

## HOW TO USE AN IDENTITY THEFT AFFIDAVIT

### **Q. What is an Identity Theft Affidavit?**

- A.** An Identity Theft Affidavit (ID Theft Affidavit or Affidavit) is the primary tool for proving your innocence to creditors and other entities where the thief has committed fraud in your name. It is a sworn statement that provides critical, detailed information in a comprehensive and standardized manner. It is widely accepted as a means for victims to dispute fraud committed by the identity thief. Many of the sample letters for resolving identity theft-related problems suggest enclosing an ID Theft Affidavit.

A completed ID Theft Affidavit provides proof of your identity; and that you did not commit the frauds alleged in the Affidavit. However, it is understood that you may not know, and may have no way to ever determine, many of the facts and circumstances surrounding the crime. Just provide as much information as you are able to. A lack of knowledge about, for example, the perpetrator or how the information was stolen, should not be held against you or invalidate the Affidavit.

### **Q. How do I obtain an Identity Theft Affidavit?**

- A.** The ID Theft Affidavit is available at the FTC's website, at <http://www.ftc.gov/bcp/edu/resources/forms/affidavit.pdf>. You can either print out a blank copy from the FTC's consumer education website and fill it out by hand, or you can file an online complaint with the FTC at <https://www.ftccomplaintassistant.gov/>, and print it out with most of the blanks filled in. Whether filling it out by hand or printing it from the FTC's online complaint system, you should first gather your information and provide as much detail as possible.

### **Q. How Do I Use an Identity Theft Affidavit?**

- A:** You should check with each company where you intend to use the ID Theft Affidavit as part of your dispute documentation to determine if it accepts the FTC's ID Theft Affidavit, or if it requires the use of its own proprietary Affidavit.

Some companies require that the victim's ID Theft Affidavit be notarized. Before signing it, you should find out if the company requires notarization, and if so, wait to sign it in the presence of a notary. Be aware that signing the ID Theft Affidavit potentially exposes you to criminal penalties for filing false information, since the information may be shared with law enforcement.

If you are disputing a fraudulent account that does not present any complicating factors, the company should not require a police report in addition to the ID Theft Affidavit. If no police report is required, you can leave the section regarding law

enforcement blank (section 20). If the company does require a police report, you should file a police report and fill in the section 20 of the Affidavit.

When filing the Affidavit with a particular company, you should consider redacting information related to accounts with any other companies.

You should attach copies of your supporting documentation. This would include copies of, for example:

- a government-issued identification document;
- utility bills or other documentation showing your current address;
- a credit report marked-up to indicate which information is inaccurate as a result of identity theft; and
- any bills, collection letters, or other documents related to the fraudulent accounts or transactions.

**Q. What is the difference between an ID Theft Affidavit and an ID Theft Report?**

- A.** An Identity Theft Report is an official, valid law enforcement report that alleges the consumer's identity theft with as much specificity as the victim can provide. It is required for exercising certain rights under the Fair Credit Reporting Act. An ID Theft Affidavit is a detailed sworn statement explaining the identity theft, but it is not a law enforcement report.

If you want an Identity Theft Report, you can bring a copy of your completed ID Theft Affidavit to the police for inclusion in your police report. The Affidavit helps to make sure that the police report contains enough detail. Ask the police to attach the ID Theft Affidavit to the official police report and complete and sign section 20 of the Affidavit, where it provides spaces for law enforcement information and a signature block.

You do not have to use the ID Theft Affidavit to create an Identity Theft Report. Any law enforcement report with a detailed account of the crime may be an Identity Theft Report.

**Q. Can I use an Affidavit as an Identity Theft Report if I cannot get a police report or a copy of the police report?**

- A.** Some jurisdictions may refuse to take police reports from identity theft victims. In other jurisdictions, a police officer may be prohibited from giving the victim a copy of the official police report.

If the police take your report, but refuse or are unable by law to provide you a copy, you should ask the officer to fill in the Law Enforcement Section (section 20) on the Affidavit with the police report number and department-related information, and sign it. If the officer cannot sign it, at a minimum you should

ask for the information to complete section 20 on your Affidavit. The Affidavit, with the police report number and as much information in section 20 completed as possible, should satisfy the requirements of an Identity Theft Report.

If you cannot get any kind of police report from any law enforcement agency, you can use your Identity Theft Affidavit filed with the FTC as an Identity Theft Report. In such a case, you should check the box under section 23 indicating that you were unable to file any law enforcement report, and provide the FTC Complaint Number.