PX 258

KEMNITZER, BARRON & KRIEG, LLP
ATTORNEYS AT LAW
www.kbklegal.com

ADAM J. MCNEILE
42 MILLER AVENUE
MILL VALLEY, CA 94941
MAIN: (415) 632-1900
FAX: (415) 632-1901
EMAIL: adam@kbklegal.com

OFFICE LOCATIONS:
SAN FRANCISCO
SACRAMENTO
MILL VALLEY
LOS ANGELES

January 26, 2021

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Bank of America, N.A.
Bank of America Corporate Center
100 North Tryon Street
Charlotte, NC 28255

Re: Oosthuizen, Roland – Card Ending [redacted]
Mathews, Rosemary – Card Ending [redacted]
Notice Pursuant to Cal. Civ. Code § 1798.150(b)

To Whom It May Concern:

We represent Roland Oosthuizen ("Oosthuizen") and Rosemary Mathews ("Mathews" and collectively "Plaintiffs"), on their own behalf and on behalf of all others similarly situated, in an action concerning California unemployment insurance ("UI") and other public benefits that are or were paid through bank debit cards issued by Bank of America, N.A. ("Bank of America," or the "Bank").

This letter is being sent in accordance with Cal. Civ. Code § 1798.150(b).

Summary of Allegations

Mathews resides in Lawndale, California. She lost her employment with the Staples Center catering department and with a yoga studio in March 2020 due to the COVID-19 pandemic. She applied for, was eligible for, and received EDD unemployment benefits after losing her jobs, and soon thereafter received a Bank of America EDD Visa debit card with a magnetic stripe but no EMV chip to access her benefits. In or about October 2020, Mathews was the victim of an unauthorized transaction on her card in the amount of $1,000, despite her having maintained exclusive physical possession of that card.

On information and belief, Mathews alleges that her account was fraudulently accessed by a third party as a result of Bank of America's inadequate fraud prevention policies. Despite the Bank's "Zero Liability" policy and Mathews' repeated requests for assistance and documentation of the fraudulent withdrawal of funds from her account, Bank of America has been either unwilling or unable to restore the missing funds to her account.

Oosthuizen resides in Lawndale, California. He was furloughed from his job working for ABM at Los Angeles International Airport in or around April 2020 due to the COVID-19 pandemic. He applied for, was eligible for, and received EDD unemployment benefits after being furloughed and soon thereafter received a Bank of America EDD Visa debit card with a magnetic stripe but no EMV chip to access his benefits. In or about September 2020, Oosthuizen was the victim of five separate unauthorized transactions on his card on five successive days in the amount of $1,000 each, despite his having maintained exclusive physical possession of that card.

On information and belief, Oosthuizen alleges that his account was fraudulently accessed by a third party as a result of Bank of America's inadequate fraud prevention policies. Despite the Bank's "Zero Liability" policy and Oosthuizen's repeated requests for assistance and documentation of the fraudulent withdrawal of funds from his account, Bank of America has been either unwilling or unable to restore the missing funds to his account.

On information and belief, Bank of America has failed to maintain, store, share, or transfer these plaintiffs' and all similarly situated EDD benefits recipients' account data and other financial data and account information in a reasonably secure manner and consistent with the Bank's obligations to EDD and to Plaintiffs and others similarly situated. As a result of this failure, on information and belief, those benefits recipients' data and account information has been obtained, copied, and stolen by unauthorized third parties in a series of security breaches that have allowed millions of dollars to be stolen from the EDD and benefits recipients through a series of unauthorized transactions.

Plaintiffs and other similarly situated persons' personal information has been subjected to unauthorized access and exfiltration, theft, or disclosure as a result of the Bank's business' breach of its duty to take reasonable steps to protect that information.

Notice of Violations of The California Consumer Privacy Act

The Bank's failures constitute violations of Cal. Civ. Code § 1798.150 as to Plaintiffs and all similarly situated persons. On information and belief, the Bank continues to violate Cal. Civ. Code § 1798.150 as to Plaintiffs and all similarly situated persons.

Please contact me *in writing* after the Bank has cured these violations with an express written statement setting forth that the above violations have been cured and that no further violations shall occur.

Sincerely,

Adam McNeile

7020 1290 0002 3293 8622

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at *www.usps.com®*.

Charlotte, NC 28255

OFFICIAL USE

Certified Mail Fee $3.60
$ $0.00

Extra Services & Fees *(check box, add fee as appropriate)*

- ☐ Return Receipt (hardcopy) $ $0.00
- ☑ Return Receipt (electronic) $ $1.75 1.75
- ☐ Certified Mail Restricted Delivery $ $0.00
- ☐ Adult Signature Required $ $0.00
- ☐ Adult Signature Restricted Delivery $

Postage $0.55
$

Total Postage and Fees ~~$4.15~~ 5.90
$

0414
02

Postmark Here

2021

01/26/2021

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions