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MEMORANDUM

November 4, 2004

To Our Clients and Friends

Re: FACT Act: FTC Proposed Fee for Credit Scores

The Federal Trade Commission (“FTC”) is requesting public comment on various approaches to determining a “fair and reasonable” fee for credit scores under the Fair and Accurate Credit Transactions Act of 2003 (the “FACT Act”). Comments are requested by January 5, 2005.

CREDIT SCORES

The FACT Act requires that nationwide consumer reporting agencies (“CRAs”) provide to consumers, upon request, a copy of their credit scores. (A credit score is a numeric characterization of a consumer’s credit history, which is used to predict the level of risk associated with providing credit to consumers.) The Act further directs the FTC to develop a “fair and reasonable” fee for CRAs to charge consumers for a copy of their credit scores. The FTC is seeking comment on several approaches to determine what constitutes a fair and reasonable fee that may be charged for credit scores.

The approaches under consideration include:

- Establishing a single mandatory price that regulated entities must charge
- Setting a cap on the price that may be charged by regulated entities
- Establishing a price based on the FTC’s determination as to what the market views as a fair and reasonable fee

In noting that the provision of the FACT Act that permits consumers to obtain credit scores is effective on December 1, 2004, the FTC indicated that CRAs may charge a fair and reasonable fee for the disclosure. However, the FTC may question any fee that significantly exceeds \$4 to \$8, which is what it regards is the current market price for credit scores.

SCHWARTZ & BALLEEN LLP

A copy of the FTC's proposal can be found on our web site at http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.