

**SOCIAL SECURITY NUMBERS IN
COMMERCE: RECONCILING
BENEFICIAL USES WITH THREATS
TO PRIVACY**

HEARING
BEFORE THE
SUBCOMMITTEE ON COMMERCE, TRADE,
AND CONSUMER PROTECTION
OF THE
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MR. STEARNS. Ms. McDonald. Pull the mic up, and just turn it on, if you could.

MS. MCDONALD. Good afternoon, Mr. Chairman, and thank you for the opportunity to appear before your subcommittee as it reconciles the beneficial uses of SSNs with threats to privacy.

My name is Susan McDonald, and I am the President of Pension Benefit Information, otherwise known as PBI. For over 26 years PBI has provided research services to the pension industry. We assist sponsors of pension plans in fulfilling their fiduciary responsibility to manage their plans under the Employee Retirement Income Security Act of 1974, ERISA. PBI also supports pension plans in maintaining their qualified status. IRS regulations require minimum distributions to planned participants or their beneficiaries for that purpose.

Our services allow planned sponsors to ensure benefits get distributed to eligible participants. Our clients would be severely

impacted by an enactment of legislation that would restrict PBI from purchasing SSNs for the purposes of matching and retrieval. Such legislative restrictions would have serious consequences on millions of Americans that have earned benefits from their years of employment. Our clients typically come to us after they have performed a mailing, and it has come back undeliverable.

We serve over 9,000 planned sponsors in every industry segment. One of the greatest challenges for pension administrators is staying in contact with terminated vested participants. These participants are entitled to benefits, but are no longer employed by the company. They often forget to keep their address up to date and typically don't think about their benefits until they are nearing retirement age. By that time it can be hard to track down their pension, especially if the company has been sold or closed up shop decades ago.

A recent Boston Globe article outlined a widow's 6 year journey to track down her deceased husband's benefits. Most would have simply given up. Although it is hard to comprehend, every week PBI locates participants who had no idea they were entitled to benefits.

PBI retrieves our address information for participants based on their SSN. Maintaining accurate pension records is certainly a challenge since they have to maintain for so many decades, from the time a participant starts employment until their beneficiary dies. A lot can happen to lose contact with participants over that time. The companies we serve have migrated from 3-by-5 cards to keypunch cards and now to multiple system conversions. Records can and do get corrupted. Clients come to PBI because they are missing Social Security numbers or dates of birth for participants, or they have a beneficiary with no SSN.

PBI is currently able to perform research to identify a SSN so that a search for a participant can be made. The challenge of locating a female participant that could have changed her last name several times due to marriage or divorce would become nearly impossible if it were unable to utilize an SSN for research purposes.

To date we have located over 900,000 lost participants with their retirement benefits.

We support greater security and restriction for companies that are given access to information containing SSNs. Simply faxing a business license and checking a box to indicate a search for beneficial interests should not be deemed sufficient. This has been clearly demonstrated by several security breaches involving bogus accounts. As a consumer, this keeps me up at night.

PBI's primary data source for locate services is one of the three credit reporting agencies. We have established a long-term relationship

with them, meet on a regular basis, and they understand the services we provide and our customer base.

My desire in this testimony is to set forth the positive use of SSNs. We believe that our business is a prime example of how the use of SSNs yields socially beneficial results. Many of the people we help are older Americans who desperately need their pension benefits no matter how small or large.

With so many people changing jobs today, the task of locating former employees is becoming extremely difficult. They also change jobs. After they have changed their jobs, there are other issues associated with locating them as well. If we were not able to use the SSN, someone leaving out the middle initial or going by Bill versus William on employment documents would make it extremely difficult to locate them.

We currently locate 80 to 90 percent of the participants we look for using a SSN. If PBI is unable to utilize an SSN to research and retrieve addresses, our locate business would be in jeopardy. We search for participants nationwide and believe our results would be less than 8 percent if we could only use a participant's name. The chances of us ever finding the correct John Smith who worked for a particular employer would be nonexistent.

Our current process provides a cost-effective and efficient way to reunite former workers with their benefits. I doubt PBI could continue to provide our valuable service with diminished results and increased cost to validate we have located the right person.

We serve the Fortune 500, labor unions, government agencies, and third-party administrators across the country. We are required for the financial sector to complete 50-plus-page questionnaires and have the appropriate policies and procedures regarding data security, and we feel that that should be something that other companies have to provide in order to get access to the data.

I have highlighted some of the participants that we have found, and many of these were unable to find their benefits on their own, females that have changed their names. There are a lot of beneficial reasons that we perform our services, and feel that if we were unable to do the searches based upon that information, we would not be able to serve the constituents that you probably really want to serve at this point. Thank you.

MR. STEARNS. Thank you.

[The prepared statement of Susan McDonald follows:]

PREPARED STATEMENT OF SUSAN McDONALD, PRESIDENT, PENSION BENEFIT INFORMATION

Good afternoon Mr. Chairman and thank you for the opportunity to appear before your Subcommittee as it reconciles the beneficial uses of Social Security Numbers (SSNs) with threats to privacy. My name is Susan McDonald, and I am the President of Pension Benefit Information, otherwise known as PBI. For over 26 years PBI has provided research services to the pension industry. We assist sponsors of pension plans in fulfilling their fiduciary responsibility to manage their plans under the Employee Retirement Income Security Act of 1974, ERISA. PBI also supports pension plans in maintaining their qualified status. IRS regulations require minimum distributions to plan participants, and PBI locate participants, or their beneficiaries, for that purpose.

Our services allow plan sponsors to ensure pension benefits are distributed to eligible participants or their beneficiaries. Our clients would be severely impacted by the enactment of legislation that would restrict PBI from purchasing SSNs for the purposes of matching and retrieval. Such legislative restrictions would have serious consequences for millions of Americans who have earned benefits from their years of employment. Clients typically come to PBI after they have performed an ERISA mandated mailing, and communications come back undeliverable.

PBI serves over 9,000 plan sponsors in every industry segment. One of the greatest challenges for pension administrators is staying in contact with terminated vested participants. These participants are entitled to benefits, but are no longer employed by the company. They often forget to keep their address up to date, and typically don't think about their benefits until they're nearing retirement age. By that time it can be hard to track down their pension, especially if the company has been sold or closed up shop decades ago. A recent Boston Globe article outlined a widow's 6 year journey to track down her deceased husband's benefits, most would have simply given up. Although it's difficult to comprehend, every week PBI locates participants who had no idea they were entitled to benefits.

PBI retrieves address information for participants based upon their SSN. Maintaining accurate pension records is a challenge, since these records must be maintained for several decades. From the time a participant starts employment, until their beneficiary dies. A lot can happen to lose contact with participants over that time span. Companies have migrated from 3-by-5 cards, to keypunch cards, and now through multiple system conversions. Records can, and do get corrupted. Clients come to PBI because they are missing Social Security Numbers or Dates of Birth for participants. Or, they have the name of a beneficiary with no SSN. PBI is currently able to perform research to identify a SSN so that a search for a lost participant or beneficiary can take place. The challenge of locating a female participant, that could have changed their last name multiple times due to marriage or divorce, would become nearly impossible if we were unable to utilize a SSN for research purposes.

PBI's address location service is designed to meet the requirements of the Pension Benefit Guaranty Corporation (PBGC) to perform a "diligent" search. The PBGC protects the retirement incomes for companies that have terminated their pension plans. The PBGC provides specific guidelines to administrators of terminating plans with regards to lost participants. Under the law, a search is considered diligent if it includes use of a commercial location service to search for the missing participants (29 CFR 4050.4). PBI performs this valuable service, and ERISA attorneys provide many of our referrals.

To date, PBI has reunited over 900,000 lost participants with their retirement benefits. We don't simply provide an address retrieved from a database. We communicate an important message to lost participants, and the lost participant confirms their address to PBI. Clients look to PBI to perform our diligent search process, since

many of them are ill equipped to manage returned mail. Our clients also want to demonstrate they've been prudent in fulfilling their responsibilities to participants.

PBI supports greater scrutiny and restrictions for companies that are given access to information containing SSNs. Simply faxing a business license and checking a box to indicate a search is for beneficial interest should not be deemed sufficient. This has been clearly demonstrated by several security breaches involving bogus accounts. As a consumer, this keeps me up at night! PBI's primary data source for locate services is one of the three credit reporting agencies. We've established a long term relationship with them, meet on a regular basis, and they understand the services we provide and our customer base. Due to the increase in data security breaches, along with the sophisticated phishing scams, consumers are fearful of disclosing any information. What used to be the simple confirmation of a correct address has raised concerns with lost participants. As a result, PBI's costs have sky-rocketed to provide our locate service.

My desire in this testimony is to set forth the positive uses of SSNs. We believe that our business is a prime example of how the use of SSNs yields socially beneficial results. Many of the people we help are older Americans, who desperately need their pension benefits, no matter how small or large. With so many people changing jobs today, the task of locating former employees is becoming increasingly difficult. Americans move on average every five years, particularly when they change jobs. They also often change their names with marriage or list slightly different names (*i.e.*, leave out a middle initial or use Bill versus William) on employment documents. If PBI was unable to utilize a SSN for retrieval purposes our results would plummet. We currently locate 80-90+% using a participant's SSN. If PBI is unable to utilize a SSN to research and retrieve addresses our locate business will be in jeopardy. We search for participants nationwide, and believe our results would be less than 8% if we could only use a participant's name. The chances of us ever finding the correct "John Smith", who worked for a particular employer, would be non-existent. Our current process provides a cost-effective and efficient way to reunite former workers with their benefits. I doubt PBI could continue to provide our valuable service with diminished results and increased costs to validate we've located the "right" person.

PBI serves the Fortune 500, labor unions, government agencies and third party administrators throughout the country. We also work with many of the largest financial and insurance companies. Our clients, especially those in the financial sector, demand that PBI have policies and procedures in place to protect confidential information. It's a pre-requisite for doing business with them. We are required to answer 50+ page questionnaires regarding data security, and provide documentation on our policies and procedures. Similarly, PBI requires clients to provide written authorization before we start a locate project. We only search for participants that are entitled to benefits. On occasion a client will come to us because they unintentionally overpaid a participant. We refer them to other services in those instances, since it violates our policy of "beneficial interest".

Our locate service is used for a variety of reasons. These include uncashed/stale dated checks, returned 1099 statements, notice of plan changes, eligibility to commence benefits, due a distribution, terminating plans, Summary Annual Reports, etc. One of the most recurring corporate events that contribute to lost participants is mergers and acquisitions ("M & A"). When an M & A activity takes place the pension assets usually move to the new company. This company is often in a new city, with a new corporate name. Individuals lose track of these occurrences and, thus, have obvious difficulties tracking down their vested benefits. As an example, PBI successfully located thousands of participants for a division of Westinghouse. This division of Westinghouse was acquired by CBS, and then CBS was acquired by Viacom. Now Viacom is in the process of splitting into two separate companies. How will participants know where to find their benefits in these types of situations?

Sometimes we locate individuals whose lives are changed dramatically by our use of SSN searches. For example, we recently located a disabled woman who worked decades ago for a grocery store that's no longer in business. She had been trying to track down her benefits for years, and was unsuccessful. PBI located her, and she was so happy to be found that she sent us a letter and included a check for \$20.00! We promptly returned her check, but this shows just how valuable a lost participant deems our service. In her letter to PBI she said "I have been married and divorced twice since then and have taken back my birth name." The chances of PBI locating her without an SSN is remote, just as her ability to locate her hard earned benefits on her own were.

Similarly, we were able to locate a 67 year old man who worked for a metal plating company for 25 years. He paid union dues and knew he was entitled to an annuity at retirement age. The company he worked for went bankrupt 16 years ago, and he was unable to locate his benefits. After he applied to the Social Security Administration at age 65, the SSA sent him a letter notifying him he was eligible for an annuity. An address was provided for him, and he thought his lost pension had been found. Wrong, when he arrived at the address provided no one was aware of his pension benefits. The only advice given to him was to hire an attorney. With a pending move to Texas, combined with fear over the fees involved in hiring an attorney, he gave up on ever finding his benefits. PBI located him on March 20th of this year, and he just received confirmation of his monthly annuity. Needless to say, he's ecstatic to be reunited with his benefits.

Last fall we assisted Shell Oil Company in locating several hundred employees that were unaccounted for due to Hurricanes Katrina and Rita. Shell discovered that many employees did not have emergency contact information on file, or if they did, they were in the same area impacted by poor telephone communications. We promptly went to work and provided them with valuable information to reach out to employee's relatives. Our contact at Shell was thrilled to notify PBI that all of Shell's employees were located and found safe. PBI provided valuable assistance to Shell under chaotic circumstances. Their employees were delighted to obtain housing assistance from their employer in their time of need.

As the above examples underscore, the ability to use SSNs for matching purposes in commercial databases is critical to our efforts to reunite former employees with their benefits. Without the ability to use an SSN, a slight misspelling in a name, the presence or absence of a middle initial, and a less distinctive name can drastically reduce a plans ability to locate pension fund beneficiaries. I'm urging you to carefully consider the beneficial reasons for having access to SSNs and request that provisions be put in place that allow exceptions for qualified businesses such as ours.

The Department of Labor (DOL) just finalized regulations for dealing with "orphaned" plans, or plans which have been abandoned by their sponsors. The regulations rely on a Qualified Termination Administrator to notify participants and distribute benefits. I can't imagine how this function will be performed for participants that have moved since their previous employment with a defunct company. In addition, terminating defined contribution plans, not insured by the PBGC, are required to distribute all funds by law. Plans are required to demonstrate their due diligence in attempting to locate participants, and PBI fulfills that purpose. If participants are not located the plan will need to take out an Individual Retirement Account (IRA) or annuity. Or, they can escheat the funds to the state's unclaimed property fund of the participant's last known address. I'm convinced the chances of a participant ever finding their account balances under these circumstances are slim to none. I believe these participants would be thrilled to be reunited with their account balances through our service.

Thank you, Mr. Chairman and Members of the Subcommittee, for the opportunity to express the views of Pension Benefit Information. I welcome the opportunity to provide additional information to you regarding this troublesome issue. My sincere desire is that future legislation will best serve and protect constituents while preserving privacy at the

same time. Legitimate business to business relationships must be preserved so that plan sponsors can fulfill their responsibilities under ERISA. Since PBI provides call center support to lost participants, I can tell you with confidence how grateful they are to be reunited with their benefits. I look forward to an opportunity to work with your committee to ensure the positive uses of Social Security Numbers continue to be protected.

MR. STEARNS. Ms. Steinfeld.

MS. STEINFELD. Good afternoon, Mr. Chairman. And thank you for the opportunity to speak before you about Social Security numbers and commerce, reconciling beneficial uses with threats to privacy.

My name is Lauren Steinfeld. I have worked on privacy generally at the Federal Trade Commission, on SSN legislation in my time at OMB, and I now work for the University of Pennsylvania as its Chief Privacy Officer. I'm testifying today on my own individual capacity and not on behalf of the University of Pennsylvania.

In my written testimony I discussed the risks and benefits of using SSNs, the positive direction of H.R. 1078 introduced by Representative Markey, and H.R. 1745 introduced by Representative Shaw, and I introduced certain comments on specific provisions in the bill.

Today I will discuss what I believe are the most important points. First and foremost, in my view, it is entirely appropriate to ban the uncontrolled sale and purchase of Social Security numbers. SSNs can be and are used by thieves to take out credit, to apply for insurance, and even to defraud the tax system. The abuse of Social Security numbers causes considerable harm to individual victims, to merchants who are not paid, and, ultimately, to honest consumers who bear the cost by paying more for credit. It is difficult for us to say that we, as a society, are sincerely working to curb the rising incidence of identity theft when Social Security numbers are lawfully for sale to anybody with an Internet connection.

Second, it is not appropriate to ban all sales and purchases of Social Security numbers. SSNs are the closest thing we have to a national identifier, and by helping to link the different sources, SSNs are often the key, when properly used, to many important commercial activities, to public health interventions, to medical research, to finding missing children, to locating fugitives from justice, and other law enforcement and national security imperatives.

The proper way to balance the risks and benefits of using Social Security numbers is to utilize the rulemaking process to allow for detailed analysis and careful crafting of exceptions based on public comment and agency expertise. H.R. 1078 and H.R. 1745 each include rulemaking provisions, but they differ in their assignment of rulemaking

MR. MARKEY. If I may, Mr. Chairman, I would just like to ask each of the witnesses to give us the one-minute nutshell summary of what you want us to remember from your testimony. What do you want us to know about Social Security numbers and what Congress should do about it? We will begin with you, Ms. McDonald. One minute.

MR. STEARNS. Or one sentence.

MS. MCDONALD. Well, what I would like to say is there are beneficial uses to getting access to Social Security numbers. And in the case of a missing participant or incorrect data, I don't know how you would get their approval up front in order to get that information.

MR. MARKEY. Okay. Mr. Lively.

MR. LIVELY. I believe that one of the most important things that I would like to leave with you folks is the fact that we are very concerned about unintended consequences of a legislative process that hasn't gone deep enough to make sure that there is not going to be a very downside impact of the changes that are made in the law.

MR. MARKEY. Ms. Steinfeld.

MS. STEINFELD. I would say that it is surprising to me that data as sensitive as the Social Security number is so unregulated, and so I do think it is appropriate to ban the uncontrolled sale and purchase of Social Security numbers. But this has to be done with extreme care for the reasons that all the panelists have described. And a rule making with such attention to public comment and agency expertise and the FTC is an appropriate way to go.

MR. MARKEY. Mr. Ireland.

MR. IRELAND. I would echo Mr. Lively's comment that any requirement should be made with a full understanding of how they affect current legitimate business transactions so that we try to avoid unintended consequences.

MR. MARKEY. And Mr. Rotenberg.

MR. ROTENBERG. Congressman, I think the Social Security number has been pretty much a ticking privacy bomb from the time it was created, and I think the SSA has known this. I think Congress has known this. And I think the American public knows it. And I think in the end, we are going to need some legislation to ensure that the privacy risks associated with the misuse of the SSN are minimized.

MR. MARKEY. Thank you all very much. Mr. Chairman, I can't thank you enough for your patience.

MR. STEARNS. Well, thank you for coming back. And I want to thank the panel for their patience while we had all the votes in the House floor.

I think that for a lot of members, we are just so surprised that there is no penalty, civil or criminal, for the sale of Social Security numbers, and

we have sort of let this thing go. So it is time we do something. So I am encouraged that Chairman Barton has said we are going to try to have a markup or have a bill.

And so I think your patience here has helped a lot of us understand it better. We have a written record now that we will use when we go back to debate and to convince our colleagues of the importance.

So with that, the subcommittee's adjourned.

MR. LIVELY. Mr. Chairman would it be appropriate to submit my entire testimony, my written testimony?

MR. STEARNS. By unanimous consent, so ordered.

MR. LIVELY. Thank you, sir.

[Whereupon, at 5:50 p.m., the subcommittee was adjourned.]

