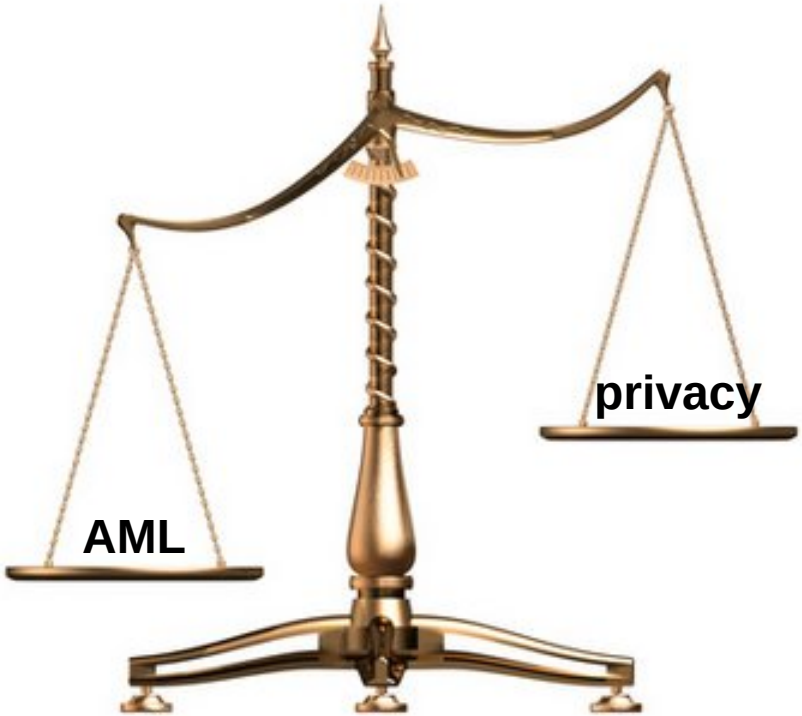
NASS Business ID Theft Forum
October 16-18, 2011
Atlanta Georgia

Business Entity Laws and Business Identity Theft

William H. Clark, Jr.

DrinkerBiddle

preliminary issue:
how should we balance privacy and law enforcement?



S. 1483
"Incorporation Transparency and Law Enforcement Assistance Act"

- every state or licensed formation agent must hold information on the beneficial owners of every corporation or LLC that:

  "identifies each beneficial owner by name, current residential or business street address, and a unique identifying number from a nonexpired passport issued by the United States or a nonexpired drivers license or identification card issued by a State"

entity law issues

- annual reports

- administrative dissolution

annual reports

- an annual report under § 2-211 of the Uniform Business Organizations Code must set forth:

  (1) the name of the entity and its jurisdiction of formation;

  (2) the name and street and mailing addresses of the entity's registered agent in this state;

  (3) the street and mailing addresses of the entity's principal office; and

  (4) the name of at least one governor.

annual reports (cont.)

- an annual report under § 16.21 of the Model Business Corporation Act must set forth:

  (1) the name of the corporation and the state or country under whose law it is incorporated;

  (2) the address of its registered office and the name of its registered agent at that office in this state;

  (3) the address of its principal office;

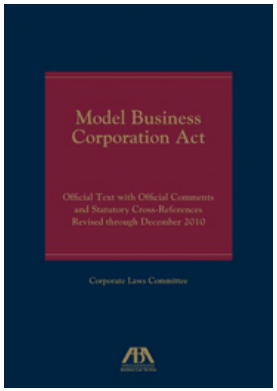
  (4) names and business addresses of its directors and principal officers;

  (5) a brief description of the nature of its business;

administrative dissolution

- § 14.22 of the Model Business Corporation Act provides that:

  A corporation administratively dissolved under section 14.21 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution.



administrative dissolution (cont.)

- § 1-603 of the Uniform Business Organizations Code provides that:

  A domestic filing entity that is dissolved administratively under Section 1-602 may apply to the [Secretary of State] for reinstatement [not later than [two] years after the effective date of dissolution].

- note that § 1-603 contemplates four possible rules:
  - no time limit on reinstatement
  - two years
  - a shorter period than two years
  - a longer period than two years

William H. Clark, Jr.
Drinker Biddle & Reath LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996
(215) 988-2804
(215) 988-2757 fax
william.clark@dbr.com

www.drinkerbiddle.com

CALIFORNIA | DELAWARE | ILLINOIS | NEW JERSEY
NEW YORK | PENNSYLVANIA | WASHINGTON DC | WISCONSIN

© 2011 Drinker Biddle & Reath LLP | All rights reserved.
A Delaware limited liability partnership