STATEMENT OF KEITH LIPERT
OF THE KEITH LIPERT GALLERY

FOR THE

COMMITTEE ON SMALL BUSINESS
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON
"THE EMV DEADLINE AND WHAT IT MEANS FOR SMALL BUSINESSES PART II"

WEDNESDAY, OCTOBER 21, 2015

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Chairman Chabot, Ranking Member Velazquez, and distinguished members of the Small Business Committee, thank you for inviting me to testify at this important hearing, "The EMV Deadline and What it Means for Small Businesses Part II." My name is Keith Lipert and I am an independent shopkeeper. I own The Keith Lipert Gallery, and my storefront can be found right here in Washington, DC and online at keithlipert.com. I am a sole proprietor with one full-time employee and two part-time employees. I love being a retailer and I love serving my customers.

In addition to running my store, I serve on the Board of Directors at the National Retail Federation ("NRF"). NRF is the world's largest retail trade association, representing discount and department stores; home goods and specialty stores; Main Street merchants; grocers; wholesalers; chain restaurants; and Internet retailers from the United States and more than 45 countries. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs and 42 million working Americans. Retail contributes $2.6 trillion to annual GDP and is a daily barometer for the nation's economy. Retailers create opportunities for life-long careers, strengthen communities, and play a critical role in driving innovation. Many of NRF's small business members, like millions of other small merchants, are being adversely affected by the card brands concerted effort to force us to further adapt our operations to their flawed card system. I want to give you a sense of our challenges and ask for your help.

When I opened my doors in Georgetown in 1994, I intended to be a successful merchant by selecting beautiful items to sell and by taking care of my customers. In those days, unique merchandise and quality customer service were enough to keep customers returning to my store and manual sale slips were enough to conduct credit card transactions. Today, that simple business model is being disrupted with overwhelming challenges such as online competition, evolving point-of-sale systems ("POS"), and the constant struggle to keep up with ever-changing compliance standards and ever-increasing credit card interchange rates, or swipe fees. All retailers, no matter the size, are being held to technological standards that even some of the most sophisticated businesses in the world have yet to master.

EMV (the name is from the initials of the owners – Europay MasterCard Visa) is a proprietary standard that was created by the largest card companies to be imposed on retailers. U.S. banks are just now issuing updated cards with chip technology, protected by the signature authentication ("chip and signature"). Consumers around the world have been using chip cards for decades. However, in the rest of the world chip cards are accompanied by Personal Identification Numbers ("PINs"). PINs are proven to be a much more secure authentication method in transactions and, unlike Chips, effectively reduce nearly all types of fraud. In fact, according to the Federal Reserve, PIN cards are up to seven times more secure than Signature cards[1]. Chips help protect the physical card and PINs reliably authenticate the consumer. This combination is precisely the sort of protection that the American consumer wants now[2].

October 1, 2015 marked the deadline when card networks effectively shifted liability for fraud onto any retailer without the ability to accept a chip card presented to her for transaction. This so-called "deadline" of October 1st was an arbitrary date that the duopolistic bank card brands dictated without seriously considering its effect on millions of small businesses. No one from my bank processor or existing supplier even contacted me about the need to add a new EMV device, let alone a deadline by which to do so. The most shocking part of this news was that the already sky high swipe fees will stay high and are rationalized as the cost of fraud prevention, even though the liability for fraud is now being shifted to me.

The EMV transition is overwhelming and expensive for an independent, small retailer. I do not have an IT department; I personally handle IT – as well as payroll, benefits, taxes, buying, selling, and everything else a small business owner must do to stay in business. I rely on service

[1] Board of Governors of the Federal Reserve System, "2011 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions," March 5, 2013, p. 25, http://www.federalreserve.gov/paymentsystems/files/debitfees_costs_2011.pdf

[2] Chip & PIN Security Now! Research TargetPoint Consulting, November 2014, http://www.chipandpinsecuritynow.org/about/#sthash.c9uJZLis.dpuf

providers and vendors when it comes to IT needs through consultation over the telephone. Unfortunately, a phone conversation doesn't cut it when it comes to adopting complicated payment technology systems. Not only is the implementation process extremely complex, but also the cost is extremely high for merchants of all types (whether retailers or restaurants or taxicabs or doctors' offices). There are wide ranges of estimates for the cost attributed to upgrading terminals, but it is fair to say that for many businesses the costs for fully functional POS terminals that comply with EMV can easily exceed $1,000 to $2,000 once all of the training, system integration, and back office costs are included[3]. Retailers strongly support more secure payment options, and that is why we are collectively spending our share of billions of dollars to adopt the chip card technology even when it makes little sense in any serious customer protection or basic return-on-investment analysis.

But that is why we also find it extremely frustrating that the card industry expects retailers and other businesses to upgrade when it will not allow the US to adopt the most secure form of this technology – chips with PINs. Take lost-and-stolen fraud, for example, which is the kind of fraud that chips with signature alone will do nothing to prevent. The card industry maintains that lost-and-stolen fraud is declining, but a more nuanced evaluation of the data shows that lost and stolen fraud has remained largely constant while counterfeit card fraud and card-not-present ("CNP") fraud have risen.[4] The use of PINs will mitigate fraud in all of these situations. But in the two specific situations where retailers bear the largest share of the risk – and where chips do virtually nothing - lost and stolen and CNP – PINs are not just a mitigating factor to fraud, they are the single most certain way of blocking it.

In addition to the significant costs, there are significant delays in getting the POS hardware, installing the software, and, for many retailers, receiving the certification. There are

[3] Chris McWilton, President, MasterCard North America. "Credit Card Chip Gains Traction." Squawk on the Street. CNBC, New York. http://video.cnbc.com/gallery/?video=3000427478

[4] Board of Governors of the Federal Reserve System, "2011 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions," March 5, 2013, p. 25, http://www.federalreserve.gov/paymentsystems/files/debitfees_costs_2011.pdf

tens of millions of POS terminals in our country, but small business updates are simply not a priority for the hardware manufacturers, the software service providers, nor the certification entities. I asked my payment technology rep when I could expect a new device if I ordered it this month and was told the equipment is on backorder.

The delays for the equipment to arrive in my store takes into account the assumption that I even know which system to choose in the first place; there are countless options for retailers, all accompanied by their own fine print regarding fees and rules. EMV is all new to me, and banks and the networks are not contacting small businesses to help facilitate the transition in any way. What may seem like a "deal" for an EMV reader is in fact a solution that will come with increased costs over time. Customers use many different kinds of cards, all with different interchange rates, or swipe fees. Now, will there be more fees on my statement to accept EMV dips after I install new readers? How many more fees can there be?

When I started in retailing, cash and checks were very common. Both of these forms of money cost me virtually nothing. $100 in cash nets me $100 in revenue. These days, however, the card networks and banks spend billions of dollars promoting the use of a more expensive form of money: cards. Now a $100 sale might net me $97 in revenue, because the card industry is charging *me* for *their* rewards programs. In fact, for most retailers, swipe fees are the second or third highest cost for merchants behind labor and rent.

All of this would not have happened if two companies, acting on behalf of thousands of banks, hadn't been allowed to subject consumers and businesses to an expensive, fraud-prone payment system. From a small retailer's perspective, the whole approach to EMV is costly, incomplete, and further enhances the monopoly power of the card industry at my expense. If banks and card networks are going to make me spend a lot of money to reduce their fraud, they should at least offer a more secure solution and a savings to me and my customers.

Small retailers are entirely at the mercy and whims of the big players. We have no say and no way to use the marketplace to make our objections heard and our concerns valued. Until the government can help effectuate a level playing field, we will continue to see the slow destruction of the local merchants that provide the glue for our communities. We need a secure payment technology solution that trends to processing on par with cash. Instead we get costly alternatives.

Thank you for your interest in this issue, and I look forward to your questions.