurance settlement checks and other valuable items from the Postal Service, when in fact the operator had no such authorization from the true addressee to act as his agent for the delivery of his mail. Again, it is not sufficient for the operator to have a Form 1583 completed by the box renter. A Form 1583 must be completed by each person whose mail is accepted by the CMRA. Without this written documentation, the CMRA cannot legally accept another person's mail. The mail must be returned to the Postal Service.

Although not required by regulation, many CMRA's also make a photocopy of the applicant's driver's license and attach it to their copy of the Form 1583. In this manner, the CMRA can help.*

As to the USPS harvesting names to market their lower-priced mailboxes; well, I suppose they could do that, but the regulation requiring a cross-referenced listing of names has been in the DMM long before the USPS marketing department reared it's ugly head. I would not consider the Postal Service a threat in regards to possible stealing of customers. CMRA customers want the convenience, service and street address that is only available at one of our locations. Joe Cheapskate already knows the Postal Service boxes are less expensive – if they want cheap, that's where they belong anyway.

(Portions of this article include text from a letter sent from the Postal Inspection Service to Baltimore area CMRA's. Used with permission.)*

FAQ's FREQUENTLY ASKED QUESTIONS AND THEIR ANSWERS

Although we've covered the rules for operating a CMRA several times in the last few years, many operators call with the same questions. Here are a few of the most common:

Q: *"I have two boxholders (male) who receive mail under both a man's name and a woman's name. They must dress up like women once in a while. When asked for the woman's ID, they can't produce one. I have no problem with what they do or wear, but could this pose a problem with the postal inspectors? All they're receiving is women's clothing catalogs."*

A: For these boxholders, and any others that choose to receive mail under an assumed name (for whatever reason), there is a solution. Simply have the person who applied for the box complete the 1583, providing his/her proper identification, and then list the name(s) to be used as an "a.k.a." (also known as) somewhere on the 1583. As long as the applicant has completed the 1583, the names are listed in the applicant's handwriting (or are initialed if added later), the Postal Service will accept the false names.

Some boxholders write books and use pen names. Others, like the example given above, have other reasons for desiring privacy. Occasionally women will wish to use both their married and maiden names for correspondence. There will not be a problem as long as the names used are clearly shown on the 1583 as an "a.k.a.".

Q: *"I just purchased my store, and the previous owner did a lousy job with 1583's and obtaining ID for customers. How do I bring the store into compliance with postal regulations without offending my customers?"*

A: You don't really have much of a choice. Postal regulations require that you have a completed 1583 and ID on file for every person receiving mail at your location. Postal inspectors might give you some time - like, say, a week - to bring your store into compliance, if they pay you a visit and find you're not following the regs. Boxholders generally understand that this information is required by the Postal Service, not by you.

If they really make a fuss, however, they might not be operating 100% on the right side of the law, anyway. Legitimate customers usually don't have a problem providing identification - it's a way of life these days.

As a last resort, withholding the customer's mail will get their attention. And yes, you may legally do this. You are the agent for the receipt of the mail, and could technically do whatever you want with it. (I'm not advocating destroying or damaging a customer's mail, just pointing out a fact.) If they can't, or won't provide ID after you start holding their mail, you *know* they're up to no good.

Dear Customers:

As operators of a Commercial Mail Receiving Agency, we are required to abide by all postal and other governmental regulations. US Postal Service regulations require us to obtain a PS Form 1583 (attached) and identification for every adult boxholder. In addition, California law requires that all boxholders operating as a business sign the attached Affidavit.

If we fail to obtain the required information, the post office is within their rights to cease mail delivery to our customers. Please help us avoid this unpleasant circumstance by completing the attached forms

_____ PS 1583

_____ California Affidavit

and returning them to our front counter by _____.

to avoid disruption of your mail service. We will also need to physically view and photocopy the identification provided for every adult receiving mail in your box.

Thank you for understanding and providing the needed items. Should you have questions or wish to learn more about these regulations, please ask for me personally.

Sincerely,

Joe Mail Center Operator

Q: *"My postal inspector just suggested that I should fingerprint every boxholder as an extra measure of caution. Should I?"*

A: Talk about justifying your existence... I would suggest (in the nicest possible way) that this inspector go back to DMM school and learn what it does, and does not, say about CMRA's. There is no requirement to fingerprint anybody (although perhaps an untapped profit center exists here).

Very Legal, But Unethical, Boxholder Scam

by Jay Johnson

A company called The Kaplan Group, based in Florida, is renting private mailboxes in various parts of the country for the purpose of receiving mail from a direct mail campaign aimed at the elderly and infirm. It is specifically targeted to nursing, convalescent and retirement homes. The pitch printed on "Official" looking postcards to recipients advising that *"The U.S. Government may have up to $750.00"* for the recipients as funds due, but the government may have lost their address over the years, etc. The implication is that all the recipient of the postcard needs to do is send a check for $9.95 and they'll receive money.

What the recipient actually receives is a list that the government publishes regularly with names of people it is trying to locate to refund money. This list is available to anyone for nothing by contacting the federal government directly or via the Internet.

The scam has been investigated by the Postal Inspectors Office, the Federal Trade Commission, and other public and private agencies dealing with consumer fraud. To our knowledge, there has not been action taken directly because the company is careful to avoid language that actually promises refunds. This company does provide a service, albeit one that is not clearly identified on their mailing, by sending the recipient a copy of the list which is readily available for free. This unethical preying on the elderly is not new and reaffirms the axiom "If it sounds too good to be true, it probably is".

This is being sent to you to alert other AMPC members who may want to avoid making contact with anyone attempting to establish a mailbox for this purpose.

(Jay Johnson is the proprietor of two Mail Clinic stores in the Issaquah, WA area.)

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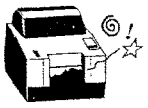

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Nigerian Connection Update

by Yves Melanson

We have recently been involved with the postal inspectors regarding a couple of mailboxes rented by Nigerians and involving alleged mail fraud (writing worthless checks), and have been told some interesting details about how they currently operate. This, along with our first-hand observations, serves as a reminder to be ever vigilant when renting a mailbox.

1. Our mailbox renters wanted to fill out the 1583, and they knew exactly how to do it. The inspectors tell us this is pretty standard because they don't want the CMRA to closely review the identifications.
2. We did review the identifications (driver's license and VISA card) and they appeared to be perfectly in order (names and signatures matched and picture matched the face). However, the inspectors tell us that the credit cards they have uncovered have been stolen out of the mail, and then VERY GOOD fake drivers' licenses have been made to match the name on the credit card. However, the credit card is not used for payment (since it has already been reported stolen). It is only used in conjunction with the driver's license for identification purposes.
3. The mailbox renters will normally park their vehicles out of sight of the CMRA. This is also a common practice at the banks where they open checking accounts using the CMRA's address.
4. A twist with the current rings is that they will open the box and checking account but wait a few weeks (as they did in our case) before running their worthless check scam. They know that we and the banks may be watching new boxes for checkbook boxes and/or credit cards. In other words, they tend to be patient.
5. They do not like to have their identifications copied. One of our box renters checked into a motel and paid cash. The manager insisted on copies of IDs in case there was room damage. The renter insisted on getting the copies back upon checkout, so there was a joint inspection of the room at checkout. (And here's a tip for you. These renters had called another CMRA inquiring about mailbox rates, availability, identification required, etc. The quick-thinking manager thought she "smelled a rat", and called "*72" (last number redial) after the party hung up. Since the call was placed from motel and since the caller also had a Nigerian sounding accent – heavily British – she called the postal inspectors who "visited" the motel, but it was too late. They had already checked out.)
6. For being so slick, these folks are not always bright. The first renter rented a box at three different CMRAs. About a month later, a second renter showed up in town and rented from two of same three CMRAs. (Another good reason to network with the competition.) And in both cases, they used independents, not franchises. I guess they figure there is no independent network.
7. These people are professionals. In the local area, they have already defrauded merchants and the banks out of at least $20,000.

The local inspector-in-charge called a meeting last week of all CMRAs to brief us on the ongoing investigation. His suggestions included these:

a. Make a copy of the driver's license and keep it with your copy of the 1583 (even if you're not in Calif).

b. Since most of us do not write down the credit card number when it is used for identification, at least write down the issuing company. This can greatly speed up tracking the card to see if it is legitimate or not.

c. Keep an eye on mail going to new boxes. If all that is showing up is checks from a bank (especially in envelopes instead of a box), credit cards (you can tell by feel), and other letters from financial institutions exclusively, it's time to call your local inspector.

The inspectors feel that the second group of scammers (the motel group) have been scared off since evidence at the scene led them to a local accomplice, who they interviewed for about four hours in the middle of the night. The accomplice didn't roll the perps over, but it's even money who the accomplice called first when the inspectors left.

The first group was apprehended by the inspectors at an airport rental car check-in right after the CMRA meeting on May 15 and are currently guests without bond in the local Criminal Justice Center (jail). The CJC maitre di doesn't take VISA or checks in their case.

(Yves Melanson is the owner of The Mail Center in Colorado Springs, CO.)

More Entries To The "Scam-of-the-Month" Club

"The newest scam (at least to us), is the "Internet Yellow Pages".

This is probably the same company that produces the "Yellow Pages", but not the real one. This is some joke of a copy. Unfortunately, we found out the hard way when the past manager here okayed the ad and we got a bill. We even paid part of it before I found out who it was and what it was.

I now am the only one to approve or accept any form of advertising, donations promo's etc....

From what I found out from our contact at Nynex, the yellow page ads are in there automatically and they have no immediate plans to expand them into "larger" or "homepage" type ads. While they are producing web pages etc., as a separate part of the company, this is not part of the real yellow pages (at least from anything I have been able to find)."

Jeff Ballantyne
Parcel Room
Portsmouth, NH

■ ■ ■

"It was a simple enough request, written with a blue marker on lined paper. "Please drop these in the mail. Thanks!" The paper was folded around three #10 envelopes, stamped, no return address, and each addressed to a Social Security office in nearby towns.

This packet came addressed to my store (in Aurora, CO), in an envelope postmarked in Minnesota, but bearing a return address of Arizona. No indication on any of this as to who sent it.

The interior envelopes were thin enough to see that they contained Applications for Social Security numbers, each for a different name, but to the same address in yet another nearby town.

We dropped them in the mail, all right... to the Postal Inspector!"

Lorene Paschal
Mail Room
Aurora, CO

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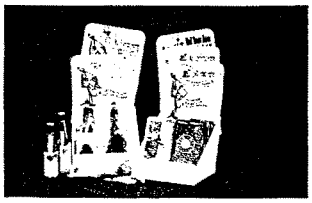

"Our customers are thrilled with them, they think they're the neatest little things! We love 'em"
Tom Gardella, Qwik Pack & Ship, Naples, Florida

"One of the few point of purchase that works for us"
Arnie Goldstein, Postal Solutions, Inc. Torrance, CA

"It's doing great. It's surprising how fast they sell"
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The Best Known Mailbox Scams

There are several known scams that are perpetuated every year from CMRA locations — some have been going on for years. One of the very best tip-offs that a customer is up to no good can come at the time the would-be customer is completing his 1583 form.

Nervous Nellies Need Not Apply

Any customer who "needs to take the form home to look up some information" is definitely suspicious. The only information needed on that form is address and reference info. Another classic is the applicant who "just lost his wallet, so he has no ID". That one is so old, it's growing mold, but many operators still fall for it.

Nervousness, unwillingness to provide ID, or immediate questioning about privacy or forwarding policies can also be clues that maybe the applicant has something to hide. Even if the ID checks out and the 1583 is completed, it might pay to be extra attentive to such a person's activities or mail received.

Hidin' At The CMRA

Here are a few major indicators that one of your customers is either contemplating or actually committing a fraud of some sort:

A) The only mail he receives is credit cards, or credit card applications.

B) The only mail received is boxes of checks, usually two or three from different banks.

C) The first piece of mail received is a driver's license.

D) The only mail received is overnight letters from all over the country.

In scenario A, this guy is out to defraud the credit cards companies, and most likely has given you a phony ID. He may have been involved in "identity theft", a far reaching, fast moving crime wave that has been sweeping the country. By obtaining a legitimate person's name, social security number, date of birth, etc., he can generate phony identification and request new credit cards in the unfortunate victim's name. This guy will only stay around long enough to rip-off several credit card companies, and will most likely disappear before the first bills arrive.

Scam B is usually much easier to deter and to turn over to local law enforcement officials. This customer has opened accounts at several banks on the same day, ordering checks, and making a minimal opening deposit. His desire is to write bad checks all over town, ripping off local merchants, and again disappearing by the time the bounced check notices start arriving.

A fast way to put paid to this cretin is to contact the local banks as soon as you see boxes of checks from more than one bank arrive for this fellow. Yes, it does take diligence, but the local banks will be very happy with your attention to detail. Some operators have reported receiving free checking accounts and other "rewards" for helping warn a bank before the scammer could hurt others.

Item C may sound innocent enough, but it can be a warning sign. Most legitimate customers already have a drivers license. Crooks who like to hide at CMRAs have been known to obtain licenses and then go and perpetuate scams A, B & D above at other mail centers, showing photo ID with your address on it.

Finally, scenario D brings a much wider scope to fraud. In this type of scam, people operate in "boiler-room" facilities, using the phones to call people across the country and give them the happy news that they've "won" a huge prize. The only hitch is that the prize winners must forward the "taxes" immediately to claim the prize, or it will be awarded to someone else. The unwary winners are instructed to forward a cashier's check or money order via an overnight delivery service to the crooks, who now "reside" at your mail service. It can be weeks before the district attorney gets wind of the scheme and comes looking for the customer, by which time he is history.

Due Diligence

These are just a few of the well-known type of scams; others appear as fast as the low-lifes of the world can dream them up. As a CMRA operator, you have been assigned the agent status for the customer to receive his mail, so you may certainly hold back suspicious items from suspected crooks. It is completely legal to photocopy the outside of envelopes to provide to your district attorney, if asked.

You will find that your local law enforcement officials will think much higher of you if you tell them about potential problems with your customers than if they come in with a search warrant later.

To those who will argue, "well, their (crooks) money is as good as anyone else's", AMPC recommends that you find another

Continued on page 27

"Cartonizing" Reduces Freight Damage

by Brad Hancock

The LLS carton program is used by store owners as a profitable method to ship valuable items. Moreover, by "cartonizing" items, LLS has seen a significant reduction in freight damages. For those who have not used this program, here is a summary:

First, the less-than-truckload (LTL) blanket wrap program, that has been in place for four years, has NOT changed. Service includes two-person pick-up and delivery using an air-ride vehicle with specialized logistical equipment. Pricing is available in the LLS Service Guide. This program is used for household goods shipments up to 12 pieces and less than 1000#. The announced changes expand this program.

1. **Carton Goods:** Linehaul reduction of 30-40% off of current published LTL blanket wrap rates is now available for any size, weight, or piece. All items must be cartonized or crated to receive these rates. Service features are the same as found under the LTL blanket wrap program, including a two-man team, inside pick-up and delivery, and use of air-ride vehicles with special handling equipment. Pricing is based on rates and mileage and is not published in the LLS Service Guide. Quotes must be faxed into LLS at (800)545-3638 for pricing.

   More importantly, the definition of "carton goods for furniture items" has been expanded. Pieces do not have to be palletized. Items are considered cartonized when used with a "tray and cap" of 200# corrugated corner boards, and enclosing the items with corrugated or bubble wrap. The "tray" concept is designed to reduce damage to legs. By securing the legs to move at the same time in the event the driver pulls the item(s) across the floor, there is less chance a leg will get caught on the flooring. If while containerizing a specific item, you design a better method that addresses this area, please consult LLS.

2. **Household Goods:** Full-service household relocation is available for shipments over 1000# or over 12 pieces. All moves have an arranged in-home, pre-move survey (if requested) completed to ensure pricing accuracy LLS will schedule loading, delivery, and arrange temporary storage if needed. Damage is minimized due to a direct routing system, whereby most shipments picked up by a driver will be delivered by the same driver. This system eliminates shipment discrepancies and reduces the exposure to damage. Program rates which must be prepaid, are lower than direct customer contact with van lines and are perfect for small household goods (HHG) moves over 1000#. In addition, there is no piece, weight or size limitation and all shipments over 5000# have guaranteed pick-up and delivery dates.

These changes give customers more flexibility with regards to price and service requirements. Together with the LTL Air Ride shipping, store owners have the ability to pursue HHG shipments at various weight levels.

For any questions, please call the LLS service staff at (800)755-7698.

(Brad Hancock is the AMPC contact at Lile Logistics Services (LLS), based in Littleton, CO.)

New Manifest/POS Company

Mark Ford, president of ShipRite, Inc., has announced the release of ShipRite Lite with POS for Windows, and ShipRite Mail Wizard Pro. These two programs are designed exclusively for the retail pack & ship environment.

Some of the features of ShipRite Lite are:

- Allows rate comparison between carriers
- Prints FedEx Express Manifest
- Shipper and Consignee Database
- Track with UPS OnLine and FedEx Ship
- Package estimator
- Comprehensive QuickBooks accounting reports
- Inventory management

Features of Mail Wizard Pro include:

- Automatic printing of 1583, rental agreement, counter notices, rent due notices and yearly list for post office
- Manage multiple size boxes
- Flags accounts for notices
- Tracks unlimited use of boxes

For complete information, contact Mark Ford at (800)724-0167.

Mailbox Scams

Continued from page 23

niche. Suitable employment can probably be found in either the numbers running or professional wrestling industries. The CMRA industry has a long, and sometimes cloudy, history that can only be strengthened by strong, vigilant operators.

Scammer Uses CMRAs To Hide

Farid Ghasemi probably thought he had cooked up a fool-proof way to cash hundreds of illegal tax returns, but he didn't count on the alert postal workers of Halifax, PA.

"We found out about this because the postal workers in the small town of Halifax noticed the change-of-address form and knew the people," said Susan Watson, a U.S. postal inspector.

"And they knew that the people still lived in town and didn't live at the address he had put down."

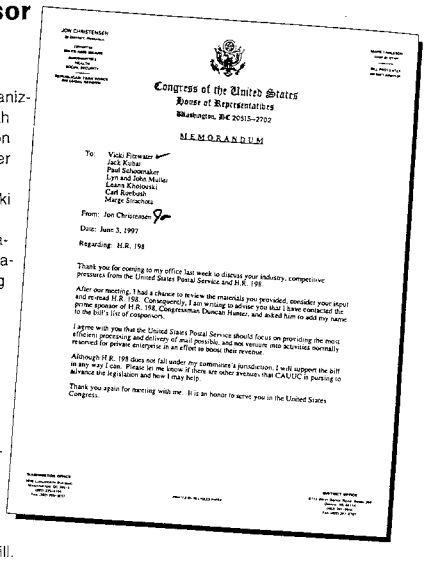
Investigators say Ghasemi filed change-of-address forms in college students' names, directing mail to post office boxes and CMRA addresses in Orange County, CA. Utilizing his position as a software salesman specializing in educational software for schools, he had obtained students' identity information from the school computers.

Ghasemi then set up new identities for the students with California addresses.

In a search of his car, his home and Ghasemi himself, authorities found 78 post office and private box keys, 93 uncashed IRS refund checks, 13 California driver's licenses with his photograph and false names on them, and more than 100 unauthorized credit cards and automated teller machine cards. IRS refund checks alone tied to Ghasemi totaled over $203,000. Many of the tax returns were simple filings and typically sought refunds of $2,000.

Ghasemi faces 60 years in prison and fines totaling $2.75 million at his sentencing Sept. 22.

Meetings With Congressman Nets Co-Sponsor



JON CHRISTENSEN

Congress of the United States
House of Representatives
Washington, DC 20515–2702

MEMORANDUM

To: Vicki Fitzwater
Jack Kubat
Paul Schoenmaker
Lyn and John Muller
Laura Kholowski
Carl Rorbaugh
Marge Strachota

From: Jon Christensen

Date: June 3, 1997

Regarding: H.R. 198

Thank you for coming to my office last week to discuss your industry, competitive pressures from the United States Postal Service and H.R. 198.

After our meeting, I had a chance to review the materials you provided, consider your input and re-read H.R. 198. Consequently, I am writing to advise you that I have contacted the prime sponsor of H.R. 198, Congressman Duncan Hunter, and asked him to add my name to the bill's list of cosponsors.

I agree with you that the United States Postal Service should focus on providing the most efficient processing and delivery of mail possible, and not venture into activities normally reserved for private enterprise in an effort to boost their revenue.

Although H.R. 198 does not fall under my committee's jurisdiction, I will support the bill in any way I can. Please let me know if there are other avenues that CAUUC is pursing to advance the legislation and how I may help.

Thank you again for meeting with me. It is an honor to serve you in the United States Congress.

Kudos to AMPC member Vicki Fitzwater for organizing a meeting with Congressman Jon Christensen in her hometown of Omaha, NE. Vicki embraced the challenge of organizing other operators for a meeting with Rep. Christensen, seeking his support for HR 198.

By the meeting's end, Rep. Christensen had agreed to investigate the merits of the bill. By the week's end, he had agreed to co-sponsor the bill.

Thanks, Vicki, and all participants of Rep. Christensen's meeting.

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Washington Stores Must Now Accept Summons

Until recently, California was the only state that required CMRA operators to accept service of process (summons, etc.) from licensed process servers. Washington has now joined the ranks - other stores will surely follow.

Process is considered served if the notice is left at the "regular mailing address" (see bill text). Washington members are reminded that process servers are required to provide photo identification upon demand.

Here is the text of the bill for Washington members:

Substitute Senate Bill 5167

An Act relating to service of process; and amending RCW 4.28.080.

Be it enacted by the legislature of the state of Washington:

Sec. 1 RCW 4.28.080 and 1991 sp.s c 30 s 28 are each amended to read as follows:

Service made in the modes provided in this section shall be taken and held to be personal service. The summons shall be taken by delivering a copy thereof, as follows:

1) If the action be against any county in this state, to the county auditor or, during normal office hours, to the deputy auditor, or in the case of a charter county, summons may be served upon the agent, if any, designated by the legislative authority.

2) If against any town or incorporated city in the state, to the mayor, city manager, or during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

3) If against a school or fire district, to the superintendent or commissioner thereof or by leaving the same in his or her office with an assistant superintendent, deputy commissioner, or business manager during normal business hours.

4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state.

6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

7) If against a foreign or alien insurance company, as provided in chapter 48.05 RCW.

8) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state.

9) If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, the registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of the company or corporation, registered agent, secretary, cashier or managing agent.

10) If the suit be against a foreign corporation or nonresident joint stock company, partnership or association doing business within this state, to any agent, cashier or secretary thereof.

11) If against a minor under the age of fourteen years, to such minor personally, and also to his or her father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he or she resides, or in whose service he or she is employed, if such there be.

12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

14) If against a self-insurance program regulated by chapter 48.62RCW, as provided in chapter 48.62 RCW.

15) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his or her usual abode with some person of suitable age and discretion then resident therein.

16) In lieu of service under subsection (15) of this section where the person cannot with reasonable diligence be served as described the summons may be served as provided in this subsection and shall be deemed complete on the tenth day after the required mailing:

a) By leaving a copy at his or her usual mailing address other than a United States postal service post office box with a person of suitable age and discretion then resident therein or, if the address is a place of business, with the secretary, office manager, vice-president, president, or other head of the company, or with the secretary or office assistant to such secretary, office manager, vice-president, president, or other head of the company, and by thereafter mailing a copy by first class mail, postage prepaid, to the person to be served at his or her usual mailing address other than a United States postal service post office box: or

b) By leaving a copy at his or her place of employment, during usual business hours, with the secretary, office manager, vice-president, president, or other head of the company, or with the secretary or office assistant to such secretary, office manager, vice-president , president or other head of the company, and by thereafter mailing a copy by first class mail, postage prepaid, to the person to be served at his or her place of employment.

FAQ'S
FREQUENTLY ASKED QUESTIONS AND THEIR ANSWERS

Identity Theft

Q: *What is "identity theft"? My local Postal Inspector has asked for our assistance in nabbing a boxholder that is suspected of stealing people's identity. How can (this boxholder) do this, and what can I do to spot this type of crime in the future?*

A: Identity theft is one of the newest, fastest-moving type of while collar crime around. It entails the actual theft of personal information, like social security numbers, bank account numbers, driver's license numbers, etc., and the utilization of this information to arrange for false credit. Commercial Mail Receiving Agencies (CMRAs) are one of the hidey-holes used by identity thieves in their quest to rip off America. (An in-depth look at identity theft can be found in the September issue of *Consumer Reports* magazine.)

The two main targets for identity theft is usually either a busy, working professional person, or a retired person of above average income. The professional person is usually someone who is not home during the day, but receives mail at their home in a non-secure mailbox. The thief rifles through the mailbox, selecting bank or credit card statements, leaving the rest of the mail intact. Or, the really bold individual will place a temporary change of address (COA) order with the post office, and have all mail temporarily diverted, often to a CMRA address.

Retired people are extremely vulnerable, as they may enjoy frequent travel and be out of touch for a week or so. Or, they may be ill and not as attentive to their affairs as they otherwise might be. Either way, it's a simple setup for thieves to harvest their personal information.

Sometimes low-life neighborhood residents are paid for information about retired neighbors who are traveling. Other times, employees with access to computers at large institutions are utilized. Many incidents have been recorded of lower-wage data clerks in hospitals or insurance companies being paid large sums for providing patient information (usually including social security and driver's license information) to people working for identity thieves.

The network of thieves can range from the individual at the car lot who can access the credit reporting bureaus, to the "runner" who is employed to rent mailboxes at CMRAs. The actual organizers are seldom apprehended, as it's easy to pick up and move to another city. This "business" requires no inventory or much overhead, and can be operated out of a boiler-room setup just about anywhere. Unfortunately, the CMRA industry has been known as a haven for these crooks for years, because the operators either don't know or overlook the crimes occurring under their very noses.

Once the personal information has been gathered, thieves look for "matches"; generally, they will need two identifying numbers to access the computer databases that contain credit reporting information. Once accessed, the personal data can be used and manipulated to suit the thieves.

Sometimes duplicate credit cards are requested, and might be mailed to the CMRA. These accounts are used to buy expensive items that can be resold or hocked. Other targets can be an individuals IRA account, stock account, or any type of savings account that can be transferred by phone or mail. The thief now knows the identification numbers, and can rattle off the social security or driver's license number faster than the original owner.

Money from accounts mentioned above is generally moved a few more times, until it arrives at its final destination; an offshore bank account that can't be traced. Once the thieves have cleaned out a person's bank account or credit cards, they just move on to another unwary subject.

While identity thieves also use US Postal Service mailboxes, hotels, apartment houses and vacant buildings to receive their mail, CMRA operators have perhaps a larger opportunity to stop identity theft than others involved.

Continued on page 36

FAQ'S
FREQUENTLY ASKED QUESTIONS AND THEIR ANSWERS

Continued from page 35

The 1583 form can be a formidable tool in catching these crooks, as the information requested is straight forward, *and required only at a CMRA*. It is amazing, however, how many operators do not comply with the simple identification regulations outlined on the 1583. Whether through ignorance, or apathy, the results are the same, and identity theft continues to proliferate.

One of the most amusing stories heard from a CMRA operator was that of a young man who came in to rent a box, but told the owner that "he was not allowed to provide his true identity, as he was employed by the CIA." He then proffered obviously fake ID, and he had a yellow legal pad full of handwritten names and social security numbers for whom he wished to receive mail.

The CMRA operator had a good working relationship with her Postal Inspector, and agreed to set up a box for this applicant. As expected, the only mail received by this cretin was credit cards from several banks. Since the Postal Inspector had provided postage paid envelopes, the operator was able to bundle up this mail and forward it to the Inspector's office. The applicant is now incarcerated, although there has been no word about the higher-ups in his "organization".

If every CMRA operator paid this much attention to mailbox applicants, both before and after the box was rented, the industry could be hailed for it's involvement in successfully deterring identity theft. Too many operators, however, worry about their boxholder's "privacy" and fear that they might be sued for violating same. Maybe they should worry instead about the government cracking down on CMRAs that don't comply, as this is the inevitable consequence of ignorance... or apathy.

A true leader faces the music even when he dislikes the tune.

A Few Bad Apples Spoil Things For All

Ever wonder why the USPS is so gung-ho on persecuting the CMRA industry? Maybe this delightful posting to a "Mail Receiving" site on the World Wide Web, hosted by a national franchise, will shed some light:

Why Should You Rent A Mailbox With US?

Confidentiality

We are an Authorized Mail Receiving Agent and have been for nearly 5 years. Your mail is handled in a private, secure fashion by experienced, bonded professionals. The confidentiality of mail processing is our number 1 concern.

We are a private business and are not affiliated with the U.S Postal Service in any way. Therefore, your privacy is protected and enforced under strict mail privacy laws. In fact, postal privacy laws are sometimes stricter than most civil laws. We are forbidden by law from revealing a boxholders name, home address, phone number, or any other information.

NO ONE WILL EVER KNOW YOUR ACTUAL PHYSICAL ADDRESS!

The information requested is for our files only and can only be given to a law enforcement agency in the event of a formal inquiry. *Formal inquisitions may take several months and your information remains confidential during the entire process.* Our mail receiving service provides you with a legitimate street address, not a P.O. Box. This provides benefits for individuals and businesses alike. Some of our customers include:

- Physicians
- Mail Order Companies
- Software Companies
- Frequent Travelers
- Out of State Job Applicants
- Foreign Businesses/Individuals
- Divorcees
- Personal Ad Respondents
- Home-Based Businesses
- Get-Rich Quick Marketers
- Out of State College Applicants

Joe's Mail Center
Walnut Creek, CA 94598

With a posting like this, the operator might just as well hang up a big sign that says *"If you're a crook, or want to hide for any reason – rent a box here! Want to hide from creditors, defraud your insurance company, pay in-state tuition, rip-off little old ladies – we're the spot for you!"*

Obviously, the many legitimate reasons for renting a box are also mentioned, but they kind of pale in comparison to the reasons to hide.

MONEYGRAM SERVICE WARNING

by John Buseman

I read your recent editorial regarding the waste of time for utility payments plus the security factor, and wanted to share an incident we recently had. A customer wired $900 for an Express Payment through MoneyGram. The next afternoon he called to advise me of a problem with the transaction. He said he called BankOne to verify that the payment was posted. They said, "thank you for the $7,900 payment." He told them he only paid $900 and that he did not have that kind of money. They then advised him to call the sending agent to get it straightened out.

I immediately called Agent Services and was nonchalantly told it was my fault and that they would look into the matter. I asked to speak to a manager since this answer was unacceptable. I then explained to the manager that their agent repeated the transaction numerically as always and that they made a huge $7,000 error. She said it was probably handled by someone in their "rookie class" training. The manager then attempted to call BankOne but could not reach anyone after hours. She assured me that she would work on it and call me back within the hour since I was closing in 75 minutes.

I actually had to call her back and she said she was able to get an authorization for me to cut a MoneyGram check for $7,000. I was then able to deposit the check in our account. The sad part was of this story is that I was never given an explanation as to how this could have happened.

If my customer had not called me, I would have had a monumental problem. We always carry more than sufficient funds in our account but not a $7,000 cushion.

I immediately sent a letter to cancel my agency agreement of nearly eight years for the following reasons. 1. Lack of confidence in their system. 2. Time spent on wire transfers. 3. Low commissions. 4. Lack of cross sales of other services. 5. Vulnerability of robbery or theft.

(John Buseman operates We R Mail in Sewell, NJ.)

Attachment 2

Parcel Shippers Association
1211 Connecticut Ave. NW
Washington, DC 20036-2701

Telephone 202-296-3690
Fax 202-721-2030
psaweb@msn.com

December 18, 1997

Manager, Delivery
Operations Support, U.S. Postal Service
475 L'Enfant Plaza SW Room 7142
Washington, DC 20260-7142

Dear Sir:

The Parcel Shippers Association represents 100 Corporations and nearly 200 companies who send products via the US Mails and other carriers to both residential and business customers around the world.

One of main concerns is the fraudulent use of the mails or of any shipping practice. We believe the proposed Postal Service policy as described in Federal Register / Column 62, No. 166 dated 8/27/97, will help to reduce fraud and therefore support the proposed rule change.

James V. Jellison
Executive Vice President

Richard A. Lefler
Vice President
Worldwide Security

Received
10-20-97

October 16, 1997

Manager
Delivery Operations Support
U.S. Postal Service
475 L'Enfant Plaza SW, Room 7142
Washington, D.C. 20260-2802

Re: Postal Service
Proposed Revisions
39 CFR Part III
D042.2.5 - D042.2.7
Domestic Mail Manual

Dear Sir or Madam:

On behalf of the American Express Company, I would like to express our support of the proposed rules updating and clarifying Sections D042.2.5 - D042.2.7 of the Domestic Mail Manual.

These proposed revisions will serve to significantly enhance the integrity and security of the mail delivery process and promote the validation of the true addressees of mail sent to Commercial Mail Receiving Agencies.

As a result of the implementation of these proposed regulations, the public's protection against fraudulent identity and account takeovers will be significantly fortified.

Sincerely yours,

Richard A. Lefler
Vice President
Worldwide Security

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December 23, 1997

Manager
Delivery Operations Support
U.S. Postal Service
475 L'Enfant Plaza SW Room 7142
Washington, DC 20260-2802

RE: FR Doc. 97-22694, Proposed Amendments to 39 CFR Part 111

Dear Sir/Madam:

On behalf of the National Consumers League, I wish to submit the following comments regarding proposed amendments to the rules governing delivery of mail to a commercial mail receiving agency. The oldest nonprofit consumer organization in the United States, NCL has advocated for fairness and consumer protection in the marketplace since its founding in 1899.

NCL has a special interest in commercial mail receiving agencies because it operates programs through which consumers can report telemarketing and Internet fraud. Many of those scams are perpetrated by individuals or companies that use commercial mail receiving agencies to receive their victims' payments.

The National Fraud Information Center was created by NCL in 1992 to offer consumers advice about telephone solicitations and to route reports of telemarketing fraud to law enforcement agencies. NFIC counselors who answer calls to our toll-free hotline at (800) 876-7060 help consumers identify the hallmarks of fraud and enter information about suspected scams into a database. That information is then relayed electronically to the database jointly maintained by the Federal Trade Commission and National Association of Attorneys General. In addition, consumers' fraud reports are transmitted within minutes to more than 150 federal, state and local law enforcement agencies in the United States and Canada, including, when use of the mail is involved, the Postal Inspection Service.

In 1996, NCL expanded its fraud-fighting efforts to cover scams in cyberspace. The Internet Fraud Watch, which operates in tandem with the NFIC, offers advice about Internet and online solicitations and relays reports of fraud to law enforcement authorities using the same database and transmittal system. Consumers can ask questions and report fraud through the telephone hotline, by e-mail at fraudinfo@psinet.com, or via the online query or reporting forms on the

NFIC/IFW web site, <www.fraud.org>. The web site also provides general consumer information and tips about avoiding telemarketing and Internet fraud.

We also give advice to victims of identity theft, though we do not generally take that information into our system since the victims usually do who has perpetrated the crimes and these situations do not fit under the traditional categories of telemarketing and Internet fraud. Our counselors report that over the last year they have received an increased number of calls and e-mails from people in this regard. We are aware that CMRAs are often used to obtain credit cards and other goods and services in the names of hapless victims of identity theft.

The NFIC/IFW programs, which operate Monday through Friday, 9 a.m. to 8 p.m. Eastern time, receive about 300-350 telephone calls and 250-300 e-mails each day. We also receive a varying number of letters from consumers every day. All told, 30-50 telemarketing and Internet fraud reports are entered into our database and relayed to law enforcement agencies each day. These reports cover a broad range of fraud: work-at-home schemes, investment scams, bogus business opportunities, pyramids, travel fraud, empty prize offers, foreign lottery solicitations, false promises of credit cards or personal loans, etc. One thing that all these scams have in common is the requirement for payment in advance of receiving the goods or services.

When the addresses of the suspect individuals or companies are entered into our database, the system identifies those that are at commercial mail receiving agencies (CMRAs). On average, approximately 11% of the fraud reports that we receive are against telemarketing or Internet promotions using CMRAs. While we do not investigate these operations ourselves, we know from speaking with the agencies that receive our data that fraudulent promoters use CMRAs to conceal their actual locations from consumers and law enforcement authorities. Furthermore, CMRA addresses such as "suite" give consumers the impression that they are dealing with companies located in office buildings, often at prestigious addresses, when in fact the promoters may really be located in low-rent storefronts or industrial parks, or even be operating out of their homes.

Moreover, we have noticed that it is not uncommon for several different company names to appear in our database associated with the same CMRA. It is obvious that fraudulent telemarketing and Internet promoters are abusing this alternate mail delivery system. While we applaud the U.S. Postal Service for considering changes to reduce this abuse, we believe that some of the proposed amendments do not go far enough and we would like to suggest even tougher CMRA requirements.

Addressing Mail Sent to CMRA

We agree that there should be a specific designation for addressing mail to a recipient using a CMRA. The use of "suite," "apartment" or similar terms should be prohibited because they are inherently misleading. However, we fear that many people will not recognize that the proposed designation "PMB" stands for "private mail box." We suggest that this or any other

designation permitted by the U.S. Postal Service should be required to be completely spelled out. The designation "rental mail box" would be an even clearer indication that the address is not the physical location of the addressee. This would reinforce the educational messages that NCL, the U.S. Postal Service, and many other organizations and agencies have sought to convey to the public -- that it is important to where someone really is with whom you may do business.

Forwarding Mail to Addressee

We concur with the requirement that the addressee should prepay for new postage in order to have mail forwarded, but we are not convinced that this relatively small cost would discourage criminals from using CMRAs to bounce their mail from one location to another and obscure their trails, especially in light of the large amounts of money that are generated by fraudulent telemarketing and Internet promotions. We can think of no compelling reason why a legitimate addressee would need to arrange for mail forwarding on a permanent basis. Therefore, we urge the U.S. Postal Service to make forwarding more restrictive by limiting it to a special arrangement for a short period of time, such as two weeks. This would adequately cover situations where an addressee might be traveling and unable to pick up the mail.

Furthermore, when an addressee terminates a CMRA account, mail should be forwarded for no more than three months. This would prevent a fraudulent operation that has pulled up stakes out of fear of discovery or because of imminent legal action from continuing to receive mail through the CMRA, while still giving legitimate addressees the ability to notify senders of their new addresses.

Conclusion

We appreciate the opportunity to make these comments and commend the U.S. Postal Service for its efforts to prevent exploitation of the mail system by criminals. The use of a CMRA is not a right, but a privilege that is extended by the U.S. Postal Service in addition to the regular mail service that is available to the public. The U.S. Postal Service has both the right and the obligation to ensure that this mailing alternative is not used as a conduit for fraud and other forms of illegal activity.

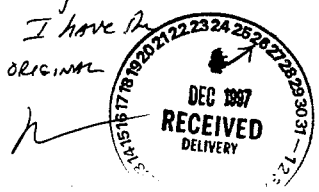
Respectfully submitted,

Susan Grant
Vice President for Public Policy
National Consumers League

cc: Linda Golodner, NCL President

Roy GAMBLE

I have the ORIGINAL



Russell W. Schrader
Vice President and Senior Counsel

December 24, 1997

Manager
Delivery, Operations Support
U.S. Postal Service
475 L'Enfant Plaza S.W., Room 7142
Washington, DC 20260-2802

Re: Notice of Proposed Rulemaking: Commercial Mail Receiving Agencies

Dear Sir or Madam:

VISA U.S.A. and VISA International (collectively "Visa")[1] are submitting this comment letter to the U.S. Postal Service in response to its proposal to update and clarify the procedures for delivery of an addressee's mail to a Commercial Mail Receiving Agency ("CMRA"). The Postal Service published its proposal in the Federal Register (62 Fed. Reg. 45366) on August 27, 1997, and it is referred to in this comment letter as the "Proposed Rule."

Visa is the largest consumer payments system in the United States and the world. Visa is made up of nearly 21,000 financial institution members from around the world that issue Visa brand cards. There are more than 580 million Visa cards held by consumers globally, which are accepted at more than 14 million merchant locations and 350,000 automated teller machines worldwide. Visa provides transaction authorization, clearing and settlement, and risk management services to Visa financial institution members, and supports more than $1 trillion in Visa-related payment transactions annually throughout the world.

Visa is writing this letter to support the Proposed Rule.

[1] Visa U.S.A. and VISA International are each membership organizations comprised of financial institutions licensed to use the Visa service marks in connection with payment systems.

Visa and its member financial institutions (as well as their individual customers) are significant users of the U.S. mail, and its security is a critical component of Visa's efforts to fight credit and debit card fraud. Visa member financial institutions utilize the U.S. mail to deliver literally millions of pieces of mail a year. This mail includes new and replacement credit and debit cards, periodic statements containing card number and transactions information, applications for new cards and services, miscellaneous notices and other items. Visa member financial institutions receive through the mail cardholder payments, correspondence regarding changes of addresses, notices of potential errors or lost cards, completed applications for new cards and services, and other items.

Reflecting this important role of the U.S. mail in the Visa payments system, Visa estimates that approximately twenty-four percent (24%) of total fraud losses incurred by Visa member financial institutions (which last year totaled approximately $485 million) resulted from misuse of the U.S. mail by criminals. This misuse typically involved fraudulent applications, account takeovers and/or mail order transactions. Fraudulent applications occur when a thief, using the biographical data of a legitimate individual to assume the identity of that individual, obtains multiple card accounts in the name of that individual. The thief is able to hide this fraud as long as possible from the innocent victim by using an address different from that of the victim. Account takeover results when the thief contacts the post office or the financial institution card issuer to change the address of a legitimate cardholder to an address controlled by the thief. These two types of fraud are commonly referred to as "Identity Theft." Mail order transaction fraud involves the delivery of items ordered by telephone or over the Internet to a thief who has used a stolen or fraudulent credit or debit card to pay for the transaction.

Visa and its member financial institutions have developed and refined over the years a variety of programs to address card fraud, which are summarized in an attachment to this letter. Notwithstanding these efforts, criminals have been able to perpetuate these frauds by using CMRAs and providing fraudulent information to the CMRA on the Form 1583. Indeed, a substantial portion of the U.S. mail fraud described above occurs through CMRAs.

Visa believes the Proposed Rule -- particularly the addressee address verification and the addressee picture identification requirements of Section 2.6 of the Proposed Rule -- will go a long way to addressing U.S. mail fraud of the type described above. By making it more difficult for the thief to use a CMRA to maintain his or her anonymity, the Proposed Rule would establish a powerful disincentive for thieves considering these frauds. It also will greatly assist law enforcement in apprehending these criminals after-the-fact, before they can victimize more innocent cardholders. Our

experience with these criminals is that they often repeat their frauds over an extended period of time. For example, the New York authorities recently apprehended a criminal engaging in dozens of Identity Thefts while on parole for previous Identity Theft crimes.

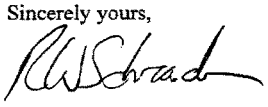
In addition to the new requirements prescribed in the Proposed Rule, Visa recommends that the Postal Service also require the CMRA to retain a photocopy of the addressee's photographic identification. (Section 2.6(a) of the Proposed Rule would require the addressee to present to the CMRA an identification that includes a photograph of the addressee, but the Proposed Rule leaves it up to the CMRA whether to retain a photocopy of this picture identification.) The ability of law enforcement to obtain photographs of criminals that are misusing CMRAs would provide an extremely important new tool for addressing this type of fraud. Since the CMRA would already be required under the Proposed Rule to obtain picture identification from the addressee, it would be only a minor additional burden on the CMRA (and no burden on the legitimate addressee) for the CMRA to maintain a photocopy of this identification.

As indicated by the Postal Service in the Proposed Rule, the requirements of the Proposed Rule applicable to CMRAs are similar to those for obtaining post office box services. Visa agrees that the requirements of the Proposed Rule should apply in the same manner to any entity that receives and holds or forwards U.S. mail for addressees, including the U.S. post offices.

* * * * *

Visa very much appreciates this opportunity to comment on the Proposed Rule. If Visa can be of assistance to the Postal Service in connection with the Proposed Rule, or there are any questions regarding this letter, please do not hesitate to contact me, at (650) 432-3111.

Sincerely yours,



Russell Schrader
Vice President and Senior Counsel

WELLS FARGO

Fraud Disputes & Investigations
P.O. Box 272580
Concord, CA 94527-2580

December 19, 1997

Manager, Delivery Operations Support
U.S. Postal Service
475 L 'Enfant Plaza SW, Room 7142
Washington, DC 20260-2802

Ref: Proposal to amend Domestic Mail Manual Section D042.2.5 through D042.2.7 (CMRA)

I fully support the effort as proposed in the Federal Register dated 8/27/97 (Volume 62, Number 166) to revise the sections regulating Commercial Mail Receiving Agencies. I am however concerned with section D042.2.6 a (4) in that an addressee would be allowed to provide any type of identification to support their identification. The same accommodation is used for the owner or manager of the CMRA however their home address must be verify by the postmaster (and rarely is the owner/manager the one perpetrating the fraud). I believe that subsection 4 should be removed as it is too vague and allows much too easily the perpetration of fraud.

Thank you for your consideration.

Sincerely,

Brian L. Curley
AVP & Manager

INTERNATIONAL ASSOCIATION OF FINANCIAL CRIMES INVESTIGATORS

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Novato, CA

December 22, 1997

Roy E. Gamble, Manager
Delivery, Operations Support
U.S.Postal Service
475 L'Enfant Plaza SW, Room 7142
Washington, DC 20260-2802

Dear Mr. Gamble:

As spokesperson for the IAFCI, I appreciate the opportunity to comment on the proposed revisions to the Domestic Mail Manual in 39 CFR Part 111, Sections D042.2....., as published in the August 27, 1997 Federal Register(62 Fed.Reg.45366).

The proposed revisions are certainly heading in the right direction to alleviate the serious problem of using private mailboxes to perpetrate fraud of many kinds. I recommend these further additions:

Regarding identification: D042.2.5(b4) the postmaster shall retain a photocopy of the identification for verification purposes. (D042.2.6(a4) CMRA owner or manager shall retain a photocopy of the identification for verification purposes.

Regarding reporting change-of-address, under D042.2.6(d), the CMRA must report quarterly on an alphabetical list those customers who terminated within the last 12 months, including the date of termination and forwarding address.

The PMB designation is excellent, and should have a profound effect on monitoring for fraud without harming any legitimate PMB customers. The delivery of mail to the CMRA following the implementation date of the revisions needs to be stringently enforced if they become non-compliant.

As a former member of the U.S.Secret Service, now with NationsBank corporate security, and as president of the 4000 member IAFCI, the non-profit professional association for financial crimes investigators, I know that our members and my customers appreciate your efforts to prevent identity theft, fraudulent applications and other scams. This proposal is definitely in the best interest of the general public, protecting them and their personal lives, as well as the many mailers, and ultimately the U.S. economy. Speaking for the IAFCI, we support the prompt adoption of these changes.

Sincerely,

Robert F. Myers SRS

Robert F. Myers
International President

JOHN J. BYRNE
SENIOR COUNSEL &
COMPLIANCE MANAGER
REGULATORY & TRUST AFFAIRS

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Washington, D.C. 20036
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INTERNET: jbyrne@aba.com

December 22, 1997

Manager, Delivery Operations Support
U.S. Postal Service
475 L'Enfant Plaza S.W. Room 7142
Washington, DC 20260-2802
Attn : Roy E. Gamble

Re: Delivery of Mail to a Commercial Mail Receiving Agency
39 CFR Part 111

Dear Mr. Gamble:

The American Bankers Association ("ABA") appreciates this opportunity to comment on the United States Postal Service's proposal to update and clarify the Domestic Mail Manual procedures for the delivery of mail to a Commercial Mail Receiving Agency (CMRA) as published in the August 27, 1997 Federal Register (62 Fed. Reg. 45366).

The ABA brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership - which includes community, regional, and money center banks and holding companies, as well as savings associations, trust companies, and savings banks - makes ABA the largest banking association in the country.

Our members are major users of the U. S. mail, and include the largest bank credit card issuers. They have experienced a sharp increase in fraudulent activity involving cards mailed to CMRA addresses. We believe that the Postal Service proposal to require CMRA addresses to contain a private mailbox (PMB) designation would greatly assist businesses and law enforcement authorities in the prevention and detection of such fraudulent activity. We therefore strongly support the proposal to require a PMB designation in all such addresses, and urge that this requirement be adopted.

A growing area of consumer fraud affecting credit card holders and the issuers of credit cards involves practices known as "identity theft" and "account takeovers." The first crime refers to the practice of obtaining identification information about an individual (e.g., Social Security numbers, birth date, bank account information) which is then used to engage in financial transactions (such as applying for, and using credit cards) without the knowledge of the individual whose personal information and credit history have

been stolen. The seriousness of this issue is reflected by the response from Senator Jon Kyl (R-AZ) in sponsoring a bill to create the federal crime of identity theft (S. 512).

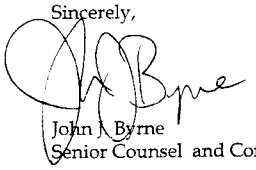
"Account takeovers" occur when a criminal, without the knowledge of the holder of an existing credit card account, directs the financial institution to change the account address to a "new" card issuing address, and begins using the account. Needless to say, payment is not made for the merchandise or credit card cash advances received by criminals, resulting in losses to the issuers of the credit cards, inconvenience and indirect losses to the individual whose identity has been misappropriated, and ultimately increased costs to all users of credit cards.

This type of fraudulent activity requires the criminal to have a mailing address to which the victim's credit card information is sent. All too often, after fraudulent activity has occurred, investigations reveal that these addresses are maintained at Commercial Mail Receiving Agencies. However, because there is not now a way to identify such addresses as private mailbox locations, the ability of banks and other credit card issuers to implement additional security measures to curtail losses is severely hampered.

The proposal to require that such addresses contain a PMB designation would greatly assist our efforts to prevent identity theft and similar fraud. Because the overwhelming majority of CMRA users are legitimate consumers and businesses, credit card issuers would continue to mail credit cards, account statements and other mail to individuals with CMRA addresses. But the PMB indicator would alert them to the fact that a CMRA address was involved, and allow them to confirm that the mail was being sent to a legitimate consumer through such "know your customer" steps as telephoning an accountholder to verify that the consumer had, in fact, requested that a credit card or statement be sent to a new address. Mandatory use of a PMB indicator, as you propose, we believe, would help to alleviate a significant threat to our institutions.

We believe that the Postal Service's proposal would be in the best interest of mailers and the general public, and the ABA support's its prompt adoption.

Sincerely,



John J. Byrne
Senior Counsel and Compliance Manager

American Financial Services Association

December 19, 1994

Manager, Delivery Operations Support
U.S. Postal Service
475 L'Enfant Plaza, S.W. Room 7142
Washington, DC 20260-2802

Re: Delivery of Mail to a Commercial Mail Receiving Agency

Dear Sir or Madam:

The American Financial Services Association (AFSA[1]) appreciates this opportunity to comment on the Postal Service's Notice of Proposed Rulemaking concerning Delivery of Mail to a Commercial Mail Receiving Agency (62 Federal Register 45366; August 27, 1997).

AFSA supports the Postal Service's proposed rule. AFSA believes that requiring Commercial Mail Receiving Agencies (CMRAs) to require verification of customers who rent boxes as well as the requirement that such addresses carry an identifiable private mail box, "PMB", designation will aid in preventing credit fraud and identity theft. AFSA's members include some of the largest credit card issuers in the country. Credit card fraud is on the rise, costing credit card issuers billions of dollars annually. Identity theft is also on the rise. Malefactors often use the mails and mail boxes as the preferred means of executing their schemes.

Credit cards issuers send billions of monthly billing statements to cardholders and millions of pre-approved offers for credit in the mail annually. The address files for these accounts and offers is often flagged for "high risk" addresses such as P.O. boxes. This aids creditors and law enforcement in their effort to detect and prevent fraud. However, PMB addresses are currently not detectable for what they really are, rented post office boxes, often for temporary purposes by individuals who may be difficult to trace. The PMB designation will aid creditors in treating such addresses more carefully in order to minimize fraud. The stepped up identification requirements may also reduce the number of persons who rent PMB's for nefarious purposes. In the case of identity theft, a consumer's mail may be temporarily diverted to another address, often a PMB, for long enough time for the perpetrator to actually "assume" control of a

---

[1] AFSA is the nation's largest trade association representing market-funded providers of consumer financial services. Organized in 1916, AFSA represents 367 companies operating over 10,000 offices engaged in the extension of over $200 billion of consumer credit throughout the United States. These companies range from independently-owned consumer finance offices to the nation's largest diversified financial services companies.

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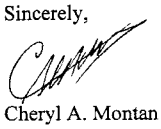
person's financial assets, credit accounts, etc. This can cause financial loss and many months of aggravation to consumer's who have been victimized in this way. The proposed rule will aid in detecting and preventing this type of crime. Accordingly, AFSA supports the proposed rule as being in the best interest of both creditors and consumers.

Sincerely,



Cheryl A. Montan
Senior Counsel

NOVUS SERVICES, INC.

2500 Lake Cook Road
Riverwoods, IL 60015

December 18, 1997

Manager, Delivery Operations Support
US Postal Service
475 L'Enfaut Plaza SW
Room 7142
Washington, D.C. 20260-2802

Dear Sir:

This letter is being written in response to the proposed changes to procedures for Commercial Mail Receiving Agencies (CMRA) as set forth in the August 27, 1997 edition of the Federal Register.

I strongly support the changes you want to implement. They would serve as a potent remedy to some of the existing abuses which allow the services provided by CMRAs to be misused in order to commit fraud.

Thank you for your attention to this issue.

Very truly yours,

Eugene J. Connolly
National Director of Security

EJC/mrf

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Celebrating Our 50th Year

December 18, 1997

Mr. Michael Spates
Manager, Delivery
Operations Support
U.S. Postal Service
475 L'Enfant Plaza, SW, Rm. 7142
Washington, DC 20260-2802

Dear Michael:

This is in response to a request for comments concerning the rule proposed by the U.S. Postal Service (USPS) concerning "Delivery of Mail to a Commercial Mail Receiving Agency," which was published originally in the August 27, 1997 *Federal Register* (62 FR 45366-45368).

For the past year, the Advertising Mail Marketing Association (AMMA) has been participating in an initiative undertaken by the USPS Inspection Service concerning "confidence in the mail." As the Inspection Service knows all too well, mail senders are all too frequently the subjects of fraudulent schemes that cost businesses millions of dollars in lost merchandise and wasted postage. Shysters have used commercial mail receiving agencies (CMRAs) as vehicles perpetrate their frauds. While we have no doubt CMRAs have served as unwitting conduits, we believe something must be done to tighten the security over mail commerce and communication.

We view these proposed rules as prudent steps to minimize the likelihood a CMRA will serve as an unwitting accomplice in any fraud. While some might feel these rules impose an unjustifiable regulatory burden, we feel differently. We strongly believe the value of mail as a means of communication and commerce is only as good as the privacy and security the USPS provides.

As you know, it is largely the *senders* of the mail--not the agents who receive it--who provide the revenue that operates our nation's postal system. Consequently, we believe our need for a secure means of communicating and transacting business through the mail should take precedence over the concerns of those who act as receiving agents. Indeed, one could argue that your proposed rule doesn't go far enough, and that the authority to oversee compliance should explicitly be delegated to the postal Inspection Service--the only agency with sufficient police authority to ensure mail security.

We urge the Postal Service to adopt and implement these rules with dispatch. Indeed, they've remained *proposed* for far too long.

Sincerely,

Gene A. Del Polito
President

Attachment 3

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL

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OFFICE OF THE ATTORNEY GENERAL
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Marion
Rowan
Norrell

September 30, 1999

Kenneth Weaver
Chief Postal Inspector
United States Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-2100

Re: Use of Number Symbol ("#") by CMRA Clients

Dear Mr. Weaver:

I understand that at last week's meeting with the United States Postal Service on commercial mail receiving agency ("CMRA") issues, it was suggested that the Postal Service might consider amending its current rules to permit CMRA clients to use a number-symbol ("#") in place of the now-required designation, "PMB" (Private Mail Box). On behalf of this Office, I am writing to express strong opposition to this proposal. I believe that other states share this view and anticipate that you will be hearing from them in due course.

As noted in the recent multistate comments to the Postal Service (*see* letter dated September 24, 1999, to Manager, Administration and FOIA), a major concern of the States is the misrepresentation of the geographic location of CMRA clients. Telemarketers, paid fundraisers and other businesses have in the past used CMRA street addresses—sometimes in combination with the words "suite" or "apartment"—to mislead consumers and charitable donors into thinking that the company is local when it is not. As a result, citizens make purchases and contributions that they would not make if they knew that the company has no office in the local community, or is not necessarily providing charitable services there, but is only using a mail handling facility to create that appearance.

Use of "PMB," once it is understood by the public, will help set the record straight for consumers and donors and avoid deception as to the nature of the return addresses they are asked to use. However, permitting CMRA clients to employ "#" instead is likely to undercut this advance entirely. When a return address reads, "120 Main Street #5, Montpelier, VT 05602," this cannot help but create the impression that the sender has a

physical office in a suite or apartment at that street address, for the symbol "#," without more, is commonly used as a shorthand for "apartment number" or "suite number." *See Commonwealth of Pennsylvania by Ernest D. Preate, Jr., Attorney General v. Mail Boxes Etc., USA*, No. 298 M.D. 1990 (Pa. Commw. Ct.) (Consent Petition for Permanent Injunction, Nov. 18, 1991) (prohibiting reference to private mailbox as "suite," "apartment," or any other term which causes likelihood of confusion as to source or geographic origin of goods or services).

Use of "#" does not provide any meaningful information to consumers as to the identity of the business at that address and fails to inform consumers that the company with which they are doing business is not physically located there. What is more, the use of a number symbol would run directly counter to the purpose of the Postal Service's new regulation—namely, to "reduce[e] the opportunities to use the mail for fraudulent purposes." 64 Fed. Reg. 14385 (Mar. 25, 1999).

This Office urges the Postal Service to refrain from embracing this proposed change to the "PMB" rule. I would be happy to discuss this matter further with you at your convenience.

Thank you for your consideration.

Sincerely,

Elliot Burg
Assistant Attorney General

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL

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109 STATE STREET
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05609-1001

October 14, 1999

Kenneth Weaver, Chief Postal Inspector
United States Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-2100

Re: "CMRA" Hearing Before House Subcommittee

Dear Mr. Weaver:

I have recently been informed that the House Subcommittee on Regulatory Reform and Paperwork Reduction of the Committee on Small Business will be holding a hearing on October 19, 1999, on issues relating to commercial mail receiving agencies ("CMRAs") and the Postal Service's Private Mail Box ("PMB") rule.[1] As you know, I have been involved with a multistate group composed primarily of representatives of state offices of attorney general, which has been looking into the consumer protection implications of the rule. Unfortunately, there is not enough time for our group to organize testimony for the House hearing; but I thought I would write to you to express the views and concerns of this Office—which are shared by a number of other states—and ask you to pass these on to the Subcommittee.

One of the States' chief concerns with respect to CMRA addresses is the use of such addresses on commercial and charitable solicitations in a manner that misleads consumers as to the *geographic location* of the solicitor or charity and/or the *nature of the facility* located at the address given. Here are some examples:

- A Canadian company offers a credit card over the phone to consumers with marginal credit. Payment must be made by check, to be sent to an address in the United States. In fact, the company only provides information on how to apply for a credit card and consistently violates federal and state consumer protection laws; its address is that of a CMRA in this country. The victims think they are dealing with an American company and, in light of publicity about telemarketing fraud emanating from Canada, would not send any money if they knew where the telemarketer is actually based.

[1] The "PMB" rule, which amends sections D042.2.5 through D042.2.7 of the Domestic Mail Manual, was published at 64 Fed. Reg. 14385 (Mar. 25, 1999); *see also* 39 C.F.R. § 265.6(d)(8), as amended at 64 Fed. Reg. 30929 (June 9, 1999).

- A paid fundraiser for multiple charities arranges, through a third party, to use local CMRA addresses in each of the states for the purpose of receiving mailed donations. Because the addresses are local, donors believe that their contributions will be used locally. In fact, the charities are based out of state, have no local operations, and will direct little, if any, of their revenues to benefit local communities.

- A vacation marketer uses a return address in State A. The "free" vacation turns out to be a hard-sell time-share promotion. A consumer in a neighboring state who is defrauded by the company seeks help from the Attorney General of State A in obtaining a refund of the money he paid, only to find that the company is located on the other side of the country and is simply using a CMRA address to hide its true home base.

- A small-time fraudulent telemarketer operates out of his apartment in a residential area. He uses a CMRA address in a downtown area, which he designates as "suite," creating the illusion of a physical business location.

These are not unusual scenarios, and they reflect the problem of deception as to geographic location that taints both commercial transactions and paid charitable fundraising. Moreover, such geographic information is material to the decisions that many people make to buy goods or services or to contribute to a cause. For instance, a charity with a local office may be viewed both as more easily held accountable for its activities, and as more likely to benefit local communities. With this problem in mind, let me offer the following comments about the "PMB" rule.

The CMRA rule should be retained, because once consumers understand what "PMB" means, that designation will provide them with helpful information. At such time as ordinary citizens comprehend the meaning of "PMB" in the same way that they do "POB," the PMB requirement will assist them in determining the nature of the return address used by businesses and charities. That is, consumers will come to understand that the sender does not have an office or other facility at the PMB address, but is rather using a CMRA. In most situations, this may be of little more consequence to the consumer than the use of "POB" (Post Office Box). In some cases, however, the information may be relevant to the consumer in deciding whether to enter into a transaction with the sender.

Information from Form 1583s is important to state law enforcement agencies. For the purpose of prosecuting or preventing consumer and charities fraud, it is important that state law enforcement, consumer protection and charities regulation agencies be permitted access to the information on CMRA clients contained in Form1583s. It must also be recognized that there are legitimate privacy concerns surrounding the release of this information to the general public. This Office therefore strongly supports continuation of the Postal Service's existing rule allowing access to the names and addresses of postal customers by "a federal, state or local government agency upon prior written certification that the information is required for the performance of its duties," *see* 39 C.F.R. § 265.6(d)(8) (as amended), *citing* 39 C.F.R. § 265.6(d)(4)(i).

Efforts to undermine the rule by permitting use of the number symbol ("#") in place of "PMB" should be strongly resisted. I understand that some have suggested that the Postal Service might consider amending its current rules to allow CMRA clients to use a number-symbol ("#") in place of the now-required designation "PMB." This proposal should be rejected.

As noted above, the use of "PMB," once it is understood by the public, will help set the record straight for consumers and donors and avoid deception as to the nature of the return addresses they are asked to use. However, permitting CMRA clients to employ "#" instead is likely to undercut this advance entirely. When a return address reads, "120 Main Street #5, Montpelier, VT 05602," this cannot help but create the impression that the sender has a physical office in a suite or apartment at that street address, for the symbol "#," without more, is commonly used as a shorthand for "apartment number" or "suite number." *See Commonwealth of Pennsylvania by Ernest D. Preate, Jr., Attorney General v. Mail Boxes Etc., USA*, No. 298 M.D. 1990 (Pa. Commw. Ct.) (Consent Petition for Permanent Injunction, Nov. 18, 1991) (prohibiting reference to private mailbox as "suite," "apartment," or any other term which causes likelihood of confusion as to source or geographic origin of goods or services).

The "#" symbol does not provide any meaningful information to consumers as to the identity of the business at that address and fails to inform consumers that the company with which they are doing business is not physically located there. What is more, the use of a number symbol runs directly counter to the underlying purpose of the Postal Service's new rule—namely, to "reduce[e] the opportunities to use the mail for fraudulent purposes." 64 Fed. Reg. 14385 (Mar. 25, 1999).

Thank you for conveying these views to the Subcommittee.

Sincerely,

Elliot Burg
Assistant Attorney General

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL

TEL.: (802) 828-3171
FAX: (802) 828-2154
TTY: (802) 828-3665
CIVIL RIGHTS: (802) 828-3657

Norrell

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

October 22, 1999

Kenneth Weaver
Chief Postal Inspector
United States Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-2100

Re: Use of Number Symbol ("#") by CMRA Clients

Dear Mr. Weaver:

I am writing to inform you that the following States wish to express their agreement with the substance of the letter I sent you on September 30, 1999, expressing state governmental concern over the possibility that the Postal Service might permit use of the number symbol ("#") in place of "PMB" ("Private Mail Box") by clients of commercial mail receiving agencies: Alabama, Arizona, Georgia, Hawaii, Idaho, Kansas, Nevada, Oklahoma, Pennsylvania, South Carolina, Tennessee, and Wisconsin, as well as the District of Columbia Office of the Corporation Counsel.

Sincerely,

Elliot Burg
Assistant Attorney General

cc: The States

Attachment 4

MAIL BOXES ETC.®

TO: Frank Brennan, Roy Betts & Mike Spates
CC: Allen Kane
FROM: Richard Hallabrin, Public Relations Director
RE: President/CEO Statement
DATE: 03/26/99

Gentlemen,

Per your request, Jim Amos has asked us to provide you with the following quote regarding the policy changes in the CMRA regulations: **"James Amos, president and CEO of Mail Boxes Etc., applauds the efforts by Chief Postal Inspector Ken Hunter in addressing and curbing mail fraud."**

If you have any questions, or if we can provide additional assistance, please contact me directly at 619.623.1718.

Thank you.

Richard Hallabrin
Public Relations Director

POSTAL BUSINESS AND COMMUNICATION SERVICES
6060 Cornerstone Ct. West, San Diego, California 92121-3795, Tel 619 455-8800 Fax 619 546-7488

Attachment 5

MAIL BOXES ETC.®

MAKING BUSINESS EASIER.® WORLDWIDE.

6060 Cornerstone Court West, San Diego, CA 92121
Phone: (619) 455-8875 Fax: (619) 558-6583

Fax

To:	Michael Spates	**From:**	Craig Stewart
Fax:	202-268-5283	**Pages:**	8
Phone:		**Date:**	05/11/99
Re:	Letter from Vermont Attorney General	**CC:**	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Michael,

Thank you for looking into this. Anything you can do to help us better address the attorney general's request would be appreciated.

Sincerely,

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL

TEL.: (802) 828-3171
FAX: (802) 828-2154
TDD: (802) 828-3171
CIVIL RIGHTS: (802) 828-3657

http://www.state.vt.us/atg

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

March 10, 1999

Isabel Weeks-Lambert
Senior Franchise Counsel
Mail Boxes Etc.
6060 Cornerstone Court West
San Diego, CA 92121-3795

Re: Multistate Informational Request

Dear Isabel:

I am writing on behalf of the Offices of State Attorneys General and other state regulatory agencies ("the States") that are currently looking into the return-address practices of commercial mail receiving agencies ("CMRAs"). The States appreciate the expressed intention of Mail Boxes Etc. ("MBE") to cooperate in this inquiry, including MBE's willingness to provide information on the CMRA industry generally and on its own policies and practices in particular.

In keeping with this cooperative approach, we would like to request from MBE the information and documents described below. If any of this material is not available but you can direct us to another source, that would be helpful.

The information and documents in question are as follows:

1. Basic information on the CMRA industry, if available:

   a. The name, address and telephone number of all CMRA trade associations.
   b. The names, addresses and telephone numbers of other multi-outlet (or franchise) CMRA companies besides MBE.
   c. The names, addresses and telephone numbers of "independent" CMRAs, or of an association or other source that may have those listings.

d. Copies of any existing or proposed industry guidelines or other standards relating to the use, by CMRA clients, of CMRA return addresses—including restrictions on the use of street names, "suite," "department," or "box number," required disclosure of the client's actual physical address, and required disclosure of the fact that the return address is that of a CMRA. (The term "client" is used here to mean any person or company that utilizes the mail-receiving services of a CMRA.)

2. General information on MBE:

   a. MBE's corporate structure, including its corporate affiliation with other companies.
   b. A detailed description of the relationship between MBE's corporate offices and its individual outlets, including the extent to which the corporate offices can bind the outlets to require *their* clients to follow standards relating to return addresses. It would be helpful to have any documentation (for example, contracts) that reflects this control.
   c. A description of any "screening" that MBE's outlets customarily undertake into the background or bona fides of their clients, including a copy of any policies relating to such screening.

3. Information on MBE's current policies:

   a. A description of MBE's various client types (local home business, out-of-state business, etc.), and the reasons why each group uses MBE as a CMRA.
   b. A description of MBE's existing policies with respect to the use, by its clients, of CMRA return addresses—including restrictions on the use of street names, "suite," "department," or "box number," required disclosure of the client's actual physical address, and required disclosure of the fact that the return address is that of a CMRA.

4. Information on the return-address policies that MBE is willing to adopt on a going-forward basis, with respect to each of the following. It would be helpful if you could be as specific as possible, identifying all anticipated requirements regarding the prominence, location, and use of particular terminology for disclosures.

   a. Requiring out-of-state clients (that is, clients located outside the state of the MBE outlet that is providing CMRA services to them) to disclose their physical address in any outgoing mailing containing the MBE outlet's return address.

b. Requiring out-of-state clients to disclose, in any such mailing, the fact that the MBE outlet's return address is a mailing address only.
c. Prohibiting the use of terms like "suite," "department," and other words signifying a physical presence at the stated address.
d. Other requirements or prohibitions.

The States would appreciate your sending this material to the multistate group members listed on the enclosed roster. We trust that if further questions arise, we may contact you again. In the interim, please feel free to call me if this letter of request requires some clarification.

Thanks again for your assistance.

Sincerely,

Elliot Burg
Assistant Attorney General

Enc.
cc: The States

May 6, 1999

Elliot Burg, Esq.
Office of the Attorney General
109 State Street
Montpelier, VT 05609

Via E-Mail (w/out attachments)
And First Class Mail

RE: Mailbox Services

Dear Mr. Burg:

I write in response to your March 10th inquiry on behalf of the Offices of State Attorneys General and other state regulatory agencies ("the States") that are looking into the return address practices of commercial mail receiving agencies ("CMRAs"). I enclose with this letter a copy of the current MBE Franchise Agreement and Mailbox Service Agreement. Please note that the standard Franchise Agreement is updated periodically and, therefore, many franchisees have a Franchise Agreement different than the one enclosed.

You previously indicated to me that the States are familiar with the federal postal regulations pertaining to CMRAs that went into effect on April 26, which I faxed to you on March 30th (the "Regulations"). MBE believes that the Regulations address the concerns you have expressed regarding the return address practices of CMRAs. However, in our telephone conversation, you indicated that the States are continuing with their inquiry.

The answers to the questions posed in your March 10th letter are as follows:

1. **Basic Information on the CMRA Industry**

a. Association: The association for the CMRA industry is the Associated Mail and Parcel Centers (AMPC), 705 School Street, Napa, CA 94559-2829 (800-365-2672).

b. Some other CMRA companies: Some other CMRA companies, all of which are franchisors, are PostNet, Pak Mail, Postal Annex and Parcel Plus.

c. Independent CMRAs: AMPC may have a list of independent CMRAs that it would be willing to provide.

d. Industry Guidelines: MBE is not aware of any industry guidelines regarding the use of CMRA return addresses. As you know, the Regulations require all CMRA customers to use a "PMB" (private mailbox) designation as part of their address. Per the Regulations, any mail delivered to a CMRA without this proper address format will be returned to sender.

2. **General MBE Information**

a. Corporate Structure: Mail Boxes Etc. USA, Inc. is a California corporation, which is a subsidiary of U.S. Office Products Company, a Delaware corporation ("USOP").

b. MBE Centers: MBE Centers are independently owned and operated franchises (see the enclosed Franchise Agreement). As with other franchisors, MBE authorizes and licenses its franchisees to use its trademarks and system. MBE relies upon its uniform system to maintain the goodwill of the MBE name and trademarks. Therefore, franchisees are required to follow MBE's system standards. MBE's system, or "standards of operation," are discussed in section 7 of the Franchise Agreement. As part of its system, MBE provides its franchisees with a Mailbox Service Agreement (the agreement between the franchisees and their mailbox service customers). The franchisees are required to comply with the standards set forth in MBE's Operations Manual, which is currently being updated to reflect the Regulations.

A franchisee's failure to follow MBE's system is a violation of their Franchise Agreement. However, whether MBE chooses to terminate or otherwise enforce terms set forth in its Franchise Agreement, including its system standards, against any particular MBE franchisee is a business decision to be exercised in MBE's sole discretion.

You inquired as to whether MBE could "bind" its franchisees to certain terms. Because the franchisees are independently owned and operated, MBE cannot "bind" them to obligations. MBE can, however, require the franchisees to comply with reasonable standards pursuant to its system.

c. "Screening:" MBE's system includes following all U.S. Postal Service (USPS) procedures applicable to CMRAs, including requiring and reviewing two forms of identification. MBE's system does not include a procedure to further investigate the background of potential customers. Such further investigation would be burdensome on franchisees, who are small business owners.

3. **MBE's Policies**

a. Examples of mailbox customer types: There are many types of MBE mailbox customers who each have their own reason for using the services. Some of the reasons are the same reasons that a person might use a P.O. Box, but customers choose MBE for the extended services that may be provided. For example, customers may call the MBE Center and ask the franchisee whether they have received any mail or packages. Some of the customer types are as follows:

"Road Warrior:" A person (perhaps a traveling salesperson) who may receive mail in one central location for ease of access while traveling.

"SOHO" Worker (small office, home office): A person who may use an MBE Center to sign for packages and receive mail.

Residential Customer: A person who uses an MBE Center to receive mail and sign for packages while they are at work or outside of their home. A residential customer may also use a CMRA address for privacy concerns. For example, a woman (or man) may prefer not to give her home address out to strangers with whom she corresponds for fear of being "stalked" or otherwise harassed.

b. MBE's existing policies regarding return addresses: MBE instructs its franchisees to follow the Regulations. Section 15 of the Mailbox Service Agreement mandates that the customer use the "PMB" designation and address format required under the Regulations. MBE's system includes following all USPS procedures applicable to CMRAs. When training franchisees, MBE emphasizes these procedures. MBE Centers do not require their customers to disclose their "actual physical address" as part of their return address. The Regulations require disclosure of the fact that the return address is that of a CMRA by requiring the customer to use the "PMB" designation.

4. **"Return-address" Policies MBE is Willing to Adopt**

a. MBE will not require, as part of its system, out-of-state clients to disclose their physical address in their mail that uses an MBE Center as the return address.

b. MBE does not believe that any disclosure that the return address is a "mailing address only" is necessary beyond the requirements of the "PMB" designation.

c. The issues raised in this question were dealt with in the Regulations. Please note that prior to the Regulations, MBE had already prohibited the use of "suite" and "box" in the previous version of the Mailbox Service Agreement.

d. MBE is not willing to adopt any other policies regarding the return address of mailbox holders.

It is MBE's policy to cooperate with all governmental agencies. However, MBE is also mindful of the increased burdens that policy changes would require. MBE is proud of its slogan: "Making Business Easier.®" This slogan is applicable to the relationship between MBE and its franchisees, as well as the relationship between the franchisees and their customers. MBE is, therefore, reluctant to make policies that would be burdensome on customers, as well as the MBE franchisees, who are small business owners.

The subject of your inquiry (i.e., the return address practices of CMRAs) was fully analyzed recently by the federal government and, as you know, regulations were enacted. Although MBE does not endorse those Regulations, MBE does believe that your concerns were adequately addressed in the Regulations.

Please let me know if you would like any additional information.

L:\LEGAL\BGB\ATTYGEN\RESP.2

Sincerely,

Brian Balconi
Counsel

L:\LEGAL\BGB\ATTYGEN\RESP.2

Attachment 6

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA by ERNEST D. PREATE, JR. ATTORNEY GENERAL, Plaintiff	:	CIVIL ACTION - EQUITY NO. 298 M.D. 1990
v.	:	
MAIL BOXES ETC., USA, Defendant	:	

CONSENT PETITION FOR PERMANENT INJUNCTION

WHEREAS, the Commonwealth of Pennsylvania, acting by Attorney General Ernest D. Preate, Jr., through the Bureau of Consumer Protection has filed a Complaint in Equity pursuant to the Unfair Trade Practices and Consumer Protection Law, Act of December 17, 1968, P.L. 1224, as amended and reenacted by the Act of November 24, 1976, P.L. 1166, 73 P.S. §201-1 et seq. (hereinafter "Consumer Act").

WHEREAS, Defendant Mail Boxes Etc., USA, Inc., a California corporation engaged in interstate trade or commerce, not registered to conduct business in the Commonwealth of Pennsylvania, is engaged in trade and commerce within the Commonwealth of Pennsylvania through the sale of commercial mail receiving franchises;

WHEREAS, the Commonwealth has alleged that Defendant has engaged in acts or practices violative of the Consumer Act;

WHEREAS, Defendant denies that it has engaged in unlawful conduct or wrongdoing;

NOW THEREFORE, without the admission of wrongdoing, Defendant agrees for itself, it successors, assignees, officers, agents, representatives, employees, and all other persons acting on its behalf, directly or through

any corporate or other device as follows:

I. As part of its franchise agreement and Operating Manual Defendant SHALL require all Pennsylvania franchisees to describe or refer to a private mailbox as a private mailbox or similar non-confusing term, and not as "suite" or "apartment" or any other term which causes the likelihood of confusion as to the source or geographic origin of goods or services;

II. Defendant SHALL inform, in writing, all Pennsylvania franchisees that it is a violation of the Consumer Act and is therefore counter to Defendant's corporate policy to describe or refer to the private mailbox as a "suite" or "apartment" or any other term which causes the likelihood of confusion as to the source or geographic origin of goods or services in a mailing address of a private Commercial Mail Receiving Agency;

Further, Defendant SHALL notify, in writing, Pennsylvania franchisees to inform, in writing, each of their private mailbox subscribers that it is a violation of the Consumer Act to describe or refer to the private mailbox as a "suite" or "apartment" or any other term which causes the likelihood of confusion as to the source or geographic origin of goods or services in a mailing address of a private Commercial Mail Receiving Agency and that such practices by franchisees are counter to corporate policies of the Defendant .;

III. Within sixty (60) days of the filing of this Consent Petition for Permanent Injunction, Defendant SHALL submit a report to the Bureau of Consumer Protection detailing its compliance with Paragraphs numbered I and II, above;

IV. Prior to the filing of this Consent Petition, Defendant SHALL pay to the Commonwealth of Pennsylvania by check, the amount of $12,500.00

which represents:

a. Civil penalty in the amount of $6,250.00;

b. Costs of investigation in the amount of $6,250.00 to be used for future consumer protection purposes;

V. The Court SHALL maintain jurisdiction over the subject matter of this Consent Petition and over the Defendant for the purpose of enforcement of this Injunction. Provided, however, nothing contained herein SHALL be construed to waive any right of action by any consumer or any local, state, federal or other governmental entity;

NOW THEREFORE, before any finding of fact by the Court and without any admission by Defendant that any act heretofore mentioned has been committed or that any act committed has violated the Consumer Act, Defendant agrees by the signing of this Consent Petition and the Court hereby orders that Defendant, its agents, employees, representatives and all other persons acting on its behalf, directly or through any corporate device SHALL be enjoined from breaching any or all of the aforementioned provisions and that breach of said Petition or any provisions contained herein SHALL be sufficient warrant for the Attorney General, acting in the name of the Commonwealth, to petition this Court to grant appropriate remedies as provided by the Consumer Act.

WE HEREBY, consent to the foregoing Petition to this Honorable Court for the making and entry of a final Order of the Court this 18th day of November, 1991.

FOR THE PLAINTIFF

ERNEST D. PREATE, JR.
Attorney General

BERNARDO L. HICKS
Director
Bureau of Consumer Protection

BY: NORA A. DOWD
Deputy Attorney General
Bureau of Consumer Protection
21 S. 12th Street, 2nd Floor
Philadelphia, PA 19107
(215) 560-2435

FOR THE DEFENDANT

ANTHONY W. DESIO, President and CEO
of MAIL BOXES ETC., USA., INC.

JOSEPH [illegible], ESQUIRE
MICHAEL J. HENNESSY, ESQUIRE
Attorneys for Defendant
Two Gateway Center, 15th Floor
Pittsburgh, PA 15222
(412) 281-4900

_____ J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ERNEST D. PREATE, JR., Attorney General, Plaintiff	:	
v.	:	No. 298 Misc. Docket 1990
MAIL BOXES ETC. USA, INC. A California Corporation 5555 Oberlin Drive Suite 100 San Diego, California 92121 and M. J. FORCINA AND ASSOCIATES, INC., d/b/a MAIL BOXES ETC. USA, INC. 892 West Street Road Warminster, Pennsylvania 18974, Defendants	:	

BEFORE: HONORABLE JAMES GARDNER COLINS, Judge
HONORABLE MADALINE PALLADINO, Judge
HONORABLE EMIL E. NARICK, Senior Judge

ARGUED: February 11, 1991

OPINION NOT REPORTED

MEMORANDUM OPINION BY JUDGE COLINS FILED: April 3, 1991

Mail Boxes Etc. USA, Inc. and M. J. Forcina and Associates, Inc. (collectively, Mail Boxes) have filed preliminary objections to the complaint in equity filed on September 19, 1990, by the Commonwealth of Pennsylvania acting by its Attorney General, Ernest D. Preate, Jr. (Attorney General).

The Attorney General's complaint alleges that Mail Boxes has violated the Unfair Trade Practices and Consumer Protection Law (Law)[1] by referring to its private mail boxes as suites or apartments. According to the Attorney General, M. J. Forcina and Associates, Inc. is a franchisee of Mail Boxes Etc. USA, Inc. and is a Pennsylvania corporation engaged in trade and commerce as a commercial mail receiving agency, with a principal place of business at 802 West Street Road, Warminster, Bucks County, Pennsylvania. A commercial mail receiving agency offers products and services related to the receipt and delivery of mail, including the rental of so called private mail boxes.[2] The Attorney General alleges further that Mail Boxes Etc. USA, Inc. instructs its franchisees, including M. J. Forcina and Associates,

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[1]Act of December 17, 1968, P.L. 1224, as amended and re-enacted by the Act of November 24, 1976, P.L. 1166, as amended, 73 P.S. §§201-1 through 201-9.2.

[2]Persons who rent so called private mail boxes pay for the privilege of using the street address of the Mail Boxes facility as their own address. Said persons, according to Mail Boxes' literature, have a key to the facility and can collect their mail 24 hours per day, 365 days per year.

Inc. to offer private mail boxes for rent as suites or apartments, providing advertising exemplars for the promotion of this practice. The Attorney General alleges that the words suite or apartment deceive and mislead consumers, who, experiencing a problem with a business located at that address, investigate and discover that the address is nothing more than a private mail box. The Attorney General alleges finally that calling a private mail box a suite or apartment constitutes an unfair method of competition and an unfair or deceptive act or practice prohibited by Section 3 of the Law.[3] The Attorney General alleges specifically that Mail Boxes has violated Sections 2(4)(ii) and 2(4)(v) of the Law.[4]

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[3]Section 3 of the Law states: "Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce as defined by subclauses (i) through (xvii) of clause (4) of section 2 of this act ... are hereby declared unlawful." 73 P.S. §201-3.

[4]73 P.S. §§201-3(4)(ii) and 201-2(4)(v), which state:

> §201-2. Definitions
> As used in this act.
>
> ...
>
> (4) 'Unfair methods of competition' and 'unfair or deceptive acts or practices' mean any one or more of the following:
>
> ...
>
> (ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;

Continued on following page

Mail Boxes has raised two preliminary objections. First, Mail Boxes asserts that the Attorney General has failed to state a claim upon which relief may be granted or, in the alternative, that this Court lacks subject matter jurisdiction, because the field of the delivery of mail has been preempted by the Federal Government. Second, Mail Boxes asserts that the Attorney General has failed to state a claim upon which relief may be granted, because, as a matter of law, the alleged activities of Mail Boxes do not constitute unfair trade practices or unfair or deceptive acts or practices and do not violate the Law.

"Preliminary objections in the nature of a demurrer admit all well-pleaded facts in the pleading attacked as well as all reasonable inferences deducible therefrom and cannot be sustained unless it is clear on the face of the pleading that the law will not permit the recovery sought, resolving all doubt in favor of overruling the demurrer." Township of South Fayette v. Bloom, 73 Pa. Commonwealth Ct. 495, 506, n. 7, 459 A.2d 41, 46, n.7 (1983).

Continued from previous page

...

(v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have.

First Preliminary Objection

Mail Boxes argues that the Federal Government has preempted the regulation of mail delivery, because the scheme of federal regulation is so dominant that one must assume that state law is precluded.[5] Mail Boxes states that the Postal Reorganization Act, 39 U.S.C. §§101-5605, authorizes the postal service to collect, handle, and deliver mail, and that the Domestic Mail Manual, which is incorporated by reference into the Code of Federal Regulations at 39 C.F.R. §111.1, regulates address designations, including the elements which must be contained in a mailing address and the order in which those elements must appear for proper mail delivery.

Mail Boxes asserts that the Postal Service's responsibility to "provide prompt, reliable, and efficient

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[5]Mail Boxes relies on Hillsborough County, Florida v. Automated Medical Laboratories, Inc., 471 U.S. 707, 713 (1985), which states:

> In the absence of express pre-emptive language, Congress' intent to pre-empt all state law in a particular area may be inferred where the scheme of federal regulation is sufficiently comprehensive to make reasonable the inference that Congress 'left no room' for supplementary state regulation. Pre-emption of a whole field also will be inferred where the field is one in which 'the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.' (Citations omitted.)

services to patrons in all areas"[6] requires that there be uniformity with respect to address designation. According to Mail Boxes, requiring private mail boxes to be so designated will lead to confusion and the misdelivery of mail to post office boxes. State and federal regulatory schemes will conflict if private mail boxes cannot be designated by the words suite or apartment, because the prohibition on the use of suite or apartment will place an obstacle in the way of Congress' objectives.[7] Therefore, according to Mail Boxes' argument, the Attorney General's application of the Law to address designation is preempted by federal regulations.

We deny Mail Boxes' first preliminary objection. Although Congress has preempted regulation of the delivery of mail, it has not preempted regulation of the use of the mail to defraud. Prohibiting use of the words suite or apartment to designate a private mail box in order to prevent fraud neither directly and immediately burdens nor directly and physically interferes with the federal regulatory scheme. Roth v. United

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[6] 39 U.S.C. §101.

[7] Mail Boxes relies especially on United States v. City of Pittsburg, California, 661 F.2d 783 (9th Cir. 1981). In that case, the City of Pittsburg enacted an ordinance making it illegal for letter carriers to walk across private lawns unless they had received the explicit consent of the property owners. The court held that the ordinance conflicted with the federal regulatory scheme and was, therefore, preempted. According to Pittsburg, conflict occurs when it is physically impossible to comply with both the state and federal regulatory schemes or when state law is an obstacle to meeting the objectives of Congress.

States, 354 U.S. 476 (1957).[8]

Second Preliminary Objection

Mail Boxes asserts that the Attorney General has failed to state a claim pursuant to Section 2(4)(ii) of the Law. Mail Boxes argues that "only such false descriptions or representations as are of substantially the same economic nature as those which involve infringement or other improper use of trademarks" are prohibited. Mail Boxes also argues that Section 2(4)(ii) is limited to cases in which consumers are deceived as to the identity of the seller or manufacturer of goods or services, asserting that the Section has never been applied to situations involving confusion as to the physical address or location of sellers of goods or services.

We deny Mail Boxes' second preliminary objection with respect to Section 2(4)(ii). We can find no support for Mail Boxes argument that Section 2(4)(ii) must be interpreted to involve representation of an economic nature similar to trademark infringement. As a matter of law, we cannot rule that the plain language of Section 2(4)(ii) will not permit the recovery sought.

Mail Boxes also asserts that the Attorney General has

[8]Mail Boxes incorrectly argues that the Attorney General erroneously relies on Roth. According to Mail Boxes, the language in Roth pertaining to whether state regulation interferes with or burdens the postal function originated in Railway Mail Association v. Corsi, 326 U.S. 88 (1945), and applied to whether a state was unconstitutionally regulating a federal instrumentality. Roth, however, which is good law and, like Railway Mail, is a United States Supreme Court case, applied the pertinent language to preemption.

failed to state a claim pursuant to Section 2(4)(v) of the Law. Relying on Commonwealth v. Hush-Tone Industries, Inc., 4 Pa. Commonwealth Ct. 1 (1971), Mail Boxes states that a violation of Section 2(4)(v) must be established by showing the following: "(1) that defendants' advertisement is a false representation of a fact, (2) that it actually deceives or has a tendency to deceive a substantial segment of its audience, and (3) that the false representation is likely to make a difference in a purchasing decision." Id. at 21. Mail Boxes argues that the Attorney General has not alleged that a substantial segment of the consumer population has been deceived and has not alleged that the characterization of the private mail boxes as suites or apartments is likely to make a difference in purchasing decisions.

The Attorney General, however, is not required to establish a violation of Section 2(4)(v) in his complaint. He must, pursuant to Pa. R.C.P. 1019(a), state the material facts on which the cause of action is based. "This has been interpreted to mean that the complaint must apprise the defendant of the nature and extent of the plaintiff's claim so that the defendant has notice of what the plaintiff intends to prove at trial and may prepare to meet such proof with his own evidence." Weiss v. Equibank, 313 Pa. Superior Ct. 446, 453, 460 A.2d 271, 274-75 (1983).

We deny Mail Boxes' second preliminary objection with respect to Section 2(4)(v). Accepting as true all of the well-pleaded facts in the complaint and deducing therefrom all reasonable inferences, we cannot, as a matter of law, determine that Section 2(4)(v) will not permit the recovery sought.

Accordingly, the preliminary objections of Mail Boxes are denied.

JAMES GARDNER COLINS, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ERNEST D. PREATE, JR., Attorney General, Plaintiff	:	
v.	:	No. 298 Misc. Docket 1990
MAIL BOXES ETC. USA, INC. A California Corporation 5555 Oberlin Drive Suite 100 San Diego, California 92121 and M. J. FORCINA AND ASSOCIATES, INC., d/b/a MAIL BOXES ETC. USA, INC. 892 West Street Road Warminster, Pennsylvania 18974, Defendants	:	

ORDER

AND NOW, this 3rd day of April, 1991, the preliminary objections of Defendants are denied, and Defendants are directed to file an answer within twenty (20) days of the date of this order.

JAMES GARDNER COLINS, Judge

CERTIFIED FROM THE RECORD

APR 3 1991

Attachment 7

USPS ANALYSIS OF REPORT ON THE DIRECT COSTS OF CMRA REGULATIONS

The following is an excerpt from the Executive Summary of the Cato Institute *Briefing Papers* of July 30, 1999, entitled, "The U.S. Postal Service War on Private Mailboxes and Privacy Rights," by Rick Merritt:

> "... the new regulations will foist enormous costs on some 1.5 million to 2.5 million private mailbox holders, which include many of the country's smallest businesses. CMRAs will also incur expenses, not only of compliance with and notification to box holders of the new regulations, but also of lost business. A conservative estimate of the direct costs alone of the new regulations could approach $1 billion."

In the section entitled, "The Direct Costs of Regulations," Mr. Merritt includes assumptions and costs that we feel are simply unreasonable.

Quoting from a *Wall Street Journal* article of May 4, 1999, the study assumes that there are approximately 10,600 CMRAs and 1.5 million private mailboxes. This figure is used as the lower range for determining the impact of the regulations.

The upper range is based on a requirement of Mail Boxes, Etc. (MBE), the largest CMRA business in the industry, that new franchises have a minimum of 250 boxes. The author simply multiplied the approximately 10,000 CMRAs by 250 boxes and arrived at the 2.5 million box figure, which became his upper range.

There are several problems with this approach. First, even if MBE's 250 minimum is followed in every situation, that requirement applies to new, not current, franchises. Also, while MBE is the largest franchise, they have only about 3,500 outlets in the United States. Therefore, to apply the 250 box minimum to all other CMRAs is unrealistic and invalid.

The study then assumes, without any documentation, that 70 percent of CMRA box holders are entrepreneurs and 30 percent are individuals. The study

also makes no adjustment for box vacancy rates, assuming that all 1.5 to 2.5 million boxes are rented. The Postal Service is confident that the CMRA industry would find this assumption unreasonable.

In reviewing the various elements of the cost calculations, one will find the following figures. Total costs for address changes (supplies, labor, etc.) range from $377 million to $628 million. These figures are based on the author's unsubstantiated personal estimates that CMRA customers will have to contact 40 individuals or entities that mail regularly to their boxes.

It also assumes that it would take an average of 17 minutes to prepare the notices, at an average labor cost per hour of $16.84. The unit costs for notification supplies are also excessive—31 cents per piece for letterhead and 28 cents for an envelope, plus postage and toner, for a total of 94 cents per notice. These figures produce a total estimate of $56.5 million to $94.2 million for notification supplies, depending on the number of boxes assumed. However, a 20-cent postal card preprinted with the address change information, which is what many small businesses would use, would reduce the supply cost and postage by 79%.

The labor costs to prepare the notices are calculated to be $4.77 each, with the 17 minutes assumed per notice charged at $16.84 per hour. Adding in the supplies' cost of $0.94 per notice produces a total of $5.71 for each notice. The study assumes a 10 percent second notice rate, bringing the cost to $6.28 per notice.

Therefore, the combined notification costs (supplies and labor) for all entrepreneurs are between $264 million and $440 million. This equates to a one-time cost of $251 per entrepreneur box holder to notify 40 customers when using the unrealistic assumptions contained in the study.

The analysis, moreover, did not include any reference to the fact a small business receives monthly billings and orders at various frequencies throughout the year. Typically, bills give recipients the ability to update change of address information. Given the one-year transition period for address compliance, there would be many such opportunities to minimize notification costs.

Costs of new office supplies were estimated for all entrepreneurs to be between $322.5 and $537.3 million. Without going into the per unit numbers, the assumption used is that all stationery, business cards, and checks will be reprinted well before the compliance deadline, if not immediately. There is no allowance for stock depletion and replacement during the one-year transition period. Such an allowance would reduce these costs significantly.

In addition, the author is assuming that all box renters (1.5 million to 2.5 million, of which 70% are entrepreneurs) are current renters and will be renters at the end of the transition period. There apparently is no assumed normal turnover. Therefore, no allowance is made for new renters, who would not have to change stationery because of the regulations. This omission is not realistic and also contradicts an assumption used in the section entitled, "Initial Direct Costs to CMRAs." In this section, it is assumed that CMRAs will lose 15 percent of their box rental revenues due to the regulations, or $40.5 million to $67.5 million. This 15 percent is not reflected as an adjustment to the direct costs to box holders nor is it used to assume a vacancy rate and a turnover rate in previous calculations.

One of the more curious factors in the analysis of CMRA costs is the assumption of 5 minutes to either explain or argue about the new regulations for each of the 1.5 to 2.5 million box holders. At $16.84 per hour, the author calculates each explanation or argument at $1.40, bringing the grand total for arguing and explaining to an additional $2.1 to $3.5 million.

In summary, the Cato Institute study appears fraught with unreasonable assumptions, unsupportable calculations, and unexplained contradictions. Therefore, we believe it is not a reliable or realistic figure for determining the costs of the revised CMRA regulations.

# # # #

(R.S. 161, as amended, 396, as amended, sec. 1, 62 Stat. 784; 5 U.S.C. 22, 369, 18 U.S.C. 1723)

§ 31.5 [Amendment]

V. In § 31.5 *Exchanges of stamps* make the following changes:

A. Paragraph (c) is amended to permit the redemption of postage stamps added to stamped envelopes in order to meet a rate increase or for additional service; and to permit the redemption of postage stamps affixed to commercial envelopes, post cards, and unused precanceled stamps under certain conditions. As so amended, paragraph (c) reads as follows:

(c) *Unserviceable and spoiled envelopes or cards, and unused precanceled stamps.* Unserviceable and spoiled stamped envelopes or postal cards, if uncanceled, and unused precanceled stamps, may be exchanged for other postage-stamped paper as follows:

(1) Stamped envelopes (mutilated no more than is necessary to remove contents), for postage value plus value of postage added as a result of rate increase or for additional service.

(2) Unmutilated air-letter sheets, for 90 percent of postage value.

(3) Unmutilated postal cards, for 85 percent of postage value plus full value of postage added as a result of rate increase or for additional service.

(4) Sheet postal cards, spoiled in the process of cutting to size, for 85 percent of postage value plus full value of postage added as a result of rate increase or for additional service, if all cut sections are submitted.

(5) Stamps affixed to commercial envelopes and post cards for 90 percent of postage value. The envelopes and post cards must be in a substantially whole condition and in lots of at least 50 of the same denomination and value.

(6) Unused precanceled stamps in full coils or in full sheets from precancel permit holders, for 90 percent of postage value. Stamped envelopes or air-letter sheets with a printed return address, and postal cards with any printed matter of the purchaser, may be exchanged only by the purchaser. If there is no purchaser's printing, they may be exchanged by any responsible person. When redemption cannot be made at time of presentation, the postmaster will furnish a receipt on Form 3210, "Interim Receipt for Stamp Stock Submitted for Redemption", for uncanceled unserviceable or spoiled envelopes or postal cards or for unused precanceled stamps left in his custody.

(2) Stamps cut from postal cards, stamped envelopes, or air-letter sheets.

(3) Parts and pieces of postal cards.

(4) Postal cards treated by a coating process.

(5) Mutilated and defaced stamps.

NOTE: The corresponding Postal Manual section is 141.54.

(R.S. 161, as amended, 396, as amended, 3914, 3915, as amended, 3916, as amended, 5 U.S.C. 22, 369, 39 U.S.C. 351, 354, 356)

VI. In Part 44—Conditions of Delivery, make the following changes:

A. In § 44.1 *Delivery to persons*, paragraph (a) is amended to include regulations regarding the refusal of mail by addressee; and by adding a new paragraph (g) to include regulations with respect to ordinary mail bearing the word "Personal". As so amended, paragraph (a) and new paragraph (g) read as follows:

§ 44.1 Delivery to persons.

(a) *Delivery to addressee.* The addressee may control delivery of his mail. In the absence of a contrary order, the mail is delivered as addressed. Mail addressed to several persons may be delivered to any one of them. The addressee may refuse to accept a piece of mail at the time it is offered for delivery. After delivery he may mark a piece of mail "Refused" and return it unopened to the mails, except registered, insured, certified and COD mail which may not be returned after delivery has been effected. Where a person claiming to be the addressee of certain mail is unknown to the postmaster, the mail may be withheld pending identification of the claimant.

(g) Ordinary mail bearing the word "Personal" is delivered in the same way as other mail for the addressee.

NOTE: The corresponding Postal Manual sections are 154.11 and 154.17.

B. § 44.2 *Delivery of addressee's mail to another* is amended for the purpose of clarification; and to include detailed regulations regarding conditions under which mail is delivered to mail receiving agencies. As so amended, § 44.2 reads as follows:

§ 44.2 Delivery of addressee's mail to another. See next page

(a) *Delivery to addressee's agent.* (1) Unless otherwise directed, an addressee's mail may be delivered to his employee or a member of his family. A person or a number of persons may designate another to receive their mail. Persons

(b) *Addressed m*
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(c) *Addressed m*
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of his guardian or
there is no legal rep
is delivered as addr

(d) *Mail address*
sons. Mail address
sons may be deliver
administrator. Wh
court action on the
mail may be delive
all the heirs.

NOTE: The correspo
section is 154.2.

C. In § 44.7 *Conf*
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mail, paragraph (b)
ing out "Solicitor"
therein and insert
"General Counsel",
paragraph (b) read

§ 44.7 Conflicting
parties for deli

(b) *Reference to*
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shall furnish the p
able evidence on whi
cise control over th
after receipt of such
master is still in dou
receive the mail, t
submit the case to
General Counsel for

NOTE: The correspo
section is 157.72.

(R.S. 161, as amended
U.S.C. 22, 369)

[SEAL] HERBERT

[F.R. Doc. 60-8788, F
8:51

Title 43—PI
INTE

Chapter I—Bureau
ment, Departmen

2 or for additional service; the redemption of postage to commercial envelopes, and unused precanceled certain conditions. As so ragraph (c) reads as

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rresponding Postal Manual

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angeable. The following eable:

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[illegible], as amended, 396, as amended, 3914, 3915, as amended, 3916, as amended; 5 U.S.C. 22, 369, 39 U.S.C. 351, 354, 356)

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(g) Ordinary mail bearing the word "Personal" is delivered in the same way as other mail for the addressee.

NOTE: The corresponding Postal Manual sections are 154.11 and 154.17.

B. § 44.2 *Delivery of addressee's mail to another* is amended for the purpose of clarification; and to include detailed regulations regarding conditions under which mail is delivered to mail receiving agencies. As so amended, § 44.2 reads as follows:

§ 44.2 Delivery of addressee's mail to another.

(a) *Delivery to addressee's agent.* (1) Unless otherwise directed, an addressee's mail may be delivered to his employee or a member of his family. A person or a number of persons may designate another to receive their mail. Designation of another person to receive mail should be in writing, but no special form is furnished or required.

(2) When mail is to be delivered to a mail receiving agency, an application on Form 1583, "Application for Delivery of Mail Through Agent", must be signed by the agent and the addressee, and the form must be filed with the postmaster. A duplicate copy of completed Form 1583 must be kept on file by the agency. Arrangements for disposition of mail must be made with the agency by the addressee. When forwarded by the agency, the mail is subject to payment of new postage.

[illegible] declared an incompetent, his mail may be delivered in accordance with the order of his guardian or conservator. Where there is no legal representative, the mail is delivered as addressed.

(d) *Mail addressed to deceased persons.* Mail addressed to deceased persons may be delivered to the executor or administrator. When there will be no court action on the deceased's estate, the mail may be delivered as agreed to by all the heirs.

NOTE: The corresponding Postal Manual section is 154.2.

C. In § 44.7 *Conflicting orders by two or more parties for delivery* of same mail, paragraph (b) is amended by striking out "Solicitor" where it appears therein and inserting in lieu thereof "General Counsel". As so amended, paragraph (b) reads as follows:

§ 44.7 Conflicting orders by two or more parties for delivery of same mail.

(b) *Reference to General Counsel for ruling.* Where the disputing parties are unable to select a receiver, each party shall furnish the postmaster all available evidence on which he relies to exercise control over the disputed mail. If after receipt of such evidence the postmaster is still in doubt as to who should receive the mail, the postmaster will submit the case to the Office of the General Counsel for a ruling.

NOTE: The corresponding Postal Manual section is 157.72.

(R.S. 161, as amended, 396, as amended; 5 U.S.C. 22, 369)

[SEAL] HERBERT B. WARBURTON, *General Counsel.*

[F.R. Doc. 60-8788; Filed, Sept. 20, 1960; 8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2202]

[Washington 03207]

WASHINGTON

Opening Lands From Withdrawals for Power Purposes

1. In an order of April 11, 1957, the Geological Survey canceled Power Site Classification No. 373 of December 8, 1944, so far as it affects the following-described lands:

WILLAMETTE MERIDIAN

T. 39 N., R. 32 E.,
Sec. 2, NW¼SW¼.

JULY 10, 1991

MEMORANDUM FOR FIELD DIVISION GENERAL MANAGERS/POSTMASTERS

SUBJECT: Extension of Delivery--Corporate Executive Centers

Recently questions have been raised by field delivery managers about extension of delivery service to businesses which utilize the description "corporate executive centers" (CEC) or a similar title. In response to these inquiries, the following information is provided.

Corporate Executive Centers offer clients a small suite, office or other workspace, as well as shared office services such as mail receipt and forwarding, message centers, FAX systems, secretarial services, conference rooms, etc. Advertisements for these services are generally directed at small businesses or businessmen who need office space and support services on an infrequent or temporary basis due to finances or the nature of their business. The CEC may provide these services through a suite covering a portion of an office building, or may operate an entire building.

The CECs often request the Postal Service to provide individual deliveries (including mail forwarding) to their clients, often through the use of lobby mail receptacles. Under postal rules and procedures, the clients of CECs are not invariably entitled to individualized delivery service. Instead, the nature of each CEC should be scrutinized to determine the appropriate means of delivery in each instance. This should include consideration of whether the CEC essentially operates as a commercial mail receiving agency (CMRA), or, if not, whether the CEC should receive single point delivery of all mail addressed to its clients or individual delivery to each client.

Commercial mail receiving agencies (CMRAs) are essentially service companies. As implied by its name, a primary focus of each CMRA is the provision of an address and the receipt of mail. Commercial mail receiving agencies (CMRAs) may provide other services to clients including message centers, FAX systems, mailing services, etc., and may also provide an office or other workspace, conference rooms, and secretarial services. Some CMRAs offer "post office box" rentals and physically resemble postal retail outlets, while others offer a business address and frequently emphasize the "prestige" of that address.

The CMRA operator must receive single point delivery, unless caller service or firm pick-up service is otherwise arranged. The CMRA operator must also ensure a Form 1583 is completed for each of its mail-receiving customers. Copies of the completed form are retained at the post office providing bulk delivery and are subject to review and verification. The CMRA operator is responsible for providing proper treatment of the mail, including forwarding mail for clients that have terminated their relationship. Any mail re-entering the mailstream must bear new postage at the appropriate rate. Requirements are detailed in Domestic Mail Manual 153.21.

Even if it is determined that a CEC is not a CMRA, the available delivery options may be limited to single point delivery. Under postal regulations, there are a number of businesses and other entities which receive single point delivery (DMM 153.6, 155.252). These delivery points are generally characterized by the relatively large number of residents, customers, etc. served, and the relatively high turnover or transient nature of these populations or the frequent need for mail forwarding. A CEC which shares these characteristics should (if not a CMRA) be provided single point delivery service. Under this service, the CEC is responsible for redirecting mail to its clients, but additional postage need not be paid.

Delivery managers should review all pertinent information in order to determine the means of delivery which should be provided to CECs. This may include the CEC's brochures, solicitations, and other advertising material describing its services; floor plans and the physical characteristics of the CEC and its building; the clients served by the CEC; the agreement between the CEC and its clients (including whether clients invariably are provided a workspace or may simply obtain mail and other services); and any other information which may be useful.

(signed) Allen Kane

Allen Kane

cc: Regional Directors
Operations Support
bcc: Mr. Zelkowitz (Law Department), Ms. Lee (Law Department), Mr. Muschamp (Office of Retail), Ms. Bronson (Rates & Class),
Mr. Holmes & Mr. Abrams, Inspection Service,
DSchlepitz; LLum; ACampbell; RWest; NCloher; Estes;
Yellow; Reading
ID: CEC

CORRECTION

Standard Operating Procedures for Accepting Delivery Confirmation Mailings

The following correction should be made to the article "Standard Operating Procedures for Accepting Delivery Confirmation Mailings," published in *Postal Bulletin* 21993 (3-11-99) on page 17. Please replace section "a," which is located under the rate table, with the following:

a. The electronic service option involves computer links between the mailer and the Postal Service to send and receive acceptance and delivery information. Only presorted and permit imprint mailings need to be presented at a business mail entry unit (BMEU) or a detached mail unit (DMU) when delivery confirmation service is requested regardless of whether the electronic option or retail option is used. Single piece rate mailings with full postage and any applicable fees affixed do not need to be presented to a BMEU or DMU for mailing. The electronic service option mailer must transmit an electronic file for each mailing submitted. Mailer can query their delivery information by downloading an extract file or via the Internet *(www.usps.com)*.

— Business Mail Acceptance, Marketing Systems, 3-25-99

CORRECTION

Delivery Confirmation Service

The article on page 22 in *Postal Bulletin* 21994 (3-25-99), "Delivery Confirmation Service," contained an error in the "Summary of all DMM Revisions for Delivery Confirmation" section on page 23. Item 3b should have read as follows:

b. **Return Receipt.** Revisions are made to DMM S915 to allow use of traditional return receipt service with delivery confirmation service only if purchased in connection with insurance for items valued over $50.00, COD, or registry service. At a future date, signature confirmation service (electronic return receipt) will be offered with delivery confirmation service, without a requirement to purchase another special service. DMM rules for signature service will be published once the implementation date is determined by the Board of Governors.

— Expedited/Package Services, 3-25-99

COMMERCIAL MAIL RECEIVING AGENCY

DMM and POM Revision: Commercial Mail Receiving Agency Mail Delivery Procedures Revised

Effective April 24, 1999, the *Domestic Mail Manual* (DMM) and *Postal Operations Manual* (POM) are revised to reflect changes to regulations relevant to mail delivery procedures to a Commercial Mail Receiving Agency (CMRA). The primary purpose of the changes is to improve security in the mail delivery process to protect the interest of all postal customers.

The CMRA owner must complete the new PS Form 1583-A, *Application to Act as Commercial Mail Receiving Agency,* which appears on page 29, within 10 days of the revised regulations' effective date. Each CMRA customer must complete the revised PS Form 1583, *Application for Delivery of Mail Through Agent,* which appears on page 31, within 60 days of the effective date. Local postal officials must advise CMRAs of the regulations' effective date and provide a copy of the DMM regulations to each CMRA within their delivery area. The forms are now available on the World Wide Web at *http://www.usps.com.* Postmasters must order copies of the forms from the material distribution centers (MDCs) to supply CMRAs in their delivery area.

The Postal Service will allow CMRA customers up to 6 months after the effective date of March 11, 1999, to be in full compliance with the required "PMB and number" address format. The Postal Service will then return improperly addressed mail to the sender endorsed "Undeliverable as Addressed." Postmasters must devote the time and apply the resources necessary to administer the regulations.

The CMRA regulatory changes will be incorporated into issue 54 of the DMM and issue 9 of the POM.

Domestic Mail Manual (DMM)

* * * * *

A Addressing

A000 Basic Addressing

A010 General Addressing Standards

1.0 ADDRESS CONTENT AND PLACEMENT

* * * * *

1.2 Address Elements

[Revise A010.1.2b as follows:]

* * * * *

b. Street and number. *(Include the apartment number, or use the post office box number, or private mailbox (PMB) number, or general delivery, or rural route or highway contract route designation and box number, as applicable.)*

* * * * *

3.0 COMPLETE ADDRESS

* * * * *

3.2 Elements

[Revise A010.3.2d as follows:]

* * * * *

d. Secondary address unit designator and number *(such as an apartment, suite, or private mailbox number (APT 202, STE 100, PMB 300)).*

* * * * *

5.0 RESTRICTIONS

* * * * *

[Add new 5.3 as follows:]

5.3 Mail Addressed to CMRAs

Mail sent to an addressee at a commercial mail receiving agency (CMRA) must be addressed to their private mailbox (PMB) number at the CMRA mailing address.

* * * * *

D Deposit, Collection, and Delivery

* * * * *

D042 Conditions of Delivery

* * * * *

2.0 DELIVERY TO ADDRESSEE'S AGENT

* * * * *

2.5 CMRA

[Revise D042.2.5 as follows:]

The procedures for the establishment of a commercial mail receiving agency:

a. An addressee may request mail delivery to a commercial mail receiving agency (CMRA). The CMRA accepts delivery of the mail and holds it for pickup or re-mails it to the addressee, prepaid with new postage.

b. Each CMRA must register with the post office responsible for delivery to the CMRA. Any person who establishes, owns, or manages a CMRA must provide a Form 1583-A, Application to Act as Commercial Mail Receiving Agency, to the postmaster (or designee) responsible for the delivery address. The CMRA owner or manager must complete all entries and sign the Form 1583-A. The CMRA owner or manager must furnish two items of valid identification; one item must contain a photograph of the CMRA owner or manager. The following are examples of acceptable identification:

(1) Valid driver's license.

(2) Armed forces, government, or recognized corporate identification card.

(3) Passport or alien registration card.

(4) Other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer.

The postmaster (or designee) may retain a photocopy of the identification for verification purposes. Furnishing false information on the application or refusing to give required information will be reason for denying the application. When any information required on Form 1583-A changes or becomes obsolete, the CMRA owner or manager must file a revised application with the postmaster.

c. The postmaster (or designee) must verify the documentation to confirm that the CMRA owner or manager resides at the permanent home address shown on Form 1583-A; witness the signature of the CMRA owner or manager; and sign Form 1583-A. The postmaster must provide the CMRA with a copy of the DMM regulations relevant to the operation of a CMRA. The CMRA owner or manager must sign the Form 1583-A acknowledging receipt of the regulations. The postmaster must file the original of the completed Form 1583-A at the post office and provide the CMRA with a duplicate copy.

d. The approval of Form 1583-A does not authorize the CMRA to accept accountable mail (for example: Registered, Insured, or COD) from their customers for mailing. The only acceptable mailing point for this type of Accountable mail is the post office.

2.6 Delivery to CMRA

[Revise D042.2.6 as follows:]

Procedures for delivery to a CMRA:

a. Mail delivery to a CMRA requires that the CMRA owners or manager and each addressee complete and sign PS Form 1583, Application for Delivery of Mail Through Agent. Spouses may complete and sign one Form 1583. The requirement to furnish two items of valid identification will apply to each spouse. If any information that is required on Form 1583 is different for either spouse, include it in the appropriate box. A parent or guardian may receive delivery of a minor's mail by listing the name(s) and age(s) (block 13) of the minor(s) on Form 1583. The CMRA owner or manager, authorized employee, or a notary public must witness the signature of the addressee. The addressee must complete all entries on Form 1583. The CMRA owner or manager must verify the documentation to confirm that the addressee resides or conducts business at the permanent address shown on Form 1583. The address is verified if there is no discrepancy between information on the application and the identification presented. If the information on the application does not match the identification, the applicant must substantiate to the CMRA that the applicant resides or conducts business at the address shown. If the applicant is unable to substantiate the address, the CMRA must deny the application. Furnishing false information on the application or refusing to give required information will be reason for withholding the addressee's mail from delivery to the agency and returning it to the sender. When any information required on Form 1583 changes or becomes obsolete, the addressee must file a revised application with the CMRA. The addressee must furnish two items of valid identification; one item must contain a photograph of the addressee. The following are examples of acceptable identification:

(1) Valid driver's license.

(2) Armed forces, government, or recognized corporate identification card.

(3) Passport or alien registration card.

(4) Other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer.

The CMRA owner or manager may retain a photocopy of the identification for verification purposes. The CMRA owner or manager must list the two types of identification (block 9) and write the complete CMRA delivery address used to deliver mail to the addressee (block 3) on Form 1583.

b. The addressee must disclose on Form 1583 when the private mailbox is being used for the purpose of doing or soliciting business to the public. The information required to complete this form may be available to the public if "yes" in block 5 on Form 1583 is checked.

c. The CMRA must provide the original of completed Forms 1583 to the postmaster. This includes revised Forms 1583 (write revised on form) submitted by an addressee based on information changes in the original Form 1583. The CMRA must maintain duplicate copies of completed Forms 1583 on file at the CMRA business location. The Forms 1583 must be available at all times for examination by postal representatives and postal inspectors. The postmaster must file the original Forms 1583 alphabetically by the addressee's last name for each CMRA at the station, branch, or post office. The postmaster files the original Forms 1583 without verifying the address of residence or firm shown on Forms 1583. Verification is required only when the postmaster receives a request by the Postal Inspector-In-Charge, or when there is reason to believe that the addressee's mail may be, or is being, used for unlawful purposes.

d When the agency relationship between the CMRA and the addressee terminates, the CMRA must write the date of termination on its duplicate copy of PS Form 1583. The CMRA must notify the post office of termination dates through the quarterly updates (due January 15, April 15, July 15, and October 15) of the alphabetical list of customers cross-referenced to the CMRA addressee delivery designations. The alphabetical list must contain all new customers, current customers, and those customers who terminated within the past 6 months, including the date of termination. The CMRA must retain the endorsed duplicate copies of Forms 1583 for at least 6 months after the termination date. Forms 1583 filed at the CMRA business location must be available at all times for examination by postal representatives and postal inspectors.

e. A CMRA must represent its delivery address designations for the intended addressees as a private mailbox (PMB). The CMRA delivery address must specify the location to which the mailpiece is delivered. Mailpieces must bear a delivery address that contains at

least the following elements, in this order:

(1) Intended addressee's name or other identification. *Examples: Joe Doe or ABC CO.*

(2) PMB and number. *Example PMB 234.*

(3) Street number and name or post office box number or rural route designation and number. *Examples 10 Main St or PO BOX 34 or RR 1 BOX 12.*

(4) City, state, and ZIP Code (5-digit or ZIP+4). *Example Herndon VA 22071-2716.*

The CMRA must write the complete CMRA delivery address used to deliver mail to each individual addressee or firm on the Form 1583 (block 3). The Postal Service will return mail without a proper address to the sender endorsed "Undeliverable as Addressed."

f. A CMRA or the addressee must not modify or alter Form 1583 or Form 1583-A. Modified or altered forms are invalid and the addressee's mail must be returned to sender in accordance with Postal Service regulations.

g. The CMRA must be in full compliance with DMM D042.2.5 through D042.2.7 and other applicable postal requirements to receive delivery of mail from the post office.

h. The postmaster may, with the next higher level approval and notification to the Postal Inspector-In-Charge, suspend delivery to a CMRA that, after proper notification, fails to comply with D042.2.5 through D042.2.7 or other applicable postal requirements. The proper notification must be in writing outlining the specific violation(s) with a reasonable time to comply.

i. With the approval of suspension of delivery, the postmaster must provide the CMRA with written notification of the effective date and the reason(s). If the CMRA fails to comply by the effective date, return mail to the sender endorsed "Delivery Suspended to Commercial Mail Receiving Agency."

2.7 Addressee and CMRA Agreement

[Revise D042.2.7 as follows:]

In delivery of the mail to the CMRA, the addressee and the CMRA agree that:

a. When the agency relationship between the CMRA and the addressee terminates, neither the addressee nor the CMRA will file a change-of-address order with the post office.

b. The CMRA must re-mail mail intended for the addressee for at least 6 months after the termination date of the agency relationship between the CMRA and addressee. When re-mailed by the CMRA, mail requires payment of new postage. At the end of the 6-month period, the CMRA may return only First-Class Mail received for the former addressee (customer) to the post office. The CMRA must return this mail to the post office the next business day after receipt with this proper endorsement: "Undeliverable, Commercial Mail Receiving Agency, No Authorization to Receive Mail for This Addressee." Return this mail without payment of new postage to the post office. The CMRA must not deposit return mail in a collection box. The CMRA must give the return mail to the letter carrier or return it to the post office responsible for delivery to the CMRA. Upon request, the agent must provide to the Postal Service all addresses to which the agency remails mail.

c. The CMRA must provide to the postmaster a quarterly list (due January 15, April 15, July 15, and October 15) of its customers in alphabetical order cross-referenced to the CMRA addressee delivery designations. The alphabetical list must contain all new customers, current customers, and those customers who terminated within the past 6 months, including the date of termination.

d A CMRA may not refuse delivery of mail if the mail is for an addressee that is a customer or former customer (within the past 6 months). The agreement between the addressee and the CMRA obligates the CMRA to receive all mail, except restricted delivery, for the addressee. The addressee may authorize the CMRA in writing on Form 1583 (block 6) to receive restricted delivery mail for the addressee.

e. If the CMRA has no Form 1583 on file for the intended addressee, the CMRA must return that mail to the post office responsible for delivery. The CMRA must return this mail to the post office the next business day after receipt with this proper endorsement: "Undeliverable, Commercial Mail Receiving Agency, No Authorization to Receive Mail for This Addressee." Return this mail without payment of new postage to the post office. The CMRA must return misdelivered mail the next business day after receipt.

f. The CMRA must not deposit return mail in a collection box. The CMRA must give the return mail to the letter carrier or return it to the post office responsible for delivery to the CMRA.

* * * * *

United States Postal Service

Application to Act as a Commercial Mail Receiving Agency

See Privacy Act Statement on Reverse

1. Date

TO: POSTMASTER

In registering with the Postal Service to act as an agency to receive delivery of mail of others, the agent agrees to the following: (1) the Commercial Mail Receiving Agency (CMRA) must have on file a PS Form 1583, *Application for Delivery of Mail Through Agent*, for each addressee or firm receiving mail at the agency; (2) a CMRA must represent its delivery address as a private mailbox; (3) the CMRA is not authorized to accept accountable mail (for example: Registered, Insured, or COD) from their clients for mailing, the post office is the only acceptable mailing point; (4) the CMRA must be in full compliance with *Domestic Mail Manual* (DMM) D042.2.5 through D042.2.7 and other applicable postal requirements to receive delivery of mail from the Postal Service; and (5) when any information required on this form changes or becomes obsolete, the CMRA owner or manager must file a revised application with the postmaster.

NOTE: The CMRA owner or manager must execute this form in duplicate in the presence of the postmaster or designee. The CMRA owner or manager retains the signed duplicate copy and signs in this space

to signify receipt and understanding of applicable DMM regulations regarding delivery of mail to a CMRA by the Postal Service. This application may be subject to verification procedures by the Postal Service to confirm that the CMRA owner or manager resides at the permanent home address listed below, and that identification presented in box 10 is valid. Failure to comply with DMM D042.2.5 through D042.2.7 and all other applicable Postal Service requirements may subject the agency to withholding of mail until corrective action is taken.

2. Name of Commercial Mail Receiving Agency (CMRA) *(Corporation or Trade Name)*	3. Name of CMRA Owner/Manager
4. Street Address of CMRA *(Number, Street, City, State, and ZIP Code)*	5. P.O. Box Address of CMRA *(Include City, State, and ZIP Code)*
6. CMRA Telephone Number ( )	7. Permanent Home Address of CMRA Owner/Manager *(Number, Street, City, State, and ZIP Code)*
8. Home Telephone Number of CMRA Owner/Manager ( )	
9. Agency Manager or Contact *(Name and telephone number)* ( )	**WARNING:** The furnishing of false or misleading information on this form, or omission of material information, may result in criminal sanctions (including fines and imprisonment) and/or civil sanctions (including multiple damages and civil penalties). (18 U.S.C. 1001)
10. Two Types of Identification Are Required. One Must Contain a Photograph of the CMRA Owner or Manager. The Postmaster or Designee Must Write in Type of Identifying Information. a. b. Acceptable identification includes: driver's license; armed forces, government, or recognized corporate identification card; or other credential showing the CMRA owner or manager's signature and a serial number or similar information that is traceable to the bearer. A photocopy of your identification may be retained by agent for verification.	11. Signature of CMRA Owner or Manager and Date 12. Signature of Postmaster or Designee and Date

PS Form **1583-A**, March 1999

This form on Internet at www.usps.com

Privacy Act Statement

Collection of this information is authorized by 39 USC 403 and 404. This information will be used to authorize the delivery of the intended addressee's mail to another. The Postal Service may disclose this information to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the Postal Service is a party or has an interest; to a government agency in order to obtain information relevant to a USPS decision concerning employment, security clearances, contracts, licenses, grants, or other benefits; to a congressional office at your request; to an expert, consultant, or other person under contract to the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to a labor organization as required by the National Labor Relations Act; for the purpose of identifying an address as an address of an agent to whom mail is delivered on the behalf of other persons; and to anyone when the delivery address is being used for the purpose of doing or soliciting business with the public. Completion of this form is voluntary; however, without the information, the mail will be withheld from delivery to the agent and delivered to the addressee, or, if the address of the addressee is that of the agent, returned to the sender.

United States Postal Service

Application for Delivery of Mail Through Agent

See Privacy Act Statement on Reverse

1. Date

In consideration of delivery of my or our (firm) mail to the agent named below, the addressee and agent agree: (1) the addressee or the agent must not file a change of address order with the Postal Service upon termination of the agency relationship; (2) the transfer of my or our (firm) mail to another address is the responsibility of the agent; (3) all mail delivered to the agency under this authorization must be prepaid with new postage when redeposited in the mails; (4) upon request the agent must provide to the Postal Service all addresses to which the agency transfers mail; and (5) when any information required on this form changes or becomes obsolete, the addressee(s) must file a revised application with the Commercial Mail Receiving Agency (CMRA).

NOTE: The applicant must execute this form in duplicate in the presence of the agent, his or her authorized employee, or a notary public. The agent provides the original completed signed Form 1583 to the Postal Service and retains a duplicate completed signed copy at the CMRA business location. The CMRA copy of Form 1583 must at all times be available for examination by the postmaster (or designee) and the Postal Inspection Service. The addressee and the agent agree to comply with all applicable postal rules and regulations relative to delivery of mail through an agent. Failure to comply will subject the agency to withholding of mail from delivery until corrective action is taken.

This application may be subject to verification procedures by the Postal Service to confirm that the applicant resides or conducts business at the home or business address listed in boxes 8 or 11, and that the identification listed in box 9 is valid.

2. Name in Which Applicant's Mail Will Be Received for Delivery to Agent. *(Complete a separate Form 1583 for EACH applicant. Spouses may complete and sign one Form 1583. Two items of valid identification apply to each spouse. Include dissimilar information for either spouse in appropriate box.)*

3. Address to Be Used for Delivery Including ZIP + 4

4. Applicant Authorizes Delivery to and in Care of *(Name, address, and ZIP Code of agent)*

5. Will This Delivery Address Be Used for Soliciting or Doing Business With the Public? *(Check one)* ☐ Yes ☐ No

6. This Authorization Is Extended to Include Restricted Delivery Mail for the Undersigned(s)

7. Name of Applicant

8. Home Address *(Number, street, city, state, and ZIP Code)*

Telephone Number ( )

9. Two Types of Identification are Required. One Must Contain a Photograph of the Addressee(s). Agent Must Write in Identifying Information. Subject to Verification.

a.

b.

Acceptable identification includes: driver's license; armed forces, government, or recognized corporate identification card; passport or alien registration card or other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer. A photocopy of your identification may be retained by agent for verification.

10. Name of Firm or Corporation

11. Business Address *(Number, street, city, state and ZIP Code)*

Telephone Number ( )

12. Kind of Business

13. If Applicant Is a Firm, Name Each Member Whose Mail Is to Be Delivered. *(All names listed must have verifiable identification. A guardian must list the names and ages of minors receiving mail at their delivery address.)*

14. If a CORPORATION, Give Names and Addresses of Its Officers

15. If Business Name of The Address *(Corporation or Trade Name)* Has Been Registered, Give Name of County and State, and Date of Registration.

Warning: The furnishing of false or misleading information on this form or omission of material information may result in criminal sanctions (including fines and imprisonment) and/or civil sanctions (including multiple damages and civil penalties). *(18 U.S.C. 1001)*

16. Signature of Agent/Notary Public

17. Signature of Applicant *(If firm or corporation, application must be signed by officer. Show title.)*

PS Form 1583, March 1999

This form on Internet at www.usps.com

Privacy Act Statement

Collection of this information is authorized by 39 USC 403 and 404. This information will be used to authorize the delivery of the intended addressee's mail to another. The Postal Service may disclose this information to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the Postal Service is a party or has an interest; to a government agency in order to obtain information relevant to a USPS decision concerning employment, security clearances, contracts, licenses, grants, or other benefits; to a congressional office at your request; to an expert, consultant, or other person under contract to the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to a labor organization as required by the National Labor Relations Act; for the purpose of identifying an address as an address of an agent to whom mail is delivered on the behalf of other persons; and to anyone when the delivery address is being used for the purpose of doing or soliciting business with the public. Completion of this form is voluntary; however, without the information, the mail will be withheld from delivery to the agent and delivered to the addressee, or, if the address of the addressee is that of the agent, returned to the sender.

Testimony before the Subcommittee on Regulatory Reform and Paperwork Reduction of the House Committee on Small Business. Congresswoman Sue Kelly, Chairwoman

My name is George Russell, I am a resident of Westchester County, a member of the Political Affairs Council of the Westchester Chamber of Commerce, and President and CEO of Five Winds Corp., a company which does business under the trade name HQ Global Workplaces, (formerly, HQ Business Centers). I operate a business center at 70 West Red Oak Lane, White Plains, NY. This center licenses the use of office space and provides a full range of office services to approximately 140 business clients.

I appear here today to address the US Postal Service regulations adopted in March 1999 pertaining to the delivery of mail through a Commercial Mail Receiving Agency, (CMRA), allegedly in this case our firm, HQ Global Workplaces. I believe that you will find that these regulations are invasive, burdensome, discriminatory and an inexcusable affront to the thousands of small business people who are affected by them. This group is being singled out just because they do not maintain a "traditional" office in a commercial building.

First, I would like to provide a brief description of our company and the services that we offer to our clients. Our center in White Plains is part of a network of some 275 centers located throughout the United States and also sixteen (16) other countries. Approximately two thirds of the centers are "company owned and operated" by one entity, HQ Global Workplaces, Inc. The remainder, approximately, eighty (80) centers are operated by approximately thirty-four separate owners. Fourteen franchise entities operate 42 centers in the United States.

Somewhat more than half of our clients are national and international companies. The rest are smaller local business professionals and companies. While most of our clients are actually present in our forty thousand square foot White Plains business center, forty-three, (43), clients are part of the work at home population. These clients avail themselves of business services that we offer, such as telephone answering and messaging, mail receipt and forwarding, word processing, desktop publishing, overnight mail services, conference room usage, video conferencing, etc. It is this group that is affected by the new US Postal Service regulations.

The first issue must certainly be the manner in which the USPS adopted the changes. I personally find it incredible that the Postal Service adopted the changes in the first place after having received 8,098 negative comments that amounts to 99.89% of all comments received. Yet the USPS moved forward. Was it because, to quote from the March 25, 1999, edition of the Federal Register, "Large firms and associations, including financial institutions and trade associations of mailers, consumers and law enforcement officials submitted these comments." These being the "10 comments that generally supported the proposed rule."

Where is the cost/benefit analysis to support the wisdom of these regulations? The rules are allegedly aimed at the reduction of mail fraud. Yet, according to research done by the CATO Institute, "Over the most recent one-year period for which there are figures, only 15.9%, or 1,533 cases, of convictions for mail-related crimes involved fraud, and there are no good figures on how many cases involved private versus P.O. or home boxes." [1] Against these fuzzy statistics, one must consider the estimated cost of $600 million to $1 billion to implement the changes called for in the regulations.

Testimony before the Subcommittee on Regulatory Reform and Paperwork Reduction of the House Committee on Small Business. Congresswoman Sue Kelly, Chairwoman

An article in The New York Times on July 6, 1999 reports that "Law enforcement agencies and credit card companies asked for the requirements, citing rampant mail fraud." I find it interesting, to say the least, that those credit card companies that send out "pre-approved" applications for their credit cards by the thousands, then turn around and ask for new regulations just because they get stung! Somehow, that does not make sense.

The next issue is one of definition. What is a CMRA? I do not believe the USPS really knows. I have discussed this with many of my associates who operate HQ Global Workplace centers around the country. In several cities, the Postmaster has advised center owners and managers that the regulations do not apply to them. In a number of other locations the regulations are being enforced with a vengeance.

I quote from a letter written to one our center managers in the Detroit area by a Postal Service manager. "If we do not receive a response from your agency by November 2, 1999, which should include your client list and completed form 1583 for each client, we will be requesting authorization to suspend delivery to your agency, for non-compliance with CMRA regulations. The recipient called me numbers of times sure that USPS was about to put her out of business.

I testified before this sub-committee on September 1, 1999. I took that opportunity to address a number of specific aspects of the regulations. I would like to use my time today to address the one single regulation that I find to be the most onerous of all. That is the requirement that all CMRA clients use the PMB, Private Mailbox, designation in their address effective April 26, 1999.

This last change clearly steps over the bounds of privacy. It will be burdensome and costly to both the client and the CMRA. More importantly it is discriminatory and an affront to a subset of the business population just because they choose to work from their homes and/or elect to receive their mail through a private business entity such as an HQ Global Workplaces facility. Many individuals and businesses simply prefer not to receive their mail at a PO Box. This is the very reason they come to us in the first place. One has to question the US Postal Service's authority to prevent businesses and individuals from receiving their mail at a location of their choice without the requirement of a PMB designation in their business address.

The requirement for the use of the PMB designation is viewed by many as a "Scarlet Letter" of the business world. It will inevitably be perceived by many as a designation of a "second class citizen" in the business world. While there is no bona fide reason for such a perception, it will still occur. This unfair requirement is totally unjustified. Why should one group of individuals and small businesses be singled out for such a discriminatory label? Many small businesses do not need or want or can not afford the luxury of a private office in a commercial office building or other commercial location. They prefer to or must work from their homes or from some other location, which may have an address that they do not wish to use. Until the advent of these new regulations, they have been free to receive their mail at an address of their choice without having to use a Post Office Box or now, a Private Mailbox, as part of their business address. I am

unable to understand why the use of this PMB label will reduce fraud. The information that we now include in the infamous Form 1583 is fraud protection enough. Could it be, as some have said that the USPS will now be able to use the PMB designation to collect data on the number of customers that it has lost to the truly private providers of mail receiving services?

We are now hearing talk the Postal Service is considering the use of a # in place of the PMB designation. Clearly, The Postal Service is still missing the point. Any form of labeling whatever it may be, is discrimination. Members of the committee, I would ask you to consider the implications of this arbitrary labeling approach. The twentieth century has witnessed one campaign after another to eliminate all forms of discrimination. Yet, here we are again, working to eliminate a new form of unnecessary discrimination against a portion of our country's population. It may not be a perfect analogy but as one with a degree in history, I am reminded of Germany in the 1930's when the German government actually labeled a portion of the population. History tells us the horrible and disastrous extremes to which that form of discrimination was taken.

Congresswoman Kelly and members of the Subcommittee, Congress has the power to change or eliminate the onerous, invasive and burdensome aspects of regulation. Please do so by supporting House Joint Resolution 55.

Thank you for the opportunity to address this issue.

1. CATO Institute Briefing Paper No. 48, *The U.S. Postal Service War on Private Mailboxes and Privacy Rights,* July 30, 1999.

Attachment: Curriculum vitae – George Russell
Private Mailbox article, The New York Times, July 6, 1999.

Curriculum Vitae

George Russell
President and CEO
Five Winds Corp.
70 West Red Oak Lane
White Plains, NY 10604

Business Telephone: (914) 697-4704
Business Fax: (914) 697-4888
Email: gruss@hqredoak.com

Home Address: 2 Flagler Drive
Rye, NY 10580

1985 – Present

Five Winds Corp, President and CEO - Independent businessman. I started Five Winds in 1986 and became majority owner of the firm in 1989. Five Winds does business under the trade name HQ Global Workplaces, name changed from HQ Business Centers early this year. Our first business center was located in Rye, NY. We relocated to larger quarters in White Plains in 1995. The company has a staff of eleven people working full time and provides services to approximately one hundred and forty clients. Annual revenues are approximately two and a half million dollars.

1966 - 1984

International Paper Company, Purchase NY – Served in various capacities in the Finance, Wood Products and Resources divisions. My last position was General Manager of Land and Timber, responsible for the management of the company's then timber holdings of approximately seven million acres.

1964 – 1966

The Chase Manhattan Bank – Global Credit Training Program

1964 M. B. A., University of Michigan. 1962 B. A. History, Yale University

I certify that neither my company nor I is the recipient of any federal grant, contract, or subcontract now or have we been during the past two years.

LAW OFFICES
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October 27, 1999

The Honorable Sue W. Kelly
Chair
Regulatory Reform and Paperwork Reduction Subcommittee
House Small Business Committee
2361 Rayburn House Office Building
Washington, DC 20515

Dear Rep. Kelly:

This letter is submitted on behalf of the Executive Suite Association (ESA) in connection with the Subcommittee's recent hearing on the U.S. Postal Service's Commercial Mail receiving Agency (CMRA) regulations. We would request that this letter be included in the hearing record.

By way of background, ESA is an international organization whose more than 1,000 member locations provide office space and business services to more than 40,000 customers, most of whom are small businesses.

On March 25, 1999, the Postal Service issued its final CMRA rules (64 Federal Register 14385). ESA had not participated in the notice-and-comment stage of the rule development because, quite frankly, the Association had no reason to believe that its members were impacted by the rule. We still believed that when the final rule was issued.

However, ESA's belief changed a month later when Patricia M. Gibert, USPS Vice President, Retail, sent a Memorandum to USPS area operations personnel promulgating a definition of a CMRA – a business that offers for a fee, to accept delivery of mail for others, holds it for pickup or remails it to another address – that had never been made public before and was not, and is not (to the best of our knowledge) contained in the USPS Domestic Mail Manual. Ms. Gibert's Memorandum, a copy of which is enclosed, went on to cite, as an example of a CMRA "Corporate Executive Centers that also offer their customers a small suite, office or other workspace, as well as shared office services such as mail receipt and remailing, message centers, FAX and computer systems, conference rooms, and secretarial services." As indicated, this example had, to the best of our knowledge, NEVER been used before by the USPS and does not appear anywhere in the Domestic Mail Manual.

It is ESA's belief that the CMRA "definition" and examples contained in Ms. Gibert's Memorandum constitute a rulemaking outside of the notice and comment requirements in federal law and are thus invalid.

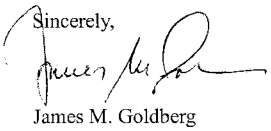
Shortly after the issuance of this Memorandum, many ESA members were contacted by local postal officials and "urged" in the strongest possible terms to register as a CMRA and to comply with the new rules. Many were threatened with the immediate termination of mail delivery if the required forms were not forthcoming.

Upon learning of this Postal Service activity, ESA representatives immediately contacted USPS officials and began a dialog on modification of the rule. Despite some verbal assurances that the situation involving executive suites will be dealt with in a manner acceptable to the industry, we have seen nothing in writing to date.

Like many in the CMRA community, ESA members are concerned that the Postal Service has not properly and fully justified the issuance of the final rule calling for use of the "PMB" designator (or some other designator) by customers of a CMRA. Moreover, ESA members' specific concerns go to the issue of just who or what is a CMRA. We believe that the unilateral issuance of Ms. Gibert's April 29 Memorandum was unwarranted and perhaps even illegal. We believe that the Postal Service should take immediate steps to rescind its "definition" of a CMRA until the completion of a notice-and-comment rulemaking proceeding that results in a definition of the rule's scope of coverage, which definition can be published in the Domestic Mail Manual.

On behalf of ESA and its members and their small business customers, we urge you and your Subcommittee to insist that the Postal Service comply with appropriate rulemaking requirements that are imposed on other government agencies before seeking to implement this rule.

Sincerely,



James M. Goldberg

Enclosure