DREHER TOMKIES LLP ALERT

FOR CLIENTS AND FRIENDS OF DREHER TOMKIES LLP

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THE GROWING THREAT OF CYBER SECURITY BREACHES

In a recent complaint, the FTC alleged that Residual Pumpkin Entity, LLC, (formerly doing business as CafePress) and PlanetArt, LLC, failed to take proper security measures to protect consumer's data. *FTC Complaint,* File No. 1923209, https://www.ftc.gov/system/files/ftc_gov/pdf/CafePress-Complaint_0.pdf. The FTC alleged that Residual Pumpkin and PlanetArt stored social security numbers and security answers in clear readable text and created unnecessary risks to personal information by storing it indefinitely on its network without a business need. In February of 2019, hackers exploited security weaknesses and obtained passwords, security questions and social security numbers, among other items of personal information. The FTC further alleged in the complaint that appropriate steps were not taken to secure access to consumer accounts following security breach incidents.

As part of the FTC's proposed consent order, Residual Pumpkin and PlanetArt would be required to comply with security, recordkeeping and reporting requirements. *Proposed Consent Order,* File No. 1923209, https://www.ftc.gov/system/files/ftc_-gov/pdf/Residual%20Pumpkin%20Agreement%20Containing%20Consent%20Order.pdf; https://www.ftc.gov/system/files/ftc_gov/pdf/PlanetArt%20Agreement%20to%20Containing%20Consent%20Order_0.pdf. The FTC also proposes that Residual Pumpkin pay $500,000 in monetary relief. The FTC will publish a description of the consent order in the Federal Register with a 30 day public comment period. Once the comment period ends, the FTC will decide whether to make the proposed consent order final.

In light of the security issues related to Residual Pumpkin and PlanetArt, it is important to review policies and procedures for responding to security breaches, how consumer data is stored and if consumer data is timely and properly deleted. Unfortunately, no matter how many protections or procedures are instituted to prevent cyber-attacks, it is still possible for a cyber-attack to occur. Thus, it is important to consider current practices as compared to the standards the FTC intends to hold Residual Pumpkin and PlanetArt to in its proposed consent order to avoid regulatory scrutiny.

Unfortunately, these types of attacks are also impacting financial institutions. On March 8, 2022, Lake Shore Bancorp, Inc., stated in a securities filing that their banking subsidiary, Lake Shore Savings Bank, experienced a data breach leaking certain customer data. https://d18rn0p25nwr6d.cloudfront.net/CIK-0001341318/ec84746a-7b10-4284-be9d-8058fe243b75.html. This incident shows that cyber-attacks are an increasing risk for financial institutions.

The federal government is taking action on cyber security issues, President Biden signed the Cyber Incident Reporting for Critical Infrastructure Act of 2022, as part the omnibus spending package. https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR2471SA-RCP-117-35.pdf. The law requires "critical infrastructure" providers, including banks, to report cyber incidents within 72 hours to the Central Intelligence Agency.

Also relevant is the FBI's recently released bulletin regarding LockBit 2.0 ransomware, which contains helpful tips to mitigate cyber- security risks. https://www.ic3.gov/Media/News-/2022/220204.pdf. According to the FBI, certain mitigation methods including requiring strong passwords, requiring multi-factor authentication, removing unnecessary access to administrative shares, enabling protected files in the Windows Operating System, segmenting networks, maintaining offline backups of data, ensuring all backup data is encrypted, using a host-based firewall and maintaining updated software, are helpful in preventing cyber-attacks.

It is important to consider the current state of your company's cyber security in light of the growing risk of cyber-attacks. Please let us know if you have questions regarding security practices or responses to breaches.❑

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