

**CONSUMER PROTECTION  
IN  
KANSAS**

**1995 ANNUAL REPORT**

of the

**Consumer Protection  
Division**

**Office of Attorney General  
Carla J. Stovall**

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



CARLA J. STOVALL  
ATTORNEY GENERAL

State of Kansas

## Office of the Attorney General

CONSUMER PROTECTION DIVISION

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April 1, 1996

The Honorable Bill Graves, Governor  
State Capitol - 2nd Floor  
Topeka, Kansas 66612

Members of the Kansas Legislature  
State Capitol  
Topeka, Kansas 66612

I commend the following report of the Consumer Protection Division of the Attorney General's Office to your reading. In 1995, the Consumer Protection Division received more than 60,000 telephone inquiries from consumers and received and investigated more than 4,200 formal written complaints and more than 2,100 written inquiries which resulted in consumer savings of \$1,167,103. In addition, enforcement actions in 1995 resulted in judgments and settlements of more than \$900,000 in penalties and fees against businesses found in violation of the Kansas Consumer Protection Act (KCPA). Although a substantial portion of these judgments will prove uncollectible because the defendants cannot be located or are insolvent and judgment proof, the injunctive relief obtained will prevent many of these businesses from preying on consumers in Kansas in the future.

We continue to travel throughout Kansas and give educational presentations on consumer protection to schools, civic groups and community organizations. In 1995, we made 99 educational presentations, including a series of seminars addressing fraud and financial exploitation of the elderly. We also publish and distribute brochures on a wide variety of consumer topics and send a weekly newspaper column entitled "Consumer Corner" to more than 200 newspapers throughout Kansas. As a result of these educational efforts, more consumers have been made aware of our services and are less likely to fall victim to unscrupulous business practices.

I am proud of the assistance that the Consumer Protection Division provides to Kansas consumers. We participate in consumer protection efforts on not only a state level, but also on a national level through active cooperation with the National Association of Attorneys General. Such cooperation is particularly beneficial in combating deceptive and unconscionable business practices by out-of-state businesses.

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It is a top priority of this office to protect Kansas consumers from deceptive or unconscionable business practices through strong enforcement of the Kansas Consumer Protection Act. Enforcement of consumer laws and consumer education efforts have been combined to protect Kansas consumers. I have proposed legislative initiatives to strengthen the Act to better protect our citizens and to more effectively penalize those who prey on consumers. I am particularly pleased with the passage of Senate Bill 297 which provides for enhanced penalties for businesses that target our elderly and disabled citizens and Senate Bill 628 which provides lemon law protection for assistive devices for the disabled. The former has been considered by the Legislature for the past several years and I am delighted that the need for such enhanced penalties was demonstrated this year.

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

Very truly yours,

A handwritten signature in black ink that reads "Carla J. Stovall". The signature is written in a cursive, flowing style.

CARLA J. STOVALL  
Attorney General

CJS:CSR:tk

## INTRODUCTION

In 1995, the Consumer Protection Division received more than 60,000 telephone inquiries from consumers and received and investigated more than 4,200 formal written complaints and more than 2,100 written inquiries which resulted in consumer savings of \$1,167,103. In addition, enforcement actions in 1995 resulted in judgments and settlements of more than \$900,000 in penalties and fees against businesses found in violation of the Kansas Consumer Protection Act (KCPA). Although a substantial portion of these judgments will prove uncollectible because the defendants cannot be located or are insolvent and judgment proof, the injunctive relief obtained in these enforcement actions will prevent many of these businesses from preying on consumers in Kansas in the future.

Through enforcement actions taken under the KCPA, the Attorney General stopped deceptive and unconscionable practices by telemarketers, car dealerships, prize and product promoters, and many others. A great number of consumers were assisted in obtaining refunds or product delivery from businesses.

The Office of Attorney General requested that some of those who violated the KCPA make donations to charities in Kansas. Charities focusing on children's issues have benefited from this effort.

Consumer awareness and education continue to play an important role in the Consumer Protection Division. During 1995, the Consumer Protection Division staff made 99 educational presentations to different groups located throughout Kansas, including a series of seminars addressing fraud and financial exploitation of the elderly and the annual ten-day State Fair booth sponsored by the Attorney General. In addition, we continue to publish and distribute brochures on a wide variety of topics to further our educational efforts. The Consumer Protection Division also sends a weekly newspaper column entitled "Consumer Corner" to more than 200 newspapers throughout Kansas. The column addresses actual problems experienced by consumers who have filed complaints with our office. These combined educational efforts are designed both to help consumers avoid becoming a victim of consumer fraud and to make consumers aware of our services if they do fall victim to unscrupulous business practices.

## CATEGORIES OF NEW COMPLAINTS

Complaints Filed:	4,216
Complaints Closed:	4,308
Written Inquiries:	2,140
Total Annual Savings:	\$1,167,103

	<u>Complaints Received</u>	<u>Percent of Total</u>
Advertising	118	2.80%
Appliances	18	0.43%
Automobiles	740	17.55%
Boats, Boating Equipment, Repairs, etc.	10	0.24%
Book, Record and Tape Clubs	40	0.95%
Business Opportunity Services	71	1.68%
Cable Television	36	0.85%
Cemeteries	20	0.47%
Clothing	6	0.14%
Collectibles/Antiques	4	0.09%
Collection Practices	101	2.40%
Computers	63	1.49%
Contests	105	2.49%
Credit Code	105	2.49%
Credit Reporting Agencies	34	0.81%
Discount Buying Clubs	20	0.47%
Door-to-Door Sales	51	1.21%
Education	17	0.40%
Employment Services	5	0.12%
Energy Saving Devices/Homes	1	0.02%
Energy Saving Devices/Vehicles	1	0.02%
Failure to Furnish Merchandise (non-mail order)	21	0.50%
Farm Implements/Equipment	24	0.57%
Fire, Heat and Smoke Alarms	19	0.45%
Floor Coverings	30	0.71%
Food Products	6	0.14%
Franchise Sales	1	0.02%
Fund Raising (charities, etc.)	22	0.52%
Funeral Homes & Plans	4	0.09%
Furniture	22	0.52%

	<b><u>Complaints Received</u></b>	<b><u>Percent of Total</u></b>
Gasoline Pricing	12	0.28%
Health Services (doctors, dentists, hospitals, etc.)	88	2.09%
Health Spas and Weight Salons	35	0.83%
Hearing Aids	11	0.26%
Heating and Air Conditioning	30	0.71%
Home Construction	40	0.95%
Home Improvements	222	5.27%
Interest Rates & Lending Companies (noncredit code)	1	0.02%
Invoice and Billing Schemes (noncredit code)	3	0.07%
Jewelry	9	0.21%
Kitchenware	2	0.05%
Land Sales (subdivided Kansas)	84	1.99%
Land Resale Companies	5	0.12%
Loan Finders	20	0.47%
Lotteries	1	0.02%
Magazines	119	2.82%
Mail Order Companies	651	15.44%
Miscellaneous	21	0.50%
Mobile Home Parks	2	0.05%
Mobile Homes & Campers	21	0.50%
Mortgages	30	0.71%
Mortgage Escrow Problems	3	0.07%
Motorcycles and Bicycles	8	0.19%
Moving and Storage	26	0.62%
Multilevel and Pyramid Distributorship Companies	55	1.30%
Musical Instruments, Lessons, etc.	2	0.05%
Negative Selection	3	0.07%
Nurseries, Gardening Equipment, etc.	4	0.09%
Nursing Homes	1	0.02%
Office Equipment and Supplies	13	0.31%
Pest Control	9	0.21%
Pets/Animals	14	0.33%
Photo Studios, Equipment and Services	11	0.26%
Product Safety	4	0.09%
Real Estate (houses)	17	0.40%
Real Estate (other than houses)	60	1.42%
Rebates	22	0.52%
Referral Selling	1	0.02%

	<b><u>Complaints Received</u></b>	<b><u>Percent of Total</u></b>
Recovery Companies	5	0.12%
Satellite Dishes	42	1.00%
Securities and Investments (not stocks and bonds)	7	0.17%
Services (general)	139	3.30%
Services (professional)	24	0.57%
Sewing Machines	4	0.09%
Sporting Goods	2	0.05%
Steel Buildings	10	0.24%
Stereos and Record Players	2	0.05%
Telephone Solicitations	191	4.53%
Televisions and Radios	18	0.43%
Timeshare Sales	14	0.33%
Toys	2	0.05%
Trade & Correspondence Schools	5	0.12%
Travel Agencies	257	6.10%
Travel & Transportation	26	0.62%
Vending Machines	5	0.12%
Warranty Problems	59	1.40%
Water Softeners, Conditioners, Purifiers, etc.	10	0.24%
<u>Work-at-Home Schemes</u>	<u>19</u>	<u>0.45%</u>
<b>TOTAL CASES OPENED</b>	<b>4,216</b>	<b>100.00%</b>

**DISPOSITION OF CLOSED COMPLAINTS**

	<b><u>Complaints Closed</u></b>	<b><u>Percent of Total</u></b>
Inquiry or Information Only	130	3.02%
Referred to Private Attorney	135	3.13%
Referred to County/District Attorney	17	0.39%
Referred to Other Attorney General	497	11.54%
Referred to Other Kansas Agency	32	0.74%
Referred to Small Claims Court	180	4.18%
Referred to Federal Agency (FTC, Post Office, etc.)	39	0.91%
Money Refunded/Contract Canceled	1,240	28.78%
Merchandise Delivered	123	2.86%
Repaired/Replaced	130	3.02%
Mediation Only -- No Savings	412	9.56%
No Reply From Complainant	296	6.87%
Unable to Locate Respondent	52	1.21%
Practice Discontinued	35	0.81%
Respondent Out of Business	118	2.74%
No Basis	71	1.65%
No Jurisdiction	62	1.44%
Insufficient Evidence	256	5.94%
Withdrawn	74	1.72%
Unable to Satisfy Complainant -- no further action	55	1.28%
Other	66	1.53%
Lawsuit Complaint Files:		
Respondent Enjoined	5	0.12%
Consent Judgment	256	5.94%
Voluntary Compliance Agreement	1	0.02%
Dismissed	1	0.02%
Cemetery Abandoned	23	0.53%
<u>Other</u>	<u>2</u>	<u>0.05%</u>
<b>TOTAL CASES CLOSED</b>	<b>4,308</b>	<b>100.00%</b>

**SUMMARY OF 1995 LAWSUITS  
AND ASSURANCES OF VOLUNTARY COMPLIANCE**

***STATE, ex rel. v. DUFF'S, INC.***

The Attorney General filed a lawsuit against this company in Wyandotte County District Court for alleged violations of the Kansas Food Sales Act, K.S.A. 50-901 et seq. and the Kansas Consumer Protection Act (KCPA) for deceptive advertising and sale of adulterated meat. This lawsuit is currently in the discovery stage of litigation.

***STATE, ex rel. v. NEW GLASS, INC.  
d/b/a THE GLASS MECHANICS***

A KCPA action was filed in Shawnee County District Court in August of 1995 based upon the deceptive advertising practices of the defendant relative to the solicitation sale of its windshield repair kits, materials, and services. This lawsuit is currently in the discovery stage of litigation.

***MCI TELECOMMUNICATIONS CORPORATION***

The defendant agreed to discontinue deceptive mail solicitations and pay \$5000 in investigative fees.

***STATE, ex rel. v. FUN & FITNESS  
d/b/a THE NEW MADEMOISELLE***

A lawsuit was filed in Johnson County District Court in August 1994 against the company and principal owner of this Kansas City area health club. It appears that for 20 years the principal, August Mansker, has opened clubs only to close them very shortly thereafter. He has done this in other states as well as in Kansas. In this case, the Attorney General alleged that the defendants have continued to sell long term memberships knowing that the club was not financially able to continue and that closure was inevitable. There was also a term included in the contracts allowing unilateral change to every material term, which the Attorney General alleged is unconscionable.

On March 16, 1995, the Attorney General obtained default judgment against the defendants. The judgment ordered the defendants to pay \$28,791 in refunds, \$324,000 in civil penalties and \$4,725 in investigative fees. Mr. Mansker is enjoined from ever owning or operating a health club in the State of Kansas. Collection efforts are pending.

***STATE, ex rel. v. EVERETT OLIAN LAWRENCE  
a/k/a BUTCH LAWRENCE and MARVIN TAYLOR  
d/b/a HOMESAVERS OF JOHNSON COUNTY***

In October 1994 the Attorney General filed a lawsuit against this Kansas City area "equiteer" and his accomplice who victimized consumers at both ends of the transaction. Initially they contacted homeowners in foreclosure, purchased their houses for next to nothing, and obtained possession. They then advertised the house for "rent" and procured a purchase option contract from new consumers who "purchased" the redemption rights from him for approximately \$13,000. These consumers thought they were renting with the option to buy the house. The defendants told them that all the rent they paid could be applied to the purchase price if they decided to buy the house. Unfortunately, the "purchasers" ultimately were evicted from the house when the foreclosure was completed.

The Attorney General applied for and received a Temporary Restraining Order in 1994 enjoining the defendants from receiving rent money on real estate. The defendants violated the restraining order in 1995 and was cited in contempt for 20 violations of the Temporary Restraining Order. Resolution of the contempt is pending and negotiations for a Consent Judgment are ongoing.

***STATE, ex rel. NICK A. TOMASIC, District Attorney  
v. BERLYN R. WILLIAMS***

The Attorney General is handling this case at the request of the Wyandotte County District Attorney. The Attorney General alleged that Berlyn Williams, a minister, involved his parishioners and others in a plan to sell silver coins, but that the plan was an illegal pyramid scheme and that Mr. Williams misled participants as to the amount of money they could make.

Summary Judgment was granted in Shawnee County District Court on July 11, 1995, on the issues of liability and damages. Defendants were ordered by the Court to pay damages in the amount of \$50,595.80 in restitution to 94 consumers, \$470,000 in civil penalties, and \$1,000 in investigative fees. Collection efforts are pending.

***STATE, ex rel. v. CONSUMER ACCEPTANCE NETWORK, INC.  
d/b/a ACCOUNT SERVICES, INC. and JEROME DAVID JONES***

The defendant is a credit services organization that used telemarketers to induce consumers to "join their club." They promised or implied that the company would obtain a major credit card such as MasterCard or Visa for the consumer. After obtaining the consumer's checking account number and bank name, the company sent an electronic debit through on the consumer's account for \$149.95. For this charge, the consumer received a "CONSUMER ACCEPTANCE COMPANY GOLD CARD" which allowed the consumer an opportunity to purchase at least \$750 worth of merchandise from their catalog at inflated prices "on credit." The Consumer Protection Division

filed a lawsuit in Shawnee County District Court on July 7, 1994, alleging violations of the KCPA, credit services organizations statutes and telemarketing fraud statutes.

Defendant has filed motions for partial summary judgment premised upon the allegation that the telemarketers were not his telemarketers but were instead telemarketers for A.S.I., the electronic debiting company. Trial is set for May of 1996 in Shawnee County District Court.

***STATE ex rel. v. TRULY SPECIAL, INC.;  
AUNT MYRA'S, INC.; BRIARWOOD FARMS, LTD.;  
MICHAEL C. COOPER; STEVE LITTLE; MELVIN MCCALL;  
GARY J. KERSHNER; RICHARD G. MAIKE; JOHN R. MAIKE;  
SANDRA R. MAIKE; JACALYN J. MAIKE; JOHN R. MAIKE, JR.***

A lawsuit was filed in Shawnee County District in 1994 against this company for violations of the pyramid provisions of the KCPA. A consent judgment was reached with the corporate defendants in late 1995. Negotiations with individual defendants are pending.

***STATE ex rel. v. KEN WEBB d/b/a CARGO TRAILERS***

An action was filed against the defendant based upon his failure to provide goods and services ordered and paid for by a consumer. A petition was filed in Neosho County District Court in October 1995. A Journal Entry of Default Judgment was filed on December 6, 1995 which ordered the defendant to pay restitution in the amount of \$2,000, \$5,000 in civil penalties and \$500 in investigative fees. Collection efforts are pending.

***STATE ex rel. v. MIKE LANE***

Defendant failed to comply with the terms of a contract entered into with the Attorney General to resolve a complaint filed with the Consumer Protection Division. The state was granted judgment in the amount of \$550 on October 5, 1995 and a Journal Entry was filed in Shawnee County District Court on October 6, 1995 wherein the defendant confessed judgment. Collection efforts are pending.

***STATE ex rel. v. JIM WEST d/b/a OAK-N-THINGS***

On July 13, 1995, a lawsuit was filed against the defendant in Shawnee County District Court for alleged violations of the Kansas Consumer Protection Act relative to the door-to-door sale of furniture. The Attorney General alleged the defendant failed to give proper notice of cancellation and misrepresented the quality of the furniture. A Journal Entry of Default Judgment was obtained,

wherein the defendant was ordered to pay \$6,000 in civil penalties. The consumer received \$500 in restitution.

***STATE ex rel. v. MONTGOMERY WARD, INC.***

A lawsuit was filed in Shawnee County District Court in 1994 against the defendant for alleged violations of the KCPA relative to its advertisement and sale of fine jewelry. The defendant entered into a Consent Judgment on July 11, 1995, in which the company agreed to refrain from further violations of the Act and agreed to pay \$35,000 in investigative fees and expenses, \$5,000 in civil penalties and \$10,000 in charitable donations.

***STATE ex rel. v. OL' MAC MOTORS AND JOHN S. MCNISH***

On May 3, 1994, a lawsuit was filed in Shawnee County District Court against the corporation and its owner in which the Attorney General alleged that the defendants sold a car with actual knowledge that it had been wrecked and without disclosing that fact to the consumer. Defendants entered into a Consent Judgment on October 12, 1995, in which they agreed to pay \$1,000 in consumer restitution, \$250 in investigative fees and expenses, and \$250 in civil penalties.

***STATE ex rel. v. E-Z SERVE PETROLEUM MARKETING COMPANY  
d/b/a TAYLOR FOOD MART***

In a lawsuit filed in Pawnee County District Court on August 4, 1995, the Attorney General alleged that the defendant misrepresented the octane rating of the motor fuels it advertised and sold to consumers. The defendant entered into a Consent Judgment in which the company agreed to pay \$3,000 in investigative fees and expenses, \$1,000 in civil penalties, and \$1,000 in charitable donations.

***STATE ex rel. v. JOHN CHEZIK HOMERUN, INC.***

On November 16, 1993, the Attorney General filed suit against John Chezik Homerun, Inc., a Missouri automobile dealership. The dealership advertised in the *Kansas City Star* that for a two-day period all in-stock Hondas were 20 percent off. A very small disclosure at the bottom of the advertisement, without an asterisk, stated "20% off options." It was determined that the two Kansas consumers who purchased vehicles during the sale did not actually receive the 20 percent reduction on the price of the car but only on the option package.

A Consent Judgment was filed on May 3, 1995, wherein the defendant agreed to pay \$1,500 in investigative fees and expenses, \$500 in civil penalties and make a \$500 charitable donation.

***IN THE MATTER OF WHEAT LAND MOTEL & RESTAURANT, INC.  
d/b/a WHEAT LAND COUNTRY STORE***

An Assurance of Voluntary Compliance was entered into by this Kansas corporation on August 24, 1995, as a result of an investigation by the Attorney General into the mislabeling of the octane ratings of the motor fuels sold by the defendant. The company agreed to pay \$1,500 in investigative fees and expenses and \$1,000 in charitable donations.

***IN THE MATTER OF PRESTA OIL, INC.***

An Assurance of Voluntary Compliance was entered into by this Kansas corporation on August 24, 1995, as a result of an investigation by the Attorney General into the mislabeling of the octane ratings of the motor fuels sold by the defendant. The company agreed to pay \$1,500 in investigative fees and expenses and make \$1,000 in charitable donations.

***IN THE MATTER OF QUALITY COATINGS***

An Assurance of Voluntary Compliance was entered into by this Kansas company on June 26, 1995, wherein the company agreed to refrain from further deceptive acts related to the door-to-door sale of asphalt materials and services. The company also agreed to pay \$500 in investigative fees and expenses to the Office of Attorney General and to waive \$3,770 of its bill to the consumer.

***IN THE MATTER OF IMPERIAL MARKETING, INC.;  
MADISON & LANE, INC., a/k/a HONEYWELL & ROBERTS, INC.;  
TRANSWORLD TRADING CORPORATION***

This company mailed direct mail puzzles and contests into the State of Kansas. Without admitting to violations of the Kansas telemarketing laws alleged by the Attorney General, the company entered into an Assurance of Voluntary Compliance on February 17, 1995, wherein it agreed to pay \$5,000 in investigative fees and expenses.

***STATE ex rel. v. ROBERT R. COMBS  
and ROBERT G. COMBS d/b/a GRAFFITI AUTO SALES***

Defendant sold an automobile to a consumer without disclosing that the car was unsafe to drive. A June 30, 1995 Consent Judgment required the defendant to pay restitution in the amount of \$2,706.69, investigative fees in the amount of \$500, a civil penalty of \$250 and the defendant made a charitable contribution of \$250.

***STATE ex rel. v. JOHN HUSKE  
d/b/a STEVENS TV SERVICE***

The defendant ran an electronic repair shop. The defendant took items in for repair and many of them were never returned. The office obtained a Consent Judgment dated December 28, 1995 wherein the defendant agreed to pay \$500 in investigative fees, and restitution in the amount of \$630.23 and to return numerous items of property. The case is presently in collection.

***STATE ex rel. v. JAROLD W. JOHNSON  
d/b/a/ JERRY JOHNSON CONSTRUCTION  
AND NATIONAL WATERPROOFING***

The defendant represented that he could waterproof basements by pumping bentonite (oil well mud) around the foundation of homes. A Consent Judgment in the amount of \$89,000 for consumer restitution was obtained. The Court also entered an order enjoining the defendant from the pressure pumping waterproofing business. The defendant continued to advertise and do business and a contempt citation was filed. The Court entered a judgment on the contempt citation requiring the defendant to pay an additional \$5,700 in restitution and \$40,000 in penalties. The Court also ordered the defendant to sell all of his pressure pumping waterproofing equipment at auction.

***STATE ex rel. v. RUSSELL A. CAMPBELL  
d/b/a C & B DELIVERIES***

A lawsuit was filed in Shawnee County on November 8, 1995, against this Illinois transient merchant who solicited and sold cookware, ovenware and foodware to Kansas consumers. The defendant utilized deceptive advertising and violated the door-to-door requirements of the KCPA. A Motion for Sequestration of Assets was obtained to seize approximately \$3,700 cash in the defendant's possession. Settlement negotiations for a Consent Judgment are pending.

***CIVIL ENFORCEMENT OF AGENCY ACTIONS***

The Consumer Protection Division filed six civil enforcement of agency actions to compel compliance with subpoenas issued to suppliers.

**OFFICE OF THE ATTORNEY GENERAL  
STATE OF KANSAS**

**CARLA J. STOVALL  
ATTORNEY GENERAL**

**1995 CONSUMER PROTECTION STAFF**

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\* Served a portion of 1995 but are no longer with the Consumer Protection Division.

