



# ALLIANT ADVISORS

FIND DIRECTION



## The Navigator

### Important Markers To Guide Your Way

April 2007

Welcome! As Alliant Advisors we have the passion to help our clients Find Direction for both business and personal goals. This month's article was provided to us from Dennis E. Hennessy of CITRMS Pre-Paid Legal Services, Inc.

We hope you will enjoy and value this information. If you do not wish to receive this information by email please respond to this message and we will remove you from the list. For more information about any aspect of our services, visit [www.alliant-advisors.com](http://www.alliant-advisors.com) or call your local office.

The Alliant Team

#### **Identity Theft: Limiting Your Employee's Risk – And Your Liability**

Why should all businesses, corporations, schools, financial institutions, municipalities and hospitals be concerned about Identity Theft, FACTA, HIPAA and Gramm Leach Bliley Safeguard Rule? The answer is: Liability, both civil and criminal.

Time and again we have heard of instances of identity theft. The problem is growing and the threat of losing, in some manner, a person's personal data, be it a customer or employee, looms over nearly every business in America. These laws (and potential civil or criminal penalties) apply to any business large or small that collects personal information about customers or employees (including names, credit card numbers, birthdates, home addresses, and more).

According to Kirk Nahra, partner with Wiley, Rein & Fielding, LLP in Washington D.C. who chairs the firm's Privacy Practice group which specializes in privacy and information security litigation and counseling, the Federal Trade Commission's (FTC) suggestions for "reasonable security practices" for non public information include:

- Designation of a security officer or director
- Identification of risks to security, including employee training on prevention and detection
- Reasonable safeguards to control the identified risks
- Evaluation of the program and ongoing monitoring
- A mitigation plan

Business owners know that there are laws every business must follow. However, results of a recent survey by zTelligence and Fellowes, Inc., (July 2005), showed that only 13.1% of business owners recognize the term FACTA. FACTA is Federal legislation that went into effect that can shut businesses down whether you have 2 or 20,000 employees. This law provides for major fines to the business owner and the business by the FTC for non-compliance and it provides

another avenue for lawyers to file lawsuits against a business on behalf of customers or employees. An article titled "Stolen Lives" for the March 2006 ABA Journal quoted Betsy Broder, assistant director of the FTC's Division of Privacy and Identity Protection, "The FTC will act against companies that don't protect customer's data."

The July/August 2006 issue of "Corporate Board Member" asks and answers the question, "Who will class-action lawyers go after next?" Unfortunately, any company which has access to personal data about customers and employee's may be at risk. "This applies to just about everybody, but with concerns about identity theft zooming, any company that accidentally discloses data protected by privacy laws runs a risk of litigation". The January 19, 2006 edition of "Business and Legal Reports" says, "One solution that provides an affirmative defense against potential fines, fees, and lawsuits is to offer some sort of identity theft protection as an employee benefit. An employer can choose whether or not to pay for this benefit. The key is to make the protection available, and have a mandatory employee meeting on identity theft and the protection you are making available, similar to what most employers do for health insurance".

The business owner must make a critical decision about your business. Does your business comply? Most business owners want to take action after they learn the requirements and potential consequences. But, many do not know where to start. This may be a little overwhelming, but with a little help, you can develop your own Affirmative Defense. The Pre-Paid Legal Services, Inc. Affirmative Defense Response System can help your business at virtually no cost to your business. The ADRS gives you a suite of resources to help you provide your own Affirmative Defense documentation for your company – at NO charge! In addition to the forms and paperwork you need to document your Affirmative Defense, we'll also help you educate your employees – another key component in responsible compliance. At no cost to you, we'll offer our Identity Theft Shield, Life Events Legal Plan, and our Legal Shield (24 hour access to legal counsel) to your employees at a reduced group rate. Or, you could choose to provide this as a fringe benefit. Having this offering in place gives your company the documentation of an affirmative defense, and could help mitigate damages and this can save you money!

Once again, this information was provided to Alliant Advisors from Dennis E. Hennessy of CTRMS Pre-Paid Legal Services, Inc. If you would like more information regarding this subject please contact him at (847) 469-0021.

