

CONSUMER PROTECTION 1984



Annual Report of the Consumer Protection Division
OFFICE OF ATTORNEY GENERAL
ROBERT T. STEPHAN
State of Kansas

Submitted pursuant to K.S.A. 50-628.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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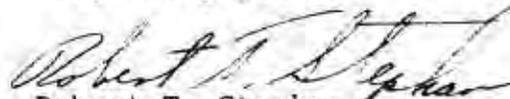
To: The Honorable John Carlin
and Members of the Kansas Legislature

With pride I again submit to you the annual report of my
Consumer Protection Division.

I appreciate the support consumer protection in Kansas has
received in the past from the Governor and the Legislature, and
ask for your continued assistance in protecting the rights of
Kansas consumers.

If my staff or I can be of service to you or your
constituents, or if we can answer any questions you may have
regarding consumer protection in Kansas, please feel free to
contact me.

Very truly yours,


Robert T. Stephan
Attorney General

RTS:dp

INTRODUCTION

Attorney General Stephan's Consumer Protection Division has completed another successful year. The statistical records and case summaries establish once again that Kansans have been well served.

There still remains an ongoing need to educate consumers with regard to their rights. They need to know what their rights are at the time of the transaction and what their rights are in the event something goes wrong. The Attorney General and the persons assigned to the Consumer Protection Division continue to make numerous appearances and speeches to groups across the state. Films are available upon request, and a weekly advice column is made available to be published in Kansas newspapers and magazines. Despite all this activity directly aimed at educating the consumers, there remains a significant number of Kansans who are not aware that help is available. Generally, they are those who are disadvantaged and less able to be aware of and protect their own rights. The Attorney General urges each of you to assist in the task of consumer education and information.

Help is available.

DISPOSITION OF CLOSED COMPLAINTS

	Complaints Closed	Percent of Total
Inquiry or Information Only	337	7.76
Referred to Private Attorney	80	1.84
Referred to County/District Attorney	27	.62
Referred to Other Attorney General	151	3.48
Referred to Other Kansas Agency	33	.76
Referred to Small Claims Court	121	2.79
Referred to Federal Agency (FTC, Post Office, etc.)	101	2.33
Money Refunded/Contract Cancelled--amount	1,180	27.19
Merchandise Delivered	360	8.30
Repaired/Replaced	174	4.00
Mediation Only--No Savings	259	5.97
No Reply From Complainant	314	7.24
Unable to Locate Respondent	46	1.06
Practice Discontinued	26	.60
Respondent Out of Business	72	1.66
No Basis	113	2.60
No Jurisdiction	175	4.03
Insufficient Evidence	80	1.84
Withdrawn	48	1.11

	Complaints Closed	Percent of Total
Unable to Satisfy Complainant--Further Action Not Warranted	38	.88
Voluntary Compliance Agreement	1	.02
Other	118	2.72
Lawsuit Complaint Files	486	11.20
a. Insufficient evidence	(0)	(0)
b. Merchandise delivered	(0)	(0)
c. Money refunded/contract concluded--amount	(198)	(4.55)
d. No jurisdiction	(0)	(0)
e. Practice discontinued	(16)	(.37)
f. Repaired/replaced	(0)	(0)
g. Respondent enjoined	(130)	(3.00)
h. Unable to locate respondent	(2)	(.05)
i. Other	<u>(140)</u>	<u>(3.23)</u>
TOTAL CASES CLOSED	4,340	100%

CATEGORIES OF NEW COMPLAINTS

CASES RECEIVED	3,899
CASES CLOSED	4,340
TOTAL ANNUAL SAVINGS	\$572,179.45

	Complaints Received	Percent of Total
Miscellaneous	249	6.39
Aluminum Siding	0	0
Advertising	66	1.69
Appliances	87	2.23
Automobiles	606	15.54
Boats, Boating Equipment, Repairs, etc.	3	.08
Book, Record and Tape Clubs	22	.56
Business Opportunity Services	35	.90
Cable Television	0	0
Clothing	28	.72
Cemeteries	50	1.28
Collection Practices	105	2.69
Contests	62	1.59
Credit Reporting Agencies	1	.03
Credit Code	97	2.49

	Complaints Received	Percent of Total
Discount Buying Clubs	22	.56
Door-to-Door Sales	14	.36
Encyclopedias	8	.21
Energy Savings Devices	41	1.05
Failure to Furnish Merchandise (other than mail order)	81	2.08
Farm Implements/Equipment	61	1.56
Fire, Heat & Smoke Alarms	6	.15
Floor Coverings	17	.44
Food Products	9	.23
Fund Raising (charities, etc.)	14	.36
Franchise Sales	0	0
Funeral Homes	2	.05
Furniture	51	1.31
Gasoline Pricing	5	.13
Gasoline Content	7	.18
Gasohol and Stills	0	0
Government Agencies	5	.13
Health Services (doctors, dentists, hospitals, etc.)	40	1.03
Health Spas and Weight Salons	46	1.18
Hearing Aids	11	.28

	Complaints Received	Percent of Total
Heating and Air Conditioning	30	.77
Home Improvements	150	3.85
Home Construction	15	.38
Hypnosis (smoking, weight loss, etc.)	0	0
Inquiries	17	.43
Insurance	0	0
Invoice and Billings Schemes (noncredit code)	16	.41
Interest Rates and Lending Companies (other than credit code)	8	.21
Jewelry	47	1.21
Kitchenware	3	.08
Land Sales (subdivided out of state)	6	.15
Land Sales (subdivided Kansas)	6	.15
Land Resale Companies	0	0
Landlord/Tenant	30	.77
Loan Finders	2	.05
Lotteries	0	0
Magazines	293	7.51
Mail Order Companies	621	15.93
Mobile Homes and Campers (sales/service)	40	1.03
Mobile Home Parks	3	.08

	Complaints Received	Percent of Total
Motoreycles and Bicycles	8	.21
Moving and Storage	34	.87
Multilevel and Pyramid Distributorship Companies	22	.56
Musical Instruments, Lessons, etc.	4	.10
Nurseries, Gardening Equipment, etc.	35	.90
Nursing Homes	1	.03
Office Equipment and Supplies	42	1.08
Pest Control	9	.23
Pets/Animals	8	.21
Photo Equipment and Services	18	.46
Photo Studios and Companies	65	1.67
Referral Selling	0	0
Real Estate (houses)	15	.38
Real Estate (other than houses)	5	.13
Securities and Investments (other than stocks and bonds)	54	1.38
Services (general)	19	.49
Services (professional)	4	.10
Sewing Machines	15	.38
Sporting Goods	7	.18

	Complaints Received	Percent of Total
Stereos and Record Players	8	.21
Stocks and Bonds	0	0
Sundries	0	0
Telephone Solicitations	124	3.18
Televisions and Radios	74	1.90
Toys	2	.05
Trade and Correspondence Schools	20	.51
Travel Agencies	29	.74
Travel and Transportation	41	1.05
Utilities	24	.61
Vending Machines	1	.03
Warranty Problems	34	.87
Water Softeners, Conditioners, Purifiers, etc.	8	.21
Work-at-Home Schemes	<u>31</u>	<u>.79</u>
TOTAL	3,899	100.0%

SUMMARY OF 1984 LAWSUITS

STATE, ex rel, v. EAGLE OIL & GAS

This suit involves an oil and gas leasing company, which was apparently the largest one in the business. Default judgment was taken for nearly three-quarters of a million dollars, with a garnishment made on annuities deposited in a California insurance company. Before payment was made, a federal court in south Florida enjoined the state from further proceedings, based on the fact that another, more recent lawsuit there involved the Federal Trade Commission and the defendant company. The state contested the exercise of the court's jurisdiction over the state suit, which is in no way connected with the Florida proceeding. The federal court ruled that it properly enjoined the State of Kansas from further proceedings, pending the conclusion of the FTC's action. At the end of 1984, the FTC suit was nearing time for trial, following the conclusion of other federal proceedings of a criminal nature (mail fraud, etc.) against some of the same defendants.

STATE, ex rel, v. J. F. STRAW, d/b/a HERITAGE EXCHANGE

The defendant, Heritage Exchange, is the brainchild of J. F. Straw of Georgia and was billed as a "group banking" organization. For an initial membership fee, a consumer could obtain low cost or free banking services, although such services were not actually offered as represented. For an additional fee, a consumer could sell the program to others, and then receive a portion of the money he or she brought in. It is this feature which violates the Kansas Consumer Protection Act, as a form of pyramid or multi-level sales operation.

Following institution of a legal action to enjoin the operation of the Exchange in this state, the defendant answered on his own behalf, with a motion to dismiss on jurisdictional grounds. This motion was denied, at which time defendant retained local counsel. After discovery, both sides moved for summary judgment. The court granted the motion of the State of Kansas, finding that the scheme was based on referral sales techniques by which a consumer was promised a benefit in the future if he could enroll others in the scheme, but only after he had paid all of his money up front. The defendant was, accordingly, enjoined from further activity in this state.

Defendant appealed the decision of the trial court to the Kansas Court of Appeals, with oral arguments heard on October 31, 1984. In a unanimous decision rendered shortly thereafter, the court of appeals affirmed the trial court's findings that defendant's activities violated the Kansas Consumer Protection Act and should, therefore, be enjoined.

STATE, ex rel. v. MATNEY, et al.

This action was filed November, 1980, and sought a variety of remedies, including actual damages and injunctive relief under the Kansas Consumer Protection Act. It was alleged that the defendants, who were both the owners of six separate cemetery corporations and the corporations themselves, had failed to deliver burial markers upon need by the consumer. Further portions of the petition alleged that the cemeteries were abandoned under state law, and that permanent maintenance trust funds had not been maintained as required by law.

Following extensive discovery, a settlement agreement was reached as to a portion of the lawsuit in February, 1982. The permanent maintenance funds were restored in the form of trust accounts in a bank (for a total of \$206,000), and the owners agreed to sell their interests by January 1, 1983. Such a sale was made to an established Kansas City firm which already owned and operated other cemeteries, and which agreed, as part of the sale, to provide those markers which had been purchased previously on a pre-need basis.

After further discovery into the marker situation, the Attorney General amended his action to hold the former owner, Norman Anderson, liable for the markers which were sold during the time of his ownership, since state law required the establishment of individual merchandise trust funds, which was not done. Although information on the wholesale amount of contracts outstanding is still being collected, it is anticipated the figure will be in excess of \$200,000. Motions by both the State and Mr. Anderson for summary judgment are pending before the trial court.

STATE, ex rel., v. AMERICAN FARM
AND RANCH SUPPLY COMPANY

The defendant is a Missouri company which operated a buying club for farmers and those persons interested in selling agricultural supplies and buildings. Following complaints by two Kansas consumers that the program had

been misrepresented to them, an investigation was made which culminated in this lawsuit. The company has agreed to cease doing business in Kansas; consumers have received restitution; case closed.

STATE, ex rel, v.
DANIEL A. BURWELL, D.C.

A petition was filed on January 18, 1980, alleging violations of the Kansas Consumer Protection Act for practicing without a chiropractor's license and other misrepresentations. The lawsuit sought restitution and injunctive relief. On March 24, 1981, plaintiff's motion for partial summary judgment was granted, and defendant was permanently enjoined from doing business in Kansas. Defendant was ordered to make available to plaintiff documents needed to determine the names of Kansas residents who had received services from defendant. The files have never been made available, and our office has not been successful in serving defendant with an order to appear and show cause why contempt should not issue for having failed and refused to obey the orders of the court. Subsequent information from Dr. Burwell's former partners indicates Dr. Burwell is no longer residing in Kansas.

In June, 1984, our office was informed that real estate in Wyandotte County belonging to Dr. Burwell was being sold, and the State's money judgment was shown as a lien on the real estate. The proceeds from sale of the real estate are now held in escrow, pending resolution of an interpleader action. The Internal Revenue Service claims it is entitled to all of the escrowed money and is denying the claim of the State of Kansas to a portion of the escrowed money. The interpleader action has been removed from state court to federal court.

STATE, ex rel, v. MONTGOMERY AUDIO VISUAL;
CARROLL MONTGOMERY, a/k/a MONTY MONTGOMERY

This lawsuit was filed March 30, 1983, in response to numerous complaints. Defendant runs a mail-order audio-visual company. In each case, complainants have ordered merchandise, paid cash, and never received the items ordered. Defendant originally refused to make any refunds, but during the course of discovery, defendant paid refunds to approximately half of the consumers who had filed complaints with our office. Recently, defendant has refused to make additional refunds, and our office received a new consumer complaint regarding defendant's activities in the Fall of 1984. Our office has recently filed a motion to amend the petition, to compel discovery, and to impose sanctions on the defendant.

STATE, ex rel, v. MARY E. JAMISON,
d/b/a LITTLE OLDE SHOPPE ANTIQUES

This lawsuit, filed in May, 1984, was tried in Greenwood County District Court in December, 1984. The defendant sold an art glass vase to a consumer, and the defendant represented the vase to be a signed original, in mint condition, and of museum quality. The consumer discovered after purchase that the vase was not a signed original, and that it had been previously broken and restored, thereby significantly reducing its value. After trial, the court took the case under advisement and will issue its ruling in January, 1985.

STATE, ex rel, v. ATLAS STEEL CORPORATION

This lawsuit, filed in October, 1984, alleges defendant is selling steel building dealerships and has made misrepresentations of material facts to a consumer who purchased the dealership. Discovery is proceeding.

The Attorney General's office is currently investigating several companies selling "dealerships" in Kansas. The dealerships are for items such as steel buildings, windmills and wind turbines, satellite dishes, and solar panels. Consumers who file complaints with our office frequently claim the true facts are being misrepresented; that potential profits are exaggerated; that products cannot be delivered when ordered, or that the products when delivered are of shoddy construction. The dealership marketing scheme most often used by such companies requires the consumer to deposit several thousand dollars for the right to become a dealer. Our office is working on a legislative proposal to improve regulations and require disclosures for such business opportunities prior to sale to Kansas consumers.

STATE, ex rel, v. DOLL MOTOR COMPANY

This lawsuit involves a used car sale complaint. The consumer has alleged that the car dealer sold him a car which had been previously wrecked and rebuilt, without disclosing prior to the sale that the wreck had occurred. The consumer claimed he would not have purchased the car if the dealer had disclosed this important fact to him prior to purchase. Trial is scheduled for February, 1985.

STATE, ex rel, v. DARRELL SHEA AND BARBARA SHEA,
d/b/a NATIONAL READER SERVICE

This lawsuit was filed after our office received dozens of complaints that the Sheas represented themselves as agents of National Reader Service, had solicited magazine subscriptions, and taken subscription money, but had not delivered magazines after a reasonable period. The defendants misrepresented to the consumers that a portion of the subscription money would be paid to local fraternal organizations. The defendants have not been located in Kansas for service of process.

STATE, ex rel, v. SEEP-STOP OF THE MIDWEST, INC.

The defendant advertised in the yellow pages that it could "stop basement leaks at the least possible cost" to homeowners. Three homeowners contracted with defendant to have basement leaks repaired. When the homeowners later complained because their basements continued to leak, defendant claimed additional work was required, and the homeowners would have to pay. The defendant would not honor its warranty. After suit was filed by our office, the defendant agreed to consent judgment, agreed to modify its advertising claim, and to refund money to consumers.

STATE, ex rel, v. RUSTY ECK FORD, LEAVENWORTH
And
STATE, ex rel, v. CREDIT MOTORS, INC.

These lawsuits involved car dealers who were improperly using disclaimers of the implied warranty of merchantability and fitness for a particular purpose. The defendants were illegally selling used cars in "as is" condition. The defendants have agreed in consent judgments to pay fines and to cease and desist improper use of the "as is" disclaimer.

These consent judgments are the first of several which our office is presently negotiating with car dealers across the state. It is hoped that by making public these consent judgments, other dealers will cease and desist use of improper disclaimers.

STATE, ex rel, v. CHRISTENSEN MONUMENTS

This lawsuit, filed in October, 1984, accuses the defendant of taking orders and down payments for cemetery monuments without the intent to deliver the monuments. The defendant has admitted it was using the down payment on current monument orders to pay for orders placed one year or older. The defendant has filed for bankruptcy. Our office is filing an objection to the dischargeability of that debt, because of the fraudulent conduct of the defendant.

STATE, ex rel, v. FIRST FINANCIAL GUARANTY CORPORATION and NASIB ED KALLIEL

This lawsuit alleges the defendants have violated the Kansas Corporate Farming Act and the Kansas Consumer Protection Act. Defendant First Financial Guaranty Corporation is a Texas corporation doing business in Kansas. The defendant Nasib Ed Kalliel is the president of First Financial Guaranty Corporation. The lawsuit alleges the corporation is the alter ego of the defendant Kalliel.

The defendants have entered into agreements with dozens of Kansas farmers regarding corporate operation of farms. The defendants have entered into other agreements with farmers whereby defendants agree to provide legal services for the farmer. Defendants have acted on behalf of several farmers in Chapter 11 bankruptcy proceedings by offering reorganization plans.

Defendants have misrepresented material facts to farmers by way of exaggeration, ambiguity, and omission of material facts. The lawsuit is pending with the first hearing scheduled for January, 1985.

STATE, ex rel, v. BERT M. COLEMAN
d/b/a/ WHEELS EXPRESS

The defendant entered into a consent judgment agreeing to refrain from selling used vehicles with odometers which had been tampered with or rolled back. The defendant agreed to make restitution to consumers who purchased vehicles with odometer rollback.

STATE, ex rel., v. MID-WAY USA, INC.,
TOM ALLEN ENTERPRISES, INC.,
THOMAS R. ALLEN

On May 15, 1984, a lawsuit was filed against Mid-Way USA, Inc., Tom Allen Enterprises, Inc., and Thomas R. Allen in Wyandotte County District Court. The petition alleged the defendants were professional fundraisers who conducted business without complying with the Charitable Solicitation Act. In October, 1984, judgment was stipulated and agreed to wherein the defendants were enjoined from soliciting or collecting and planning, conducting, managing, or carrying on any drive or campaign in Kansas for the purpose of soliciting contributions on behalf of a charitable organization, i.e., doing acts in furtherance of their roles as professional fundraisers. Additionally, defendants agreed to pay \$5,003 to three youth organizations.

STATE, ex rel., v. PHYLLIS MARSHALL, d/b/a/
EMPIRE/BURLINGTON MARKETING GROUP, INC.

A lawsuit was filed against Phyllis Marshall, doing business as Empire/Burlington Marketing Group. The petition alleged both failure to comply with a subpoena and violative deceptive practices.

Marshall markets a sportswear program and sells to consumers sportswear and garments such as sweaters, shirts, and windbreakers. The defendant requested and accepted payment for the sportswear, but failed and refused to provide either the merchandise or a refund.

On November 7, 1984, default judgment was granted for the State. Injunctive relief, actual damages for consumers in the amount of \$439.78, civil penalties of \$2,000, and expenses of \$500 were awarded also.

STATE, ex rel., v. BILL HURST CHEVROLET-BUICK, INC.

A consent judgment was entered into with Bill Hurst Chevrolet-Buick. The defendant agreed to refrain from advertising, offering for sale, or selling any used automobiles to consumers when the odometer on such automobiles has been tampered with and does not accurately reflect the actual mileage of the used automobile. A payment of \$250 was made as reasonable investigation fees.

STATE, ex rel, v. U. S. HOUSEWARES, INC.,
a/k/a UNITED STATES HOUSEWARES, J. J. BORGENSON

In October, 1984, a lawsuit was filed against U. S. Housewares, also known as United States Housewares, alleging unconscionable and deceptive practices in connection with the sale of an electric skillet and some knives to a young, single, naive, trusting consumer for \$924. Our lawsuit seeks injunctive relief, actual damages, civil penalties, and costs.

STATE, ex rel, v. OIL & GAS CORPORATION OF COLORADO

This company was among approximately two dozen out-of-state companies that solicited Kansas consumers during 1983 and 1984 to participate in the oil and gas lease lottery conducted by the Bureau of Land Management of the United States Department of Interior. Federal lands are leased for a period of several years to the person or company whose name is drawn at random from a group of applicants who have each paid \$75. The company solicited Kansas consumers to buy its management skills and expert advice as to which parcels to apply for, with the guarantee the consumer would win a lease under the program.

A lawsuit was filed April 9, 1984, in which it was alleged that consumers were not informed as to the following facts: the parcels being offered were not known to have any mineral reserves; as more individuals participated in the program, the odds of winning were decreased for each consumer; the Bureau's lottery is open to all individuals regardless of whether they participate in the program offered by defendant; and information as to the desirability of a particular parcel is public.

Prior to discovery, the company agreed to cease soliciting consumers in this state and refunded \$2,600 paid to defendant by a Kansas consumer.

STATE, ex rel, v. ANTIQUE & CLASSIC
AUTOMOTIVE MARKETING CO., INC.

Defendant, a Pennsylvania company that sells auto restoration kits, initiated an aggressive phone-call sales program to induce a Kansas consumer to purchase one of the kits. After being induced to send a deposit for \$673.25 to defendant, the Kansas consumer was informed the deposit would be good for only 90 days, and after that, the company would have the right to retain 15 percent of

the total order amount in cancellation fees. Fifteen percent of the total order amounted to more than the consumer's deposit.

Suit was filed on May 8, 1984, after the company refused to return a reasonable amount of the consumer's deposit. Shortly after filing suit, the defendant agreed to refund \$500 of the consumer's deposit, and the suit was dismissed against the company.

STATE, ex rel., v. REBEL INDUSTRIES, INC., d/b/a JTI

A Minnesota farm equipment dealer which solicits Kansas consumers to purchase farm equipment through magazine advertisements was the subject of numerous complaints concerning failures to deliver equipment, improper delivery of equipment, and misstatements regarding the equipment being sold.

A suit was filed in Shawnee County District Court on July 20, 1984, alleging misrepresentations and other deceptive and unconscionable conduct in violation of the Kansas Consumer Protection Act. A default judgment was obtained on September 17, 1984, and the judgment was forwarded to the Minnesota Attorney General requesting assistance in enforcing the judgment against the company. The Minnesota Attorney General is presently pursuing this matter.

STATE, ex rel., v. FEDERAL OIL & GAS CORP.

This is a suit involving an oil and gas leasing company which failed to disclose numerous material facts regarding the services they represented via mail and phone solicitations to Kansas consumers.

A lawsuit was filed on April 9, 1984, alleging consumers were not being informed as to material facts surrounding the offered services, i.e., the parcels being offered for leases were of little or no value.

The defendant commenced bankruptcy proceedings in the United States Bankruptcy Court for the Southern District of Florida shortly after the suit was filed. The Attorney General assisted those Kansas consumers who dealt with defendant in filing proof of claim forms with the bankruptcy court.

STATE, ex rel, v. AMERICAN COMMODITY
EXCHANGE, INC., et al.

Defendant is a California corporation which solicits Kansas consumers to purchase precious metals which are not to be delivered until two years after the date of purchase of the precious metals. Defendant made telephone and mail solicitations making various representations concerning the program.

A lawsuit was filed in Shawnee County on May 18, 1984, alleging defendants failed to state material facts in their solicitations, made misleading statements in their solicitations, and failed to state material facts to Kansas consumers.

On June 15, 1984, a hearing was held to determine if a temporary injunction should be issued to prevent defendants from continuing to sell precious metals within the State of Kansas. The temporary injunction was denied, but the court ordered defendants to respond to all reasonable discovery requests of the Attorney General, which is in progress at the present time.

STATE, ex rel, v. HEART OF AMERICA
PUBLISHING CO., INC., et al.

The defendant corporation solicited Kansas consumers to purchase advertisements in prospective directories which were to be published for various cities in northeastern Kansas. No directories were ever published, and no refunds were made to the Kansas consumers.

A lawsuit was filed in Johnson County on January 25, 1984, alleging defendants offered services without the intent to provide them; intentionally used exaggerations and ambiguities in their solicitations to Kansas consumers; intentionally failed to state material facts concerning the offered services; and made misleading statements to Kansas consumers surrounding consumer transactions. Default judgment was granted by the court on September 19, 1984, and attempts to locate the defendants for collection of the judgment were unsuccessful. Property owned by one of the defendants was located in Johnson County, and the Attorney General has entered an appearance in a suit to foreclose upon that property.

STATE, ex rel., v. LELAND CAPITAL CORPORATION, et al.

This is a suit involving an oil and gas leasing company which failed to disclose numerous material facts regarding the services and properties they represented via mail and phone solicitations to Kansas consumers.

A lawsuit was filed on August 30, 1984, alleging consumers were unable to receive any material benefits from the services and properties offered; the transactions were excessively one-sided in favor of defendants; and defendants made false representations to the Kansas consumers.

Leland Capital Corporation filed a petition in bankruptcy under Chapter 7 on September 6, 1984. The individually-named defendants have employed Kansas counsel, and the lawsuit is presently in the discovery stage.

STATE, ex rel., v. TOWER OIL & GAS CORP., et al.

This is another suit involving an oil and gas leasing company which failed to disclose numerous material facts regarding the services they represented via mail and phone solicitations to Kansas consumers.

A lawsuit was filed on February 23, 1984, alleging consumers were not being informed as to material facts surrounding the offered services, i.e., the parcels being offered for leases were of little or no value.

After attempts to serve the corporation, the petition was amended to include two individually-named defendants who were directors and principals of the defendant corporation. Service was obtained on the two individuals. Motion for default judgment was filed with the court on December 11, 1984, and is presently pending before the court.

STATE, ex rel., v. ANILAS, INC., and MINI-DONUT, CORP.

Mini-Donut Corp. is a Kansas corporation that manufactures mobile trailers used to make hot donuts. Anilas, Inc., is a Kansas corporation that finances the sale and leasing of equipment to Kansas consumers.

A lawsuit was filed on November 28, 1984, alleging defendants failed to make material facts known to Kansas consumers, and misrepresentations were

made to Kansas consumers. In addition, defendants attempted to limit the implied warranty of merchantability in violation of the Kansas Consumer Protection Act. The lawsuit is presently in the discovery stage.

STATE, ex rel, v. RICHARD LANKFORD

Defendant is a resident of Indiana who sells horses to consumers. A Kansas consumer purchased a horse from defendant and discovered after the purchase that the horse would not perform in a safe manner. It was eventually learned that a previous consumer had purchased the horse and experienced difficulty in controlling the horse.

A lawsuit was filed on October 5, 1984, alleging defendant failed to state material facts with regard to the horse sold to the Kansas consumer. In addition, the lawsuit alleged material misstatements were made to the consumer. The lawsuit is presently in the discovery stage.

STATE, ex rel, v. HUSKY PEN CORPORATION

A Nevada company notified Kansas consumers by telephone they had been chosen as finalists in a drawing in which the consumers were guaranteed to win one of three valuable prizes. The consumers were informed that if they purchased 100 calendars, they would not have to pay sales or gift tax on the prizes they would receive. The calendars were represented to be of superior quality and sold to the consumers for \$198 per hundred. Upon receiving the calendars, consumers discovered they were not of the same quality as had been represented via telephone.

A lawsuit was filed on December 5, 1984, alleging false statements on the part of the supplier. Defendant company did not respond to the lawsuit, and default judgment was entered against the company on April 24, 1984. The judgment was forwarded to the Nevada Attorney General, and assistance was requested in collecting on the judgment. The Nevada Attorney General discovered the defendant had ceased doing business and was unable to provide further assistance in enforcing the judgment.

STATE, ex rel, v. BUSINESS MARKETING ASSOCIATES

A California company solicited Kansas consumers via telephone to purchase pens. As an inducement to purchase the pens, consumers were told they would receive one of four valuable prizes, which included grandfather clocks, 35 mm. cameras, RCA televisions, Sony Betamax video records, Amana Touchmatic microwave ovens, and seven-day Princess Cruises in the Caribbean.

The pens were misrepresented to consumers, and the prizes were of inferior quality and worth less than the shipping and handling charges the consumers were required to pay prior to inspecting the prizes.

A lawsuit was filed in Shawnee County on October 10, 1983, alleging false statements and other deceptive conduct on the part of the defendant. A journal entry of default judgment was granted on July 9, 1984. Shortly thereafter, the company was determined to be insolvent, and attempts to collect on the judgment were unsuccessful.

STATE, ex rel, v. FINANCIAL RESEARCH AND
DEVELOPMENT, INC., UNIFIED BROKER
CONSULTANTS, INC., INDEPENDENCE BROKER
CONSULTANTS, INC., JACK CHOATE,
ROBERT JONES, AND CHARLES NAUDET

This lawsuit was filed in November, 1982. The petition alleged each defendant participated in a scheme by which consumers who wished to become loan brokers paid \$7,790. The materials received in return proved to be of dubious worth, while the references given later were found to be linked directly with the defendants' businesses.

Following institution of suit, an agreement was reached whereby defendants would cease doing business in this state, and would refund \$7,500 in a period of installments. To date, \$6,000 has been repaid and forwarded to the consumers. The above-mentioned judgment was filed in the Circuit Court of Jackson County, Missouri, and an order for final personal judgment against the defendants was approved by the court. Procedures are presently being initiated to execute upon the remaining unpaid judgment.

STATE, ex rel., v. BENSAR CORPORATION

The Bensar Corporation was an Ohio company which sold video games and pinball machines to persons owning businesses in this state. One transaction involved the sale of a new pinball machine for \$900 to a couple in southeastern Kansas. Upon receipt, the machine was found to be inoperable, and clearly not new. Suit was filed after the company failed to live up to its warranty obligations and/or refund the purchase price.

After default judgment was taken, the company filed for bankruptcy in Ohio. A claim has been filed for the \$2,000 in civil penalties awarded to the state, as well as the actual damages. While the outlook is unclear for the damages, the claim for civil penalties should be nondischargeable, even in bankruptcy.

STATE, ex rel., v. SHERI FARLEY,
d/b/a CATHERINE & COMPANY

This lawsuit stemmed from complaints received from a number of fraternities and sororities who had paid defendant over \$6,000 for merchandise which was never delivered, despite repeated promises to do so by the defendant, who also refused to return any of the money. This provided the basis for the state's suit, as it was alleged that the defendant did not have the intent to deliver the material and made material representations throughout the transactions.

The parties entered into a consent judgment which was filed as a journal entry in the District Court of Douglas County on April 26, 1984. The defendant has paid \$614, but was \$1,000 behind in payments under the consent judgment as of December 1, 1984. A motion is presently before the court requesting defendant be ordered to appear before the court to show cause why contempt proceedings should not be instituted against the defendant.

STATE, ex rel., v. WALT KEITH, d/b/a
NATIONAL SATELLITE SYSTEMS, INC.

The defendant dealt with several consumers who purchased satellite dish receivers for their own personal use, as well as entering into franchise agreements to sell dishes to others. Defendant's failure to fully perform any of

the agreements, even after a period of months and demands that he do so, led to the institution of this action.

A default judgment was granted by the district court on February 17, 1984, and there is presently a bench warrant outstanding for the arrest of defendant Walt Keith.

STATE, ex rel., v. LOWELL DALTON,
d/b/a DALTON BROTHERS ANTIQUES

This action was brought against a Wichita antique dealer who sold a lamp which was represented to be a Tiffany. The lamp, which was sold at auction, brought \$4,000, which was a fair price had the lamp been genuine, which it was not. Once the fact of the fake had been established by two separate experts, a demand was made for a refund. Suit was filed after such a refund was not made after a period of several months.

Prior to any hearing, but after initial discovery, settlement was made for the full amount of the lamp, which was returned to Mr. Dalton with the agreement that it not be sold again unless this office was notified. The \$4,000 was returned to the buyer, who was sadder, wiser, but thankfully not poorer.

STATE, ex rel., v. TRANS WORLD RESOURCES CORP.

This is another suit involving an oil and gas leasing company which failed to disclose numerous material facts regarding the services they represented via mail and phone solicitations to Kansas consumers.

A lawsuit was filed on February 23, 1984, alleging consumers were not being informed as to material facts surrounding the offered services, i.e., the parcels being offered for leases were of little or no value.

After repeated attempts to serve the defendant in Dade County, Florida, the cause of action was dismissed without prejudice due to inability to serve defendant with petition and summons.

STATE, ex rel., v. ATLANTIC OIL & GAS CORPORATION

This is another suit involving an oil and gas leasing company which failed to disclose numerous material facts regarding the services they represented via mail and phone solicitations to Kansas consumers.

A lawsuit was filed on February 23, 1984, alleging consumers were not being informed as to material facts surrounding the offered services, i.e., the parcels being offered for leases were of little or no value. The defendant responded to the petition, and discovery was commenced by the State of Kansas serving interrogatories upon the defendant.

On July 19, 1984, defendant offered to refund \$5,176 to two Kansas consumers. Upon this basis, the lawsuit was settled, and the proceedings were terminated.

STATE, ex rel, v. MEDIA ONE, INC.,
ROBERT F. BOWEN, PRESIDENT

Media One, Inc., was a small Kansas corporation that offered electronic game machines to Kansas consumers. Many of the machines were guaranteed to earn 100 percent of their retail cost during their first year of placement. If the machines did not earn 100 percent of their retail cost, the corporation guaranteed to repurchase the machines at 90 percent of their retail cost, minus the first year's earnings.

After approximately 40 machines were sold to consumers at an average cost of \$1,500, the corporation became insolvent and was unable to make refunds to consumers who eventually were unable to make the amount of money guaranteed by the corporation.

A lawsuit was brought against the corporation on December 28, 1983. After discovery, the lawsuit was amended to include its president, Robert F. Bowen.

A trial was held on December 4, 1984, in Wyandotte County District Court. The court granted judgment against the corporation, but held the president, Robert F. Bowen, would not be personally liable for the corporation's guarantees.

STATE, ex rel, v. HAWKS INTERSTATE OF
SOUTH CENTRAL KANSAS, INC.

This is a lawsuit filed in Cowley County District Court on August 8, 1984, seeking the various remedies available under the Kansas Consumer Protection Act, including damages as a result of extensive termite activity

following termite treatment in 1967 and retreatments on nine other occasions through 1981. The consumers' residence received in excess of \$10,000 damage as a result of live termite activity, although they entered into a contract and guarantee with the treating company, McCool Exterminators, in 1967, to rid the premises of termites. The contract was subsequently assumed by defendants who were paid yearly renewals by the consumers. The case is currently in the discovery stage.

STATE, ex rel., v. HUDSON OIL CO., INC., et al.

This suit was filed October 20, 1983. Thereafter, Hudson Oil Co., Inc., filed bankruptcy. Further proceedings against the company have been "stayed" by the bankruptcy court. Conferences with the bankruptcy court in regard to the claims against the other defendant have been held on May 29, 1984, November 19, 1984, and one is scheduled for March 4, 1985.