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When Banks Are on the Hook for Cybertheft

By Joe Palazzolo | November 29, 2012

Banks typically are responsible for losses when personal accounts are hacked. But commercial clients that fall victim to cyber theft have to show that banks didn't do enough to protect their money.

While not axiomatic, it's generally true that big companies have better security than small businesses, and hackers know this. So small businesses get hacked and absorb the losses. Unless they sue their banks.

As we reported here in July, two federal courts have ruled in favor of small businesses in as many years, creating a stir in the banking world. One of those cases was quietly resolved earlier this month.

In the settlement, Ocean Bank in Maine agreed to reimburse a (now former) client $345,000 — the amount siphoned from the client's account by hackers in 2009.

The settlement followed a July ruling by the Boston-based First Circuit Court of Appeals that Ocean Bank lacked reasonable safeguards against the hackers. The court had encouraged the parties to settle.

Daniel Mitchell, a lawyer for the client, Patco Construction Company Inc., said banks could draw a lesson from the litigation to work with their clients before entering into costly litigation. A lawyer for Ocean Bank, which now goes by People's United Bank, declined to comment.

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