

2005 ANNUAL REPORT

Consumer Protection & Antitrust Division



**Office of Attorney General
Phill Kline**



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION AND ANTITRUST DIVISION

PHILL KLINE
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October 30, 2006

TO: The Honorable Kathleen Sebelius, Governor
and Members of the Kansas Legislature

I am pleased to submit the following report detailing the recent activities of my Consumer Protection and Antitrust Division pursuant to the directive set forth in the Kansas Consumer Protection Act (KCPA) at K.S.A. 50-628(a)(6). This report also includes a detailed presentation of the "investigatory and enforcement procedures and polices" of the Division, as directed by K.S.A. 50-628(b).

Pursuant to these statutes, the following series of reports highlight both the 2005 Annual Report and the significant, positive changes in the procedures and policies of the Consumer Protection and Antitrust Division since January, 2003.

As I have noted in previous reports on this important Division of the Office of the Attorney General, managerial philosophy is an important foundation to good governance. The philosophy of the Consumer Protection and Antitrust Division is well presented in the reports included in this annual report.

The Consumer Protection Division has an important role to play in Kansas commerce. By receiving and reviewing consumer complaints, the Division is best able to identify those businesses and merchants involved in acts that could best be described as polluting the stream of Kansas commerce. Once so identified, the Division is then authorized to file enforcement actions intended to serve the public interest by curtailing the acts that threaten honest commerce.

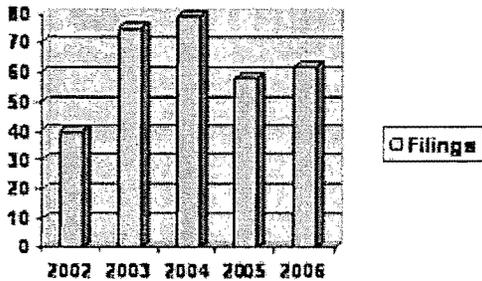
This process begins with consumer education, and I believe that no previous administration has placed a greater emphasis upon consumer education than the Kline Administration. We have mailed packets containing educational materials to no fewer than 15,000 Kansas households in response to complaints received. We delivered 115 speeches in 2005, which is an all time high for the Division. Most of those speeches presented information from our Vulnerable Adults Task Force on safeguarding seniors from con artists and other unsavory characters. We have rolled out many new programs dedicated to consumer education, from our Consumer Information Line

(785.296.2424) to our latest brochure on the Seven Deadly Scams, which is attached to this report. This latest brochure is a fine example of the Consumer Protection Division's fulfillment of its educational mission.

The Division is also charged with important investigatory duties. The scope of those investigations are statutorily defined by Chapter 50 of the Kansas Annotated Statutes. The practice of beginning such investigations without probable cause has ended on my watch. The new and improved polices and procedures governing investigations now demand that an assistant attorney general locate a viable allegation of unlawful conduct **before** an investigation is begun. This application of legal procedure to the charging decisions of the Consumer Protection and Antitrust Division has had a dramatic effect upon the Division and the work that it does. Those positive changes are presented in the reports that follow. The dramatic drop in the average days that a consumer complaint file remains open and subject to investigation, from a high of 187 days in 2002 to a much more reasonable 43 days in 2006, demonstrates a significant change in the fashion in which the Division conducts its business.

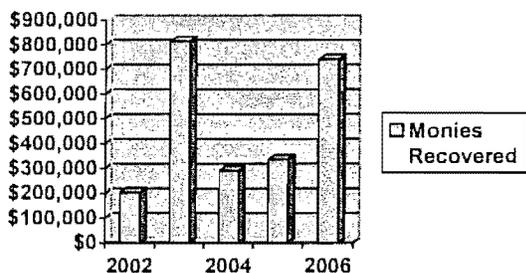
The Division is actively involved in many well-deserved enforcement actions. The attached report presents those cases in fine detail. The Division's new and improved method of reviewing complaints has translated into the filing of enforcement actions worthy of the Office of Attorney General, including an increase in the filing of criminal charges. The statistics that track filings and income actually produced by those filings are worthy of closer review.

The chart below tracks enforcement action filings since 2002, including 42 weeks of 2006:



This chart reveals the steady work performed by the Consumer Protection Division over the past four years. The first Kline Administration is projected to file more than 275 enforcement action by January, 2007. This will constitute a four year record, and a review of the content of those enforcement filings reveals that all were justified under the facts and law pled. Our target acquisition program has us taking action against violators of the KCPA, not merely against those who refuse to answer an investigatory letter.

Monies recovered through fines and penalties is one of the most common benchmarks of success among government agencies taking enforcement action. The following chart tracks that income as it was gained by the Consumer Protection and Antitrust Division in the past years. Please note that the Kline Administration has received less monies from the efforts of the National Association of Attorneys General than the previous administration due to the waning of the multistate actions. (Statistics on this financial trend are found in the reports that follow.) While the Consumer team is rightly proud of the chart tracking actual monies (in fines and penalties) received by the Division, it should be noted that such cannot be expected from year to year, for if the Division acts in the public interest and as directed, many of the businesses targeted will be closed down rather than placed in a position to pay monies to the state.



The 2006 statistic reports only 42 weeks of the present year. The No Call Task Force is responsible for bringing in \$347,000 of the monies reflected above. All of the No Call monies have been brought in since 2003. Those monies have greatly decreased in 2005 and 2006.

Finally, our Vulnerable Adults Task Force has processed over 3100 cases since it began tracking VATF cases in 2003. These cases receive a deferential review and are slated for aggressive enforcement action if our investigation reveals a targeting of vulnerable persons. By so doing my Consumer Protection team is fulfilling the mandate of K.S.A. 50-676.

I close with my compliments to the Consumer Protection and Antitrust Division for closing out a fine year in 2005 and for submitting the most informative annual report in the history of the Division. I also thank the executive and legislative branches of government for their role in underwriting the important work described in the reports that follow.

Sincerely,

Phill Kline
Attorney General

2005 ANNUAL REPORT

Consumer Protection & Antitrust Division



GROUPING AND ANALYSIS OF DATA

(Submitted pursuant to K.S.A. 50-628 and K.S.A. 50-109)

OFFICE OF THE ATTORNEY GENERAL
STATE OF KANSAS

Dear Reader,

Thank you for your interest in the consumer complaints received by the Consumer Protection and Antitrust Division attached to the Office of the Attorney General of Kansas.

The 2005 Annual Report is much more detailed than any filed in the past, and is set forth with such detail to further the needs of those drafting laws addressing consumer issues. It is also detailed to afford a better review of the work of the Consumer Protection and Antitrust Division.

The foregoing 'Tabulation of Raw Data and Grouping of the Same into Meta-categories' section of this report can be subdivided into the following sections:

- Divisional Staff, page 2
- Opening, closing and consumer restitution report, page 3
- Complaints received reported in categories, pages 3 - 6
- Complaint categories collapsed into meta-categories, pages 6 - 11
- Reasons that cases were closed in 2005, pages 11-13
- Detailed summary of KCPA enforcement actions worked in 2005, pages 14 - 31
- Detailed summary of antitrust enforcement actions worked in 2005, pages 32-38
- Detailed summary of No Call enforcement actions worked in 2005 followed by No Call statistics, pages 38-39

The enforcement filings are herein presented in a detail far exceeding any previous reports, and is so done incident to the Division's Reform of 2003 (*see report, infra*), in which much more emphasis has been put upon the quality and quantity of enforcement actions.

Addressing pages 6-11, the Consumer Protection and Antitrust Division recently sorted its myriad categories into twenty core areas in a bid to make this report and the statistics historically presented herein more accessible to the reader.

While the Division must (in order to maintain historic continuity) sort every consumer complaint into one of over 100 categories¹ upon receipt, these individual categories are herein collapsed into meta-categories in order to afford the reader the ability to focus upon

¹ Some categories are quite finite (*e.g.*, Auto- Odometer setback) and some quite broad (*e.g.*, General Services). Most categories are nouns, but some are verbs (*e.g.*, advertising, failure to furnish merchandise). The statistics can thus be skewed simply by categorization. The Reform of 2003 placed this categorization duty in a Committee, which grants the advantage of multiple reviews.

the forest instead of the trees.

The Kline Administration, in the interest of continuity, has not abolished this unwieldily categorization scheme.² We have rather endeavored to make this report more helpful to those who craft legislation by imposing a “meta-category” frame work on the plethora of individual categories. This framework is intended to highlight the commonality among individual categories, and by so doing render this report more accessible to those who wish to use it to direct their problem-solving activities. The meta-categories are as follows:

- LB** - Low bunko, taking in categories that most often track the loss of moneys due to activity that most would dub unconscionable or a scam.
- HB** - High Bunko, taking in more complicated artifices than those aggregated under LB, including pyramid schemes and referral selling.
- ADS** - Advertising, taking in those actions that are alleged to be improper solicitations.
- TELE** - Telecom, taking in all complaints alleging facts processed as facsimile, cell phone, no call or long distance categories.
- AS** - Automotive sales, taking in all complaints alleging problems incident to the purchase or leading of a licensed vehicle.
- AWR** - Automotive repair, taking in all complaints alleging licensed vehicle repair problems or warranty problems incident to vehicle repair.
- COL** - Collection, taking in all complaints about bill collection activity.
- COMP** - Computer, taking in all complaints alleging problems online.
- IDT** - Identify theft, taking in only complaints alleging the theft of documents, hacking into a computer or the impersonating of an individual.
- MO** - Mail Order, taking in complaints in which the process of buying remotely causes the problem.
- H** - Housing and real estate, taking in all complaints alleging problems with the leasing, buying or selling of real estate.
- HI** - Home Improvement, taking in all complaints alleging problems with remodeling of the home.
- E** - Energy, taking in allegations against the sale of gasoline and energy saving devices.
- CRED** - Credit, taking in all complaints against credit cards and credit extension.

² We have actually added categories for many of the common scams to better track such artifices. Those recently added categories will be reported in the 2006 annual report. They include 005 (lotteries), 006 (junk mail other than contests), 007 (Nigerian style scams), 008 (advance fee loan scams), 009 (account access ruses) and 010 (overpayment scams). All of these new categories are focused upon the work of con artists.

- PS** - Professional Services, taking in allegations against doctors, lawyers and other professions.
- GS** - General Services, taking in allegations against educational institutions, health spas and non licensed service providers.
- S-D** - Specialty-death, taking in all complaints regarding cemetery upkeep, pre-paid funerals and any other complaints about final arrangements.
- S-C** - Speciality Charity, taking in allegations under the Kansas Charitable Solicitation Act.
- S-UPL**- Speciality-Unauthorized Practice of Law.
- DC** - Diversified classification, taking in most non-automotive categories that are chattels.

These 20 meta-categories, once imposed upon the more than 100 individual categories, allow for better analysis of the complaints being acted upon by the Consumer Protection Division. See pages 6 - 11 of the Tabulation. This "grouped" analysis reveals that generalizations of past years may not be quite accurate as to the sources of consumer complaints.

For example, the previous grouping of "auto," included any and all complaints related to vehicles. So grouped, this category was rather stable and reported over the past years as follows:

2001	11.35%
2002	11.64%
2003	11.60%
2004	10.95%

So grouped and identified, this imprecise and management-imposed "super category" of all things vehicular always managed to rank within the top three areas of complaint, giving the inaccurate general impression that a bulk of the complaints received by the Division were related to car sales. The new paradigm in Consumer had begun to reveal this reporting as artificially elevated in 2004. (See 2004 Annual Report at page 2, paragraph 2.)

A rethinking of the best method for categorizing complaints incident to transportation has caused the Division to create the AWR "meta-category" to track issues incident to the performance of vehicles and the AS "meta-category" to track issues incident to the sales of vehicles. In other words, the AS category governs issues dealing with the representations inducing contract formation, while the AWR category tracks issues that arise after contract formation. These are rightly separated for purposes of analysis and

problem solving, for complaints sorted into these categories present quite different facts.³

As the forgoing report reveals, some of these meta-categories produced more investigated complaints in 2005 than others. This allows three different analysis points:

1. A top ten analysis based upon sheer complaints received, regardless of disposition.
2. A top ten analysis based upon complaints assigned for investigation.
3. A top ten analysis based upon complaints received but not investigated.

The third available analysis will not be presented herein due to its lack of merit. (Since it is predicated upon complaints that did not allege a violation of a law that this Division should or could investigate.)

Thus two analytical frameworks follow:

³ So analyzed, it is revealed that automotive issues did not fall within the top five areas of complaint in 2005. The meta-category tracking vehicular sales represented only 4.2%, or 1 in 24 of the complaints received in 2005. The meta-category tracking vehicular performance accounted for 5% of the total, or about 1 in 20 of the complaints received. These statistics can be further parsed by the Consumer Protection Division upon request, but suffice it to say that only 36 of the 4308 complaints received in 2005 alleged impropriety in new vehicle sales (26 of those were found worthy of investigation by the Division). As for the sales of used vehicles, of the 127 complaints received in 2005, 83 of these were deemed, upon review, worthy of investigation. Thus those used vehicle complaints found worthy of investigation were about 2% of the total complaints received in 2005, and new vehicles sales complaints found worthy of investigation made up about one-half of one percent of the total complaints received. All of that being said, it is worth noting that the Division took or finalized enforcement action related to the vehicular categories in 2005. Those include E-05-000018, E-05-000040 and E-05-000006. These cases are briefed in the summary cases in the attached report.

I.

The Top Ten Complaint Generating Categories, All Complaints Considered

Rank	Category	Percentage
1.	Telecom	11.5
2.	Advertising	10
3.	Death	8.4
4.	General Services	8.1
5.	Collections	6.8
6.	Mail Order	6.3
7.	Home Improvement	6.3
8.	Low Bunko	6.2
9.	Credit	5.8
10.	Computers	5.15

Again, because the above tally includes files that were deemed to not state an allegation of wrongdoing that can be addressed by the Division, the above tally is not the best one to analyze in this report. The above tally reflects only those areas of concern that move persons to file complaints with the Division. The tally that follows reports on those complaints that were deemed potential Consumer Protection Act ("KCPA") violations.

II.

**The Top Ten Complaint Generating Meta-Categories,
Only Complaints Assigned for Investigation Considered**

Rank	Category	Percentage	Investigated complaints
1.	Death	13.5	336
2.	Telecom	11.8	294
3.	General Services	9.9	246
4.	Low Bunko	8.2	203
5.	Advertising	8.0	199
6.	Mail Order	6.8	170
7.	Home Improvement	6.2	154
8.	Collections	5.8	145
9.	Auto Sales	4.8	118
10.	Credit	4.4	109

Commentary on the Top Ten Investigated Meta-Categories of 2005

1. **Meta-category S-D** (Speciality-Death) led the count of actionable complaints in 2005, resulting in 336 complaints that accounted for more than 13% of the investigated complaints. Most of these complaints arose out of three cemeteries that were the target of enforcement action in 2005. Those cemeteries were Memorial Cemetery, located in Kansas City, Westlawn Memorial Gardens Cemetery, located in Shawnee County, and Lawrence Memorial Park Cemetery, located in Lawrence. These enforcement actions were all begun in 2005.

All three cases involve cemeteries that are owned privately and were alleged to be poorly maintained. The amount of funds streaming out of the statutorily-created permanent maintenance fund was at issue in all three cases. Trust funds holding funds prepaid for merchandise were at issue in the Lawrence and Shawnee cemetery cases.

In all three cases it is apparent that the laws of Kansas need to be tightened up regarding these funds. Increases in labor and energy costs, as well as the natural deterioration of the properties through time, have created the conditions in which the trust funds set up for maintenance are inadequate to maintain a privately-held cemetery in keeping with community standards. Privately held corporations, with the principals making decisions out-of-state, are a ready-made scenario for fraudulent financial activity. The entire question of for-profit corporate ownership of cemeteries in Kansas should be reconsidered, especially when the principals operating those for-profit corporations are located out of state. The Office of the Secretary of State plans to work with the Legislature to tighten the laws governing privately held cemeteries in the 2007 session. The litigation incident to the Mike W. Graham, LLC owned cemeteries well demonstrates that the entire question of the private ownership of cemeteries and alienation of the same should be reviewed by the Legislature.

S-D Enforcement files worked in 2005

E-05-000015

E-05-000022

E-05-000032

E-05-000009

2. **Meta-category TELE** (Telecommunications) came in a close second in 2005, resulting in 303, or one in eight, of the investigated complaints. Allegations of No Call violations trickled off to almost nothing in 2005, due, in large part, to the National No Call registry and the seeming death of that industry, at least as far as for profit dialing is concerned. Most allegations presently received are against debt collectors or charities, both being exempt under the present laws.

The great bulk of the TELE complaints received in 2005 were from those who have difficulty with their cell phone plans or billing. It is not an overstatement to say that the Consumer Protection Division is currently serving this industry as a auxiliary to its customer service department. If it were not for the uncommonly high level of cemetery complaints this meta-category would, as usual, have led the pack in consumer complaints.

TELE Enforcement files worked in 2005 (exclusive of No Call)

E-05-000024
E-05-000028
E-05-000025
E-05-000020
E-05-000005
E-05-000010
E-05-000017
E-05-000026
E-05-000012
E-05-000008
E-05-000007
E-05-000027
E-05-000031
E-05-000001
E-05-000016

3. Meta-category GS (General Services) accounted for ten percent of the investigated complaints in 2005. This meta-category contains a mishmash of categories. The savings returned to consumers ranged from \$20 to \$7700.

GS Enforcement files worked in 2005

E-04-000058
E-05-000036

4. Low Bunko (LB) contributed 202 complaints to the number investigated. Business opportunities, rebate programs and Gold Crown Advertising contributed the most to this meta-category. Savings returned to consumers in this area ranged from \$50 to the cancellation of the \$23,000 time share contract for an elderly Kansan.

LB Enforcement files worked in 2005

E-05-000034
E-04-000074
E-04-000074

E-04-000063
E-04-000076
E-05-000003
E-04-000037

5. Meta-category ADS (advertising or solicitation related) allegations were investigated 190 times in 2005. WestCo products accounted for 32 of those complaints. They ranged in value from \$50 to \$110.

ADS Enforcement files worked in 2005

E-05-000043
E-05-000029
E-05-000014
E-05-000035
E-05-000039
E-05-000037

6. Meta-category MO (Mail Order) contributed 140 complaints to the total opened, or about 6%. This meta-category tracks complaints regarding items that are most often delivered via the postal service. The savings returned to consumers ranged from \$20 to \$4325. One mode in the data is Slanted Fedora Entertainment, a nearly-always renegeing Star Trek convention planning business that decided to relocate to another state due to the aggressive litigation brought by this office.

MO Enforcement files worked in 2005

E-05-000038
E-03-000056

7. Meta-category HI (home repair) is always in the top ten complaints to this office. While many of the complaints received sound in negligence or a mere contract dispute, in 2005 consumers tendered 154 complaints containing allegations of such a nature as to justify investigation of a possible KCPA violation. Many Kansans are burned each year by fly-by-night operators, some of which have been sued repeatedly for their construction misdeeds. These 154 complaints do not document mere tardiness in completion or a failure to finish to professional standards. In many instances they represent contractors taking monies and never starting a job, or contractors charging many times more than can be justified based upon what was delivered. The majority of the complaints arise out of the unlicensed disciplines such as roofing, siding, windows and doors. With little regulatory accountability, suppliers providing these types of services often attempt to take on more jobs than they can finish, or attempt projects that demand more resources than they can muster. A majority of the complaints are against smaller companies with limited

resources, and the robbing Peter to pay Paul trap often ends up bringing the companies to financial ruin and the consumers dealing with those companies to a dead end.

HI Enforcement files worked in 2005

E-04-000079
 E-03-000058
 E-05-000021
 E-04-000033
 E-04-000033

8. Meta-category COL (debt collection) is one of the most frequent complaints received. While it ranks 8th on the list of investigated complaints, it ranks 5th of the list of all complaints and 3rd on the listing of complaints closed with advice. About half of the received COL complaints are not investigated as they allege little more than "I wish the debt collectors would not call me." Those who tender such complaints receive a letter detailing the federal Fair Debt Collection Practices Act and are then invited to document any allegations of that Act and then re-submit their complaint.

Far too many of the collection complaints opened in 2005 raised allegations against debt collection companies that were attempting to collect on less-than-recent debt. In many instances our investigation determined that the debt collectors are unable to provide validation of these aged accounts. It appears in many instances that debt buyers purchase bulk paper for which no validation exists and for which the statute of limitations has already run, most likely for pennies on the dollar.

The Consumer Protection Division introduced legislation in 2006 intended to create a registry of those approved to make debt collection calls in Kansas. This progressive legislation was modeled on the successful Medical Discount Act which the legislature passed in 2000. Concerns from the debt collection industry caused my team to pull the legislation and agree to a series of meetings on the same. Those meetings took place throughout the Spring of 2006, and have resulted in the compromised legislation that will be introduced in 2007. We believe that this compromised legislation will aid consumers in understanding the source and reason for the debt collection calls that they receive. In this day of rampant I.D. theft, it seems only reasonable to track those calling into Kansas to collect alleged debt. This is an area that is ready made for abuse, and the database of the Consumer Protection Division records abuse taking place in Kansas. The proposed legislation is a means of curbing that abuse.

COL Enforcement files worked in 2005

E-05-000078
 E-05-000033
 E-04-000077

9. **Meta-category AS** (auto sales) contributed 118 cases to those investigated in 2005. The bulk of these (70%) were used car sales rather than new car sales. The bulk of the used car sales complaints concern questions of implied warranty, such as how long after a purchase should a used car make the trip from point A to point B without significant mechanical breakdown. The bulk of complaints about new car sales involve financing (especially the practice known as "spot delivery").

AS Enforcement files worked in 2005

E-05-000018
E-05-000011
E-04-000054
E-04-000012
E-05-000040
E-05-000006
E-05-000002

10. **Meta-category CRED** (credit) rounds out the list of the top ten investigated in 2005, coming in at a bit under 6%. This category contains no clear mode as to merchant. The Sears credit card generated the most complaints, that being 15. Most of these seemed to be a function of poor customer service. The savings returned to consumers in this meta-category ranged from \$33 to \$2,500.

CRED Enforcement files worked in 2005

None

POSTSCRIPT

As described in former reports, not all complaints tendered to the Consumer Protection Division are slated for investigation. Only those opened by a senior attorney are investigated. The gross number of complaints received in 2005 was about the same as 2004. Those tendering complaints in 2005, like those tendering complaints in 2004, received the cover letter and the complaint included in the appendix of this report. Included with that cover letter is the "Ten Steps to Resolving Disputes with Merchants" brochure. From time to time the Division receives a thank you note from a consumer who acted upon the advice in that brochure and resolved the problem without the need of government action. This is the best end for all involved in most instances, and I credit the explanation of the jurisdiction of the Consumer Protection Act in the cover letter and the Ten Steps brochure with the general drop in consumer complaints.

We also receive notes, from time to time, stating that merely threatening to file a complaint with Attorney General Kline's Consumer Protection Division created the conditions for settlement of the disagreement. We believe that our "no nonsense" approach to investigations and enforcement when violations are found grants suppliers who have colored outside of the lines good reason to fear the filing of a complaint with our office. As can be deduced from the foregoing analysis, if that complaint documents a violation of the KCPA is a likely that an enforcement action will follow.

The above listing of enforcement actions merely identifies which of the actions briefed in the foregoing tabulation were filed against the meta-categories discussed above. Many of the enforcement actions filed in 2005 are not addressed under the meta-categories above. All such actions are briefed in the tabulation section of this report.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
PHILL KLINE



Bryan J. Brown
Deputy Attorney General
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2005 ANNUAL REPORT

Consumer Protection & Antitrust Division



TABULATION OF RAW DATA AND GROUPING OF THE SAME INTO META-CATEGORIES

(Submitted pursuant to K.S.A. 50-628 and K.S.A. 50-109)

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

2005 CONSUMER PROTECTION/ANTITRUST STAFF

Bryan J. Brown	Deputy Attorney General
Joseph N. Molina	Assistant Attorney General
James R. McCabria	Assistant Attorney General
Karl R. Hansen	Assistant Attorney General
* Kevin Schumaker	Assistant Attorney General
Chris Pryor	Assistant Attorney General
Jerry Howland	Special Agent/Lead Consumer
Erica D. Strome	Special Agent
Jared M. Reed	Special Agent
* Angela N. Nordhus	Special Agent
* Mary Kennedy	Special Agent
Marshall Kennedy	Accountant
Natalie A. Hogan	Special Agent
Amber Meseke	Investigator-in-Training
Michael Aguilar	Consumer Protection Investigator
Larry Larsen	Consumer Protection Investigator
Ralf Mondenedo	Paralegal
Connie Ullman	Secretary
Marcia Shuart	Secretary
Marti Nelson	Secretary
Emilie Burdette	Law Clerk

* Served a portion of 2005. No longer with the Consumer Protection Division.

CATEGORIES OF NEW COMPLAINTS

Complaints Filed:	4308
Complaints Closed:	4352
Written Inquiries:	5003
Total Annual Consumer Awarded Restitution:	\$380, 721.00
Total Annual Consumer Savings:	\$540,812.00
<u>Grand total restitution and savings:</u>	<u>\$921,533.00</u>

<u>Category</u>	<u>Complaints Assigned to Special Agents</u>	<u>Complaints Processed by Intake Review Committee</u>	<u>Percent of Total</u>
Advertising (general)	51	58	2.53%
Antitrust	7	19	0.60%
Appliances	9	12	0.49%
Assistive Device Lemon Law	14	7	0.49%
Auto	201	172	8.66%
Boats, Boating Equipment, Repairs, etc.	2	3	0.12%
Book, Record & Tape Clubs	4	3	0.16%
Business Opportunity Services	31	22	1.23%
Campgrounds	0	1	0.02%
Cable Television	4	10	0.32%
Cemeteries	330	4	7.75%
Charitable Organizations	20	15	0.81%
Clothing	1	8	0.21%
Collectibles/Antiques	3	1	0.09%
Collection	145	140	6.62%
Computers	22	14	0.84%
Computer - Unsolicited e-mail (spamming)	2	11	0.30%
Computer - Internet Gambling	1	0	0.02%
Computer - Internet Sales	39	59	2.27%
Computer - Online Services	41	29	1.62%
Contests/Promotional	10	6	0.37%
Contests/Sweepstakes	18	29	1.09%
Credit	109	131	5.57%
Credit Reporting Agencies	15	14	0.67%
Discount Buying Clubs	18	8	0.60%
Door-To-Door Sales	31	3	0.79%
Education	4	6	0.23%
Employment Services	4	4	0.19%
Energy Savings Devices	1	0	0.02%
Failure to Furnish Merchandise (other than mail order)	22	22	1.02%
Farm Implements/Equipment	4	2	0.14%

<u>Category</u>	<u>Complaints Assigned to Special Agents</u>	<u>Complaints Processed by Intake Review Committee</u>	<u>Percent of Total</u>
Faxes Unsolicited	8	32	0.93%
Fire, Heat & Smoke Alarms	0	0	0.00%
Floor Coverings (carpet, etc.)	1	1	0.05%
Food Products	2	4	0.14%
Funeral Homes and Plans	6	5	0.26%
Furniture	3	12	0.35%
Gasohol & Stills	0	0	0.00%
Gasoline Pricing and Contents	3	9	0.28%
Health Services (doctors, dentists, hospitals, etc.)	19	29	1.11%
Health Spas & Weight Salons	11	14	0.58%
Hearing Aids	4	0	0.09%
Heating & Air Conditioning	4	8	0.28%
Home Construction	4	15	0.44%
Home Improvement	133	88	5.13%
Identity Theft	34	32	1.53%
Invoice & Billing Schemes (noncredit code)	13	9	0.51%
Jewelry	1	5	0.14%
Loan Finders	27	17	1.02%
Magazine Subscriptions	38	30	1.58%
Mail Order	132	73	4.76%
Medical Equipment/Devices	11	4	0.35%
Medical Discount Cards	47	10	1.32%
Miscellaneous	1	0	0.02%
Mobile Home Parks	0	0	0.00%
Mobile Homes & Manufactured Homes	11	5	0.37%
Mortgage Escrow Problems	1	5	0.14%
Mortgages	30	34	1.49%
Motorcycles & Bicycles	2	3	0.12%
Moving & Storage	4	14	0.42%
Multi-level & Pyramid Distributorship Co.	7	9	0.37%
Musical Instruments, Lessons, etc.	1	0	0.02%
Negative Selection	4	0	0.09%
Nurseries, Lawn, Gardening and Landscape			
Service & Supplies	3	7	0.23%
Nursing Homes	1	0	0.02%

<u>Category</u>	<u>Complaints Assigned to Special Agents</u>	<u>Complaints Processed by Intake Review Committee</u>	<u>Percent of Total</u>
Office Equipment & Supplies	3	4	0.16%
Pest Control	0	6	0.14%
Pets/Animals	9	9	0.42%
Photo Equipment & Services	0	2	0.05%
Photo Studios & Companies	0	1	0.02%
Privacy Issues	2	1	0.07%
Real Estate (houses)	4	7	0.26%
Real Estate (other than houses)	1	2	0.07%
Rebates	81	16	2.25%
Recovery Companies	0	1	0.02%
Referral Selling	0	0	0.00%
Satellite Systems	21	14	0.81%
Scanning Equipment	1	1	0.05%
Securities & Investments (other than stocks & bonds)	3	30	0.77%
Security Systems and Services	10	6	0.37%
Services (general)	135	151	6.64%
Services (professional)	20	34	1.25%
Sewing Machines	0	0	0.00%
Sporting Goods	1	3	0.09%
Steel Buildings	1	0	0.02%
Stereo Equipment	0	1	0.02%
Telephone - 800#s, 900#s and International Calls	7	1	0.19%
Telephone - Cellular Phones and Pager Services	92	78	3.95%
Telephone - Cramming	46	11	1.32%
Telephone Service and Long Distance Carriers	72	43	2.67%
Telephone - Slamming	23	2	0.58%
Telephone - Prepaid Phone Cards	14	4	0.42%
Telephone Solicitations	4	3	0.16%
Telephone Solicitations/General	28	23	1.18%
Televisions and VCR's	2	2	0.09%
Timeshare Sales	34	7	0.95%
Tobacco Sales	2	0	0.05%
Toys	0	1	0.02%
Trade & Correspondence Schools	4	3	0.16%
Travel	47	29	1.76%

<u>Category</u>	<u>Complaints Assigned to Special Agents</u>	<u>Complaints Processed by Intake Review Committee</u>	<u>Percent of Total</u>
Unauthorized Practice of Law	45	4	1.14%
Warranty Problems (other than automobiles)	30	23	1.23%
Water Softeners, Conditioners, Purifiers, etc.	10	5	0.35%
Work-at-Home Schemes	3	9	0.28%
TOTAL CASES OPENED	2484	1824	100.00%

TELE

900#s - TV, Radio, Newspaper	0	0	
Faxes (Unsolicited)	8	32	
900#s (General)	1	1	
Telephone - Prepaid Phone Cards	14	4	
Telephone Service and Long Distance Carriers	72	43	
Telephone - 800#s, 900#s and International Calls	6	0	
Telephone - Slamming	23	2	
Telephone - Slamming	23	2	
Telephone - Cellular Phones and Pager Services	92	78	
Telephone - Cramming	46	11	
Telephone Solicitations/Magazines	2	0	
Telephone Solicitations/Business Advertising	2	2	
Telephone Solicitations Misc.	0	1	
Telephone Solicitations/General	28	23	
	<u>Total</u>	294	197
	<u>Grand Total</u>		491
			11.50%

ADS

Advertising (total)	51	58
Appliances	9	12
Contests-Mail	18	29
Contests-Promotional mail)	10	6
Furniture	22	22
	3	12
Invoice & Billing Schemes (Noncredit code)	13	9
Magazine Subscriptions (Sales)	38	30
Stereo Equipment	1	0
Televisions and VCR's	2	2

Tobacco Sales	2	0	
Warranty Problems (other than automobiles)	30	23	
Total	199	203	
Grand Total		402	9.95%
S-D			
Cemeteries	324	4	
Cemetery Corporations	6	0	
Funeral Homes	4	3	
Funeral Plans	2	1	
Funeral Plans/Third Party	0	1	
Total	336	9	
Grand Total		345	8.35%
GS			
Education	4	6	
Employment Services	4	4	
Fire, Heat & Smoke Alarms	0	0	
Health Spas & Weight Salons	11	14	
Satellite Dishes	21	14	
Security Systems and Services	10	6	
Services (General)	135	15	
Trade & Correspondence Schools	4	3	
Travel	47	29	
Water Softeners, Conditions, Purifiers, etc.	10	5	
Total	246	96	
Grand Total		342	8.10%
COL			
Collection by Agencies	122	99	
Collection by Principle Creditor	14	30	
Collection by Attorney	9	11	
Recovery Companies	0	1	
Total	145	141	
Grand Total		286	6.75%
MO			
Magazine Subscriptions Services	38	30	
Mail Order – Defective Merchandise	0	1	
Mail Order – Failure to Deliver	45	18	
Mail Order – Refusal to Make Refunds	24	25	
Mail Order – Deceptive Practices	48	21	
Mail Order – Unordered Merchandise	15	8	
Total	170	103	
Grand Total		273	6.33%

HI

Floor Coverings (carpet, etc.)	1	1
Heating & Air Conditioning	4	8
Home Improvement - Plumbing (septic tanks)	6	13
Home Improvement - Electrical Wiring	1	0
Home Improvement - Roofing	28	17
Home Improvement - House Painting	4	6
Home Improvement - General	43	40
Home Improvement - Siding	35	7
Home Improvement - Replacement Windows & Doors	16	5
Home Construction	4	15
Mobile Homes & Manufactured Homes	11	5
Steel Buildings	1	0
<u>Total</u>	154	117

<u>Grand Total</u>		271	6.29%
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LB

Lottery Category	0	0
Junk Mail – Other than contests	0	0
Nigerian Style Letters	0	0
Advanced Free Style Letters	0	0
Business Opportunity Services	31	22
Discount Buying Clubs	18	8
Door-To-Door Sales	31	3
Negative Selection	4	0
Nursing Homes	1	0
Rebates	81	16
Timeshare Sales	34	7
Work-at-Home Schemes	3	9
<u>Total</u>	203	65

<u>Grand Total</u>		268	6.22%
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CRED

Credit	109	131
<u>Total</u>	109	131

<u>Grand Total</u>		240	5.75%
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Comp

Unsolicited E-Mail (Spamming)	2	11
Computers	22	14
Computer Online Services	41	29
Computer - Internet Sales	39	59

Internet Gambling	1	0	
Scanning Equipment	1	1	
Total	106	114	
Grand Total		220	5.15%

AWR

Auto - Warranty Problems/Extended Service Contract	40	33	
Auto - Lemon Law	14	7	
Auto - Repair & Service Problems	41	73	
Auto - Motor Homes & RV & Campers	2	3	
Boats, Boating Equipment, Repairs, etc.	0	0	
Motorcycles & Bicycles	0	0	
Total	97	116	
Grand Total		213	5.00%

AS

Auto -Title Issues	6	4	
Auto - Odometer Setback	1	0	
Auto - New Car Sales Practices including rebates	26	10	
Auto - Used Car Sales Practices	83	44	
Auto - Leasing	2	5	
Total	118	63	
Grand Total		181	4.20%

HB

Medical Discount Cards	47	10	
Loan Finders	27	17	
Multi-level & Pyramid Distributorship Co.	7	9	
Referral Selling	0	0	
Securities & Investments (other than stocks & bonds)	3	30	
Total	84	66	
Grand Total		150	3.48%

PS

Health Services (Dr's, Dentists, Hospitals, etc.)	19	29	
Assistive Device Lemon Law	0	0	
Medical Equipment/Devices	11	4	
Hearing Aids	4	0	
Services (Professional)	20	34	
Total	54	67	
Grand Total		121	3.00%

H

Land Resale Companies	0	0
Mobile Home Parks	0	0
Mortgages	30	34
Mortgage Escrow Problems	1	5
Moving & Storage	4	14
Real Estate (Houses)	4	7
Real Estate (Other Than Houses)	1	2
Total	40	62

Grand Total		102	2.50%
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IDT

Credit Reporting Agencies	15	14
Identity Theft	34	32
Privacy Issues	2	1
Total	51	47

Grand Total		98	2.27%
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DC

Miscellaneous	1	0
Book, Record & Tape Clubs	4	3
Cable Television	4	10
Clothing	1	8
Collectibles/Antiques	3	1
Farm Implements/Equipment	4	2
Food Products	2	4
Jewelry	2	4
Campgrounds	0	1
Pets/Animals	9	9
Office Equipment & Services	3	4
Photo Studios & Companies	0	1
Sporting Goods	1	3
Toys	0	1
Nurseries, Lawn, Gardening & Landscape Service	3	7
Musical Instruments, Lessons, etc.	1	0
Total	38	58

Grand Total		96	2.23%
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S-U

Unauthorized Practice of Law	45	4
Total	45	4

Grand Total		49	1.20%
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S-C

Charitable Organizations	20	15	
	<u>Total</u>	20	15
	<u>Grand Total</u>		35
			0.81%

Atrst

Antitrust Price Fixing	3	8	
Antitrust Price Discrimination	0	2	
Antitrust Restraint of Trade Agreements	0	0	
Antitrust Merger/Acquisitions	1	0	
Antitrust Monopolization	3	9	
	<u>Total</u>	7	19
	<u>Grand Total</u>		26
			0.60%

E

Energy Savings Devices - Homes	1	0	
Energy Savings Devices - Vehicles	0	0	
Gasoline Pricing	3	9	
Gasoline Content	0	0	
Gasohol & Stills	0	0	
	<u>Total</u>	4	9
	<u>Grand Total</u>		13
			0.32%
	<u>Total</u>		100%

2005 DISPOSITION OF CLOSED COMPLAINTS

	<u>Complaints Closed</u>	<u>Percent of Total</u>
Inquiry or Information Only	185	4.30%
Referred to Private Attorney	132	3.03%
Referred to County/District Attorney	21	0.48%
Referred to Other State Attorney General	25	0.58%
Referred to Other Kansas Agency	31	0.71%
Referred to Small Claims Court	61	1.40%
Referred to Federal Agency (FTC, Post Office, etc.)	31	0.71%
Money Refunded/Contract Cancelled	541	12.43%
Merchandise Delivered to Consumer	21	0.48%
Repaired/Replaced Product	28	0.64%
Mediation Only - No Savings	92	2.11%
No Reply from Complainant	49	1.12%
Unable to Locate Respondent	33	0.77%
Practice Complained of Discontinued	21	0.48%

	<u>Complaints</u> <u>Closed</u>	<u>Percent of Total</u>
Respondent Out of Business	48	1.10%
Refer to other Country	5	0.11%
No Violation	150	3.45%
Insufficient Evidence to Prove Violation	220	5.06%
Complaint Withdrawn	41	0.94%
Unable to Satisfy Complainant - No Further Action	9	0.21%
Other	56	1.29%
No Jurisdiction under KCPA	15	0.35%
No Call - Polling	15	0.35%
No Call - Collection Exemption	48	1.10%
No Call - Affirmative Defense- Business Phone	2	0.05%
Defendant Enjoined	0	
Defendant Enjoined/Violations Found	0	
Consent Judgment	252	5.80%
Dismissed with Prejudice	27	0.62%
Judgment for Defendant	5	0.11%
Judgment for State - Civil Penalties	7	0.16%
Judgment for State - Civil Penalties	1	0.02%
Judgment for State - Restitution	3	0.07%
Judgment for State - Civil Penalties	26	0.59%
Judgment for State - Injunction	2	0.05%
Voluntary Compliance Agreement	44	1.01%
Default Judgment	142	3.26%
Cemetery Abandoned	1	0.02%
Other Lawsuit	1	0.02%
IRC - BBB,SCC, Private Counsel	35	0.80%
IRC - BBB & SCC	77	1.77%
IRC - BBB Only	98	2.25%
IRC - Corporation For Profit	45	1.03%
IRC - Copied, No Merit	124	2.85%
IRC - Government Agency	1	0.02%
IRC - No Violation	95	2.18%
IRC - No Resources	27	0.62%
IRC - Copied, Merit	119	2.73%
IRC - No signature	1	0.02%
IRC - More Information	206	4.73%
IRC - Lottery Scam, Condolences	5	0.11%
IRC - Lotteries/Raffles	1	0.02%
IRC - Lottery Scam, Congrats	5	0.11%
IRC - Information Only	215	4.94%
IRC - Homebiz	9	0.21%

	<u>Complaints Closed</u>	<u>Percent of Total</u>
IRC - Scam Thanks	96	2.21%
IRC - Please Read	39	0.90%
IRC - Private Counsel	110	2.53%
IRC - Fair Debt, Credit Reporting	19	0.44%
IRC - Good Referral	129	2.96%
IRC - Ebay	30	0.69%
IRC - Criminal	2	0.05%
IRC - Criminal, Civil	3	0.07%
IRC - Fair Debt, Collection Efforts	44	1.01%
IRC - Officials	1	0.02%
IRC - Faxes	27	0.62%
IRC - Bad Referral	129	2.96%
IRC - Junkmail	16	0.37%
IRC - Spam	5	0.11%
IRC - Small Claims Court (Only)	63	1.45%
IRC - Selfhelp, Unauthorized	28	0.64%
IRC - Selfhelp, Letters	129	2.96%
IRC - Selfhelp, Credit	28	0.64%
TOTAL CASES CLOSED	4352	100.00%

SUMMARY OF 2005
CONSUMER PROTECTION ENFORCEMENT ACTIONS

As of December 31, 2005

State vs. Alan's Paving

DATE FILED: September 30, 2005

ENFORCEMENT FILE: E-04-000034

COURT FILE: Jefferson County, 05 CV 135

STATE'S ALLEGATIONS: KSA 50-627 (unconscionable pricing of services); 50-676 (taking advantage of elderly); 50-640 (door-to-door sales violations)

DATE RESOLVED: November 28, 2005

RESOLUTION DETAILS: Attorney General filed a Petition and Ex Parte Order to Sequester Property against out-of-state Defendants performing paving services at consumer residences. After seizure, parties negotiated restitution (\$11,570) and civil penalties/costs (\$7,000.00) via Journal Entry of Consent Judgment.

LITIGATION TEAM: Brown, McCabria, Howland

State vs. American Enterprises International, Inc., Francisco Rodriguez, Imperial Ware d/b/a Life Time, I.W.C. Finance Inc.

DATE FILED: December 6, 2004

ENFORCEMENT FILE: E-04-000074

COURT FILE: Lyon County, 04CV218

STATE'S ALLEGATIONS: Violation of door to door law, K.S.A. 50-640(b)(1),(3) & (5), and deception in the inducement, K.S.A. 50-626(b)(2)(6)&(9).

DATE RESOLVED: March 20, 2006.

RESOLUTION DETAILS: Consent judgment against Defendants Rodriguez and LifeTime banning both from Kansas commerce for seven years. Defendants Rodriguez and LifeTime paid fines and restitution in amount of \$5300. Defendant AEI dismissed from litigation after agreeing to initiate best practices as to contract review and payment of \$1000 to State.

LITIGATION TEAM: Brown, Howland, Mondonedo

In the Matter of American Home Exteriors, Inc.

DATE FILED: July 20 2005

ENFORCEMENT FILE: E-05-000024

COURT FILE: N/A

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670(6)(d) for making unsolicited consumer telephone calls.

DATE RESOLVED: July 20, 2005

RESOLUTION DETAILS: Respondent was required to register for the Kansas No-Call Act and pay \$1,000.00 to the state.

LITIGATION TEAM: Molina, Reed

State vs. Alyon Technologies, Inc., et al.

DATE FILED: January 18, 2005

ENFORCEMENT FILE: E-05-000004

COURT FILE: 05-C-51

STATE'S ALLEGATIONS: Unauthorized billing for internet access in violation of K.S.A. 50-626.

DATE RESOLVED: January 18, 2005

RESOLUTION DETAILS: Defendant agree to be permanently enjoined from using a Video text software program to issue unauthorized bills and pay \$7,140.84 in civil penalties and investigative fess to the state.

LITIGATION TEAM: Molina, Reed.

State vs. Rick Bartlett, d/b/a Bartlett & Sons Construction

DATE FILED: December 29, 2004

ENFORCEMENT FILE: E-04-000079

COURT FILE: Rice County 04 CV 75

STATE'S ALLEGATIONS: KSA 50-627(b)(3)(no material benefit); KSA 50-626(b)(2) (willful use of falsehood/innuendo)

DATE RESOLVED: Pending

RESOLUTION DETAILS: Attorney General filed a lawsuit against Rick Bartlett, d/b/a Barlett & Sons Construction for alleged violations of the KCPA related to deceptive business practices in taking payment and performing no services. This case is pending.

LITIGATION TEAM: McCabria, Howland

State vs. Jeff Berroth d/b/a CPR Services, Showcase Homes, JB's Painting, Custom Painting and Remodeling

DATE FILED: September 2, 2004

ENFORCEMENT FILE: E-04-000060

COURT FILE: Shawnee County 04 CV 1208

STATE'S ALLEGATIONS: KSA 50-627(b)(3)(no material benefit); KSA 50-626(b)(2) (willful use of falsehood/innuendo)

DATE RESOLVED: Pending

RESOLUTION DETAILS: Attorney General filed a lawsuit against Rick Bartlett, d/b/a Barlett & Sons Construction for alleged violations of the KCPA related to deceptive business practices in taking payment and performing no services. This case is pending.

LITIGATION TEAM: McCabria, Howland

State vs. Richard L. Berry d/b/a Clov Lan Farms, LLC.

DATE FILED: September 2, 2004

ENFORCEMENT FILE: E-04-000061

COURT FILE: 04 CV 135

STATE'S ALLEGATIONS: K.S.A. 50-626(b)(1)(A), K.S.A. 50-626(b)(1)(D), K.S.A. 50-626(b)(1)(F), K.S.A. 50-626(b)(2), K.S.A. 50-626(b)(3), K.S.A. 50-626(b)(5), K.S.A. 50-626(b)(6)(deceptive representations), K.S.A. 50-627 (b)(1), (unconscionable marketing), K.S.A. 50-627 (b)(3)(no material benefit), K.S.A. 50-627 (b)(6)(misleading statement of opinion)

DATE RESOLVED: June 1, 2005.

RESOLUTION DETAILS: Directed Verdict for State. Defendant ordered to pay \$30,000 in civil penalties, \$20,300 in restitution and \$7,500 in investigative fees. Defendant enjoined from selling horses or cattle in Kansas for seven years. Defendant filed a timely notice of appeal. Appellate briefing is completed and oral arguments are scheduled for May 23, 2006.

LITIGATION TEAM: Brown, Molina, Strome

State vs. Lucas C. Bishop, Individually and Brock Ratzlaff, Individually and NCA, Corp.

DATE FILED: December 27, 2004

ENFORCEMENT FILE: 05-E-000078

COURT FILE: 04-CV-713

STATE'S ALLEGATIONS: The Attorney General filed a lawsuit against Lucas C. Bishop, Individually and Brock Ratzlaff, Individually and NCA Corp. for alleged violations of the KCPA related to deceptive and unconscionable business practices. The Attorney General alleged that the Defendant was in violation of the Fair Debt Credit and Practices Act.

DATE RESOLVED: January 23, 2005

RESOLUTION DETAILS: The Defendant agreed to enter into a Journal Entry of Consent Judgment, pay a \$1,000.00 civil penalty and be permanently enjoined from engaging in the collection of third party debt.

LITIGATION TEAM: Molina, Hogan

In the Matter of Briggs Auto Group, Inc. d/b/a Briggs Super Center

DATE FILED: May 31, 2005

ENFORCEMENT FILE: E-05-000018

COURT FILE: N/A

STATE'S ALLEGATIONS: KSA 50-626(b)(1)(B) (misleading representations of governmental sponsorship); KSA 50-626(b)(2) (willful use of exaggeration or falsehood); 50-626(b)(7) (misleading representations about nature of sale); 50-626(b)(10) (misleading representations about reason for sale event)

DATE RESOLVED: May 31, 2005

RESOLUTION DETAILS: Attorney General alleged that dealership used an advertisement that portrayed its sale event as being the result of a bankruptcy by a national rental car chain and implied that the bankruptcy court had ordered dealership to liquidate the vehicles when no such basis for the sale event existed. Parties resolved by means of Assurance of Voluntary Compliance.

LITIGATION TEAM: McCabria, Hogan

In the Matter of Blockbuster Inc.

ENFORCEMENT FILE: E-05-000011

STATE'S ALLEGATIONS: Multi-state investigation. Failure to disclose various terms of "No Late Fees" program. Misleading advertising regarding "No Late Fees" program.

DATE RESOLVED: March 15, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance. Payment of \$630,000.00 to settling states of which Kansas received \$8,005.27. Full refunds to specified customers and coupons to other customers. Implementation of "current and corrective advertising".

LITIGATION TEAM: Brown

State vs. Wade Ryan Brown

DATE FILED: September 22, 2003

ENFORCEMENT FILE:

COURT FILE:

STATE'S ALLEGATIONS: The Attorney General filed a lawsuit against this Wade R. Brown for unconscionable business practices. The Attorney General alleges that Defendant Brown enters into contracts and accepts payment for services that he knows or has reason to know he will not perform.

DATE RESOLVED: September 22, 2003

RESOLUTION DETAILS: Consent Judgment enjoining the Defendant from engaging in similar acts in the future. Defendant also agreed to pay consumer restitution of nearly \$5,000.00 and a civil penalty of \$1,000.00 to the state.

LITIGATION TEAM: Molina, Howland

State vs. C.A.R.S Protection Plus, Inc.

DATE FILED: June 28, 2004

ENFORCEMENT FILE: E-04-000040

STATE'S ALLEGATIONS: K.S.A. 50-626(a), K.S.A. 50-627(a), K.S.A. 50-626(b)(1)(A), K.S.A. 50-626(b)(1)(B), K.S.A. 50-626(b)(1)(D), K.S.A. 50-626(b)(1)(G), K.S.A. 50-626(b)(2), K.S.A. 50-626(b)(3), K.S.A. 50-626(b)(9), K.S.A. 50-627(b)(3), K.S.A. 50-627(b)(6)(use of deceptive and unconscionable contractual terminology), K.S.A. 50-631(e)(failure to obey subpoena), K.S.A. 50-626(b)(1)(A), K.S.A. 50-626(b)(1)(B), K.S.A. 50-626(b)(1)(D), K.S.A. 50-626(b)(1)(F), K.S.A. 50-626(b)(2), K.S.A. 50-626(b)(3), (deception in filing false reports with Secretary of State),

DATE RESOLVED: May 17, 2005

RESOLUTION DETAILS: Assurance of Voluntary compliance followed by motion to dismiss. C.A.R.S. Protection Plus, Inc. agreed to a series of changes in its contract, basic procedures and processing of consumer and governmental requests for information. Payment of all outstanding consumer restitution and \$5000 in civil penalties.

LITIGATION TEAM: Brown, Nordhus, Larsen

State vs. Dan Casey, Individually and Dan Casey, d/b/a KC Lawn & Tree

DATE FILED: June 7, 2005

ENFORCEMENT FILE: E-05-000021

COURT FILE: Johnson County 05 CV 04485

STATE'S ALLEGATIONS: KSA 50-631 (failure to obey subpoena); KSA 50-626(b)(2) (willful use of deceptive representations), 50-627(b)(3) (no material benefit); KSA 50-676 (taking advantage of elderly)

DATE RESOLVED: October 4, 2005

RESOLUTION DETAILS: Attorney General filed a lawsuit against this sole proprietor of a landscaping business for alleged violations of the KCPA related to deceptive and unconscionable business practices. Default Judgment entered October 4, 2005 (\$20,000 Civil penalties/costs; \$6,180 restitution).

LITIGATION TEAM: McCabria, Howland

RESOLUTION DETAILS:

LITIGATION TEAM: Molina

In the Matter of Clinic Scheduling Center

DATE FILED: July 20 2005

ENFORCEMENT FILE: E-05-000028

COURT FILE: N/A

STATE'S ALLEGATIONS: Attorney General filed a lawsuit for violation of the Kansas No-Call Act, K.S.A. 50-670(6)(d).

DATE RESOLVED: March 3, 2006

RESOLUTION DETAILS: Defendant agreed to be permanently enjoined from engaging in telemarketing within the state of Kansas.

LITIGATION TEAM: Molina, Reed

State vs. Concierge Management, LLC d/b/a Vantage America

DATE FILED: 3/21/05

ENFORCEMENT FILE:

COURT FILE:

STATE'S ALLEGATIONS: Violation of the Kansas Discount Card Act, specifically K.S.A. 50-1,101(b)(4)(B), K.S.A. 50-1, 101(b)(6) and K.S.A. 50-1,103.

DATE RESOLVED: September 7, 2005

RESOLUTION DETAILS: Consent Judgment against Defendants whereby Defendants agreed to come into compliance with the Kansas Discount Card Act or cease business in the state. Defendant paid \$10,000.00 in civil penalties and \$499.80 in restitution.

LITIGATION TEAM: Brown, Howland, Burdette

State vs. Conoco Phillips

DATE FILED: October 10, 2005

ENFORCEMENT FILE: E-05-000044

COURT FILE: N/A

STATE'S ALLEGATIONS: Multistate action alleging unlawful sale of tobacco to minors.

DATE RESOLVED: October 10, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance requiring the Respondent to adopt a best practices model developed by the Multistate Tobacco Task Force and pay \$3,500.00 to the state.

LITIGATION TEAM: Molina.

State vs. Michael C. Cooper and Ed Cooper

DATE FILED: JULY 31, 2003

ENFORCEMENT FILE: E-03-00043

COURT FILE: Shawnee County, 03-C-1187

STATE'S ALLEGATIONS: Defendants attempting to hide assets belonging to the receiver in Shawnee County Case No. 01-C-1394.
DATE RESOLVED: pending, as is restitution in underlying action Shawnee County Case No. 01-C-1394.
RESOLUTION DETAILS:
LITIGATION TEAM: Brown, Nordhus

State vs. Credit Management Services

DATE FILED: August 23, 2005
ENFORCEMENT FILE: E-05-000033
COURT FILE: N/A
STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670(6)(d) for making unsolicited consumer telephone calls.
DATE RESOLVED: August 23, 2005
RESOLUTION DETAILS: Defendant was required to register for the Kansas No-Call Act and pay \$1,000.00 to the state.
LITIGATION TEAM: Molina, Reed

State vs. CTI Business Management Systems, LLC

DATE FILED: August 19, 2004
ENFORCEMENT FILE: E-04-000054
COURT FILE: Shawnee County 04 C 1139
STATE'S ALLEGATIONS: KSA 50-626(b)(3) (willful suppression/omission of material fact);
DATE RESOLVED: January 21, 2005
RESOLUTION DETAILS: Attorney General obtained a default judgment against this company for selling an automatic dialing device to a Kansas consumer for purpose of soliciting via telephone without disclosing the prohibitions under Kansas law that applied to such devices.
LITIGATION TEAM: McCabria, Hogan

State vs. Direct TV

DATE FILED: 12/19/2005
ENFORCEMENT FILE: E-05-000043
STATE'S ALLEGATIONS: Multi-state investigation. Failure to make clear and conspicuous disclosures in advertising materials. Failure to disclose material terms and conditions of offers.
DATE RESOLVED: December 12, 2005
RESOLUTION DETAILS: Assurance of Voluntary Compliance. Payment of \$5,000,000.00 to settling states of which Kansas received \$100,000.00. DIRECTV agreed to make clear and conspicuous disclosures of all material terms and conditions in all advertising and all sales transactions. Restitution to eligible consumers.
LITIGATION TEAM: Brown

State vs. Eagle Innovations

DATE FILED: July 22 2005

ENFORCEMENT FILE: E-05-000025

COURT FILE: 05-C-926

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670(6)(d) for making unsolicited consumer telephone calls.

DATE RESOLVED: July 22, 2005

RESOLUTION DETAILS: Defendant was required to register for the Kansas No-Call Act and pay \$1,000.00 to the state.

LITIGATION TEAM: Molina, Reed

In the Matter of Eli Research, Inc.(the codeine institute)

DATE FILED: August 15, 2005

ENFORCEMENT FILE: E-05-000029

COURT FILE: N/A

STATE'S ALLEGATIONS: KSA 50-626(b)(11) (solicitation that looks like a bill); KSA 50-626(b)(1)(B) (implying status that the supplier does not have); KSA 50-617(c) (attempt to collect for product or service not affirmatively ordered)

DATE RESOLVED: August 15, 2005

RESOLUTION DETAILS: Attorney General entered into an Assurance of Voluntary Compliance with this supplier for sending "free" issues of the magazine followed by solicitations to purchase the subscription by means of a solicitation that could reasonably be interpreted as a bill or statement of account due. Penalty and costs of \$30,000.00.

LITIGATION TEAM: McCabria, Hogan

State vs. Excaliber Auto Accessories d/b/a Excaliber Motor Sports and Michael J. Jackson, and Individually

DATE FILED: February 11, 2004

ENFORCEMENT FILE: E-04-000012

COURT FILE: Douglas, Case No. 04 C 74

STATE'S ALLEGATIONS: K.S.A. 50-626(b)(2)(deceptive representations). K.S.A. 50-627(b)(3)(failure to deliver a material benefit).

DATE RESOLVED: June 8, 2005

RESOLUTION DETAILS: Judgment against Defendants after trial on stipulated facts. Defendants ordered to pay \$16,620.69 in consumer restitution, \$5,653.19 in civil penalties. Defendants enjoined from sales or business operations in Kansas for five years.

LITIGATION TEAM: Brown, Nordhus

State vs. Gold Crown Advertising, Inc. Michael Craun, an Individual, Felix Petersen, an Individual, Veronica Kmiec, an individual

DATE FILED: May 16, 2005

ENFORCEMENT FILE: E-05-000014

COURT FILED: Crawford County, Pittsburg, 2005CV000104P

STATE'S ALLEGATIONS: K.S.A. 50-626(b)(2), K.S.A. 50-626(b)(3)(deceptive representations), K.S.A. 50-627(b)(3)(unconscionable acts)
DATE RESOLVED: Ongoing litigation with Defendant Veronica Kmiec.
RESOLUTION DETAILS: Default Judgment entered against Defendants Gold Crown Advertisement Inc. and Felix Petersen on August 29, 2005, Motion to dismiss Defendant Michael Craun without prejudice granted by the court on August 29, 2005. Veronica Kmiec is currently working with the state to recover consumers' money deposited on a Gold Crown Advertising, Inc. bank account.
LITIGATION TEAM: Brown, Mondonedo

State vs. Falley's Inc.

DATE FILED: December 15, 2005
ENFORCEMENT FILE: E-05-000041
COURT FILE: Shawnee County, 05C1607
STATE'S ALLEGATIONS: K.S.A. 50-903(b)(4), (Deceptive practices by failure to provide the appropriate price per pound)
DATE RESOLVED: December 14, 2005.
RESOLUTION DETAILS: Defendant voluntarily agreed to enter into a Consent Judgment and pay the state the amount of \$15,000.00 as investigative fees, and comply with the Kansas Consumer Protection Act in the future.
LITIGATION TEAM: Brown, Reed.

State vs. Mike W. Graham & Associates, LLC., Lawrence Memorial Park Cemetery Corporation, LLC

DATE FILED: May 23, 2005
ENFORCEMENT FILE: E-05-000015
COURT FILE: Douglas County, 2005 CV 275
STATE'S ALLEGATIONS: K.S.A. 17-1312(d)(financial abandonment), K.S.A. 16-321(d)(refusal to submit to audit), K.S.A. 17-1312a(failure to file report), K.S.A. 16-331(refusal to maintain account), K.S.A. 50-627(b)(3) (no material benefit), K.S.A. 50-627(b)(7)(failure to honor warranties)
DATE RESOLVED: Pending
RESOLUTION DETAILS:
LITIGATION TEAM: Brown, Hogan

State vs. Mike W. Graham & Associates, LLC., West Lawn Memorial Gardens Inc.

DATE FILED: June 27, 2005
ENFORCEMENT FILE: E-05-000022
COURT FILE: Shawnee County, 05-C-694
STATE'S ALLEGATIONS: K.S.A. 17-1312(d)(financial abandonment), K.S.A. 16-321(d)(refusal to submit to audit), K.S.A. 17-1312a(failure to file report), K.S.A. 16-331(refusal to maintain account)
DATE RESOLVED: Pending
RESOLUTION DETAILS:
LITIGATION TEAM: Brown, Hogan

State vs. J.K. Harris & Company, LLC, J.K. Harris Financial Recovery Systems, LLC

DATE FILED: December 10, 2004

ENFORCEMENT FILE: E-04-000074

COURT FILE: Shawnee County, 04-C-1701

STATE'S ALLEGATIONS: K.S.A. 50-626(b)(1)(A), K.S.A. 50-626(b)(2)(deceptive representations), K.S.A. 50-627(b)(3)(no material benefit), K.S.A. 50-627(b)(6)(deceptive opinions stated), the unauthorized practice of law, common law of barratry and maintenance.

DATE RESOLVED: June 20, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance followed by a motion to dismiss. Paid \$50,000 in consumer restitution and civil penalties, agreed to abandon marketing model that had generated most concerns.

LITIGATION TEAM: Brown, Mondonedo, Reed

State vs. Healthcare Advantage, LLC

DATE FILED: July 1, 2004

COURT FILED: Shawnee County, 04-C-916

ENFORCEMENT FILE: E-04-000041

STATE'S ALLEGATIONS: K.S.A. 50-1,101(b)(1), K.S.A. 50-1,101(b)(2), K.S.A. 50-1,101(b)(3), K.S.A. 50-1,101(b)(4)(B), K.S.A. 50-1,101(b)(5), K.S.A. 50-1,101(b)(6), K.S.A. 50-1,103(Discount Card Act violations), K.S.A. 50-627(a) and (b)(3) (no material benefit), K.S.A. 50-6,105 and K.S.A. 50-627 (unauthorized payments), K.S.A. 50-626(b)(1)(A), K.S.A. 50-626(b)(3), K.S.A. 50-626(b)(1)(A), K.S.A. 50-626(b)(3)(deceptive representations).

DATE RESOLVED: July 11, 2005

RESOLUTION DETAILS: Consent Judgment. Healthcare Advantage agreed to come into full compliance with the Kansas Discount Card Act. Payment of \$51,000.00 in civil penalties.

LITIGATION TEAM: Brown, Schumaker, Howland

State vs. The Health Depot Association

DATE FILED: December 21, 2005

ENFORCEMENT FILE: E-05-000045

COURT FILE: Shawnee County, 05-C-1651

STATE'S ALLEGATIONS: K.S.A. 50-1,101(b)(1), K.S.A. 50-1,101(b)(6), K.S.A. 50-1,103

DATE RESOLVED: Litigation ongoing

RESOLUTION DETAILS:

LITIGATION TEAM: Brown, Howland

State vs. INC21.com Corp. d/b/a Globalyp.net and Global Yellow Pages

DATE FILED: June 2, 2005

ENFORCEMENT FILE: E-05-000020

COURT FILE: 05-C-717

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670(6)(d) for making unsolicited consumer telephone calls.

DATE RESOLVED: June 2, 2005

RESOLUTION DETAILS: Respondent was required to register for the Kansas No-Call Act and pay \$4,800.00 to the state.

LITIGATION TEAM: Molina, Reed

State vs. Irwin Commercial Finance Corporation

DATE FILED: May 27, 2005

ENFORCEMENT FILE: E-05-000035

COURT FILE: N/A

STATE'S ALLEGATIONS: Violation of a failure to state a material fact, K.S.A. 50-626(3).

DATE RESOLVED: May 27, 2005

RESOLUTION DETAILS: Consent Judgment requiring the Defendant to cease collection of up to 84% of the original debt from Kansas consumers who were deceived into personally guaranteeing a debt for telecommunication hardware.

LITIGATION TEAM: Molina, Reed

In the Matter of JMW Financial

DATE FILED: September 14, 2004

ENFORCEMENT FILE: E-04-000063

COURT FILE: Shawnee County 04 CV 1266

STATE'S ALLEGATIONS: KSA 50-626(b)(1)(A) (services have sponsorship they do not have); KSA 50-626(b)(1)(B) (supplier has sponsorship/affiliation that did not exist); KSA 50-626(b)(1)(F) (services have benefits they do not have); KSA 50-626(b)(2) (willful use of falsehood); KSA 50-626(b)(3) (willful failure to state material facts)

DATE RESOLVED: July 15, 2005

RESOLUTION DETAILS: Attorney General filed suit and entered into Journal Entry of Consent Judgment against Defendant in amount of \$500.00 (civil fees and penalties) and \$98.00 (consumer restitution).

LITIGATION TEAM: McCabria, Hogan

State vs. Laird Noller Dealerships of Topeka

DATE FILED: November 16, 2005

ENFORCEMENT FILE: E-05-000040

COURT FILE: N/A

STATE'S ALLEGATIONS: KSA 50-626(b)(1)(A) (supplier knew or should have known that property was represented in quantities that they do not have); 50-626(b)(10) (misrepresenting the reason for offering prices at sale or discount); 50-627(b)(1) (taking advantage of consumer ignorance)

DATE RESOLVED: November 16, 2005

RESOLUTION DETAILS: Attorney General entered into an Assurance of Voluntary Compliance with supplier regarding advertisement supplier used to solicit business.

The Attorney General alleged that the ad exaggerated the number of vehicles that would be available for "\$99 Down/\$99 Month" and did not have sufficient inventory to

meet reasonable, expectable public demand. The supplier agreed to pay civil penalties/investigative fees of \$8,750.00 and to refrain from such practices in the future.
LITIGATION TEAM: McCabria, Hogan

In the Matter of Legent Communication Corporation d/b/a Long Distance Service

DATE FILED: February 25, 2005

ENFORCEMENT FILE: E-05-000005

COURT FILE: N/A

STATE'S ALLEGATIONS: Violation of the Kansas slamming statute, K.S.A. 50-6,103.

DATE RESOLVED: February 25, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance requiring the Respondent to cease switching consumer's long distance service without authorization and requiring the Respondent to pay \$25,000.00 to the state.

LITIGATION TEAM: Molina, Reed.

In the Matter of Local Phone Services, Inc. d/b/a Best Phone Services

DATE FILED: April 1, 2005

ENFORCEMENT FILE: E-05-000010

COURT FILE: N/A

STATE'S ALLEGATIONS: Violation of the Kansas slamming statute, K.S.A. 50-6,103.

DATE RESOLVED: April 1, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance requiring the Respondent to cease switching consumer's long distance service without authorization and requiring the Respondent to pay \$25,000.00 to the state.

LITIGATION TEAM: Molina, Meneses

State vs. Steven Joseph Lotzer, Individually, Edward J. Jennings, AKA Ed Jennings, Individually, Edward Ted McDonald, AKA Ted McDonald AKA Ted Jennings, Individually and John Jennings, Individually

DATE FILED: December 28, 2004

ENFORCEMENT FILE: E- 04-000076

COURT FILE: Shawnee County, 04-C-1776

STATE'S ALLEGATIONS: K.S.A. 50-640(c)(1) (door to door sales three day notice rule), K.S.A. 50-640(c)(5)(door to door sales verbal notice rule), K.S.A. 50-640(b)(2) (door to door sales detachable notice rule), K.S.A. 50-627(b)(2)(unconscionable pricing), K.S.A. 50-627(b)(3)(no material benefit), K.S.A. 50-626(b)(1)(A)(deceptive representation), K.S.A. 50-626(b)(3)(deceptive representation).

DATE RESOLVED: November 2, 2005

RESOLUTION DETAILS: Consent judgment after consumer restitution was made. All Defendants to pay \$2500 in civil penalties and be bound by a permanent injunction against door to door sales.

LITIGATION TEAM: Ritthaler, McCabria, Howland

In the Matter of Lyon Financial Services, Inc. d/b/a U.S. Bancorp Business Equipment Finance Group

DATE FILED: May 27, 2005

ENFORCEMENT FILE: E-05-000017

COURT FILE: N/A

STATE'S ALLEGATIONS: Failure to state a material fact that products were not of the type or quality represented, K.S.A. 50-626(3).

DATE RESOLVED: May 27, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance requiring the Respondent to cease collection of up to 85% of the original debt from Kansas consumers who were deceived into personally guaranteeing a debt for telecommunication hardware.

LITIGATION TEAM: Molina, Reed

State vs. George McCoy d/b/a Westco

DATE FILED: November 16, 2005

ENFORCEMENT FILE: E- 05-000038

COURT FILE: Shawnee County, 05-CV-08983

STATE'S ALLEGATIONS: K.S.A. 50-626(b)(1)(A), K.S.A. 50-626(b)(3)(deceptive representations), K.S.A. 50-626(b)(6)(lack of intent to supply),K.S.A. 50-627(b)(3)(no material benefit), K.S.A. 50-627(b)(6)(misleading opinion).

DATE RESOLVED: February 28, 2006

RESOLUTION DETAILS: Default judgment ordering \$90,000 in civil penalties, permanent injunction and order that web service and toll free line service be informed of the judgment. Latter caused both to be shut down.

LITIGATION TEAM: Brown, Pryor, Strome

State vs. Cisco James Mason, Individually

DATE FILED: January 10, 2005

ENFORCEMENT FILE: E-05-000003 & E-04-000037

COURT FILE: Franklin County, 2005-CV-000002

STATE'S ALLEGATIONS: K.S.A. 50-627(a), K.S.A. 50-627(b)(2), K.S.A. 50-627(b)(3)(unconscionable acts), K.S.A. 50-640(b)(1), K.S.A. 50-640(b)(2), K.S.A. 50-640(b)(5), K.S.A. 50-640(c)(1)(violation to the Door to Door sales and the three day right to cancel).

DATE RESOLVED: March 15, 2005

RESOLUTION DETAILS: Seven year permanent injunction, restitution order of \$16,925, investigative fees and civil penalties of \$440,500.

LITIGATION TEAM: Ritthaler, Howland

State vs. Memorial Park Cemetery Incorporated

DATE FILED: September 19, 2005

ENFORCEMENT FILE: E-05-000032

COURT FILE: Wyandotte County, 05CV1449

STATE'S ALLEGATIONS: K.S.A. 17-1367(physical abandonment), K.S.A. 50-627(b)(5) (disparity in contract), K.S.A. 50-627(b)(7)(failure to honor warranties)

DATE RESOLVED: pending

RESOLUTION DETAILS:

LITIGATION TEAM: Brown, Mondenedo, Hogan

State vs. North American Affinity Clubs, Inc., d/b/a National Home Gardening Club

DATE FILED: December 15, 2004

ENFORCEMENT FILE: E-04-000077

COURT FILE: Shawnee County, 04-C-1722

STATE'S ALLEGATIONS: K.S.A.50-626(b)(11)(solicitations deceptively labeled invoice)

DATE RESOLVED: April 25, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance followed by motion to dismiss. Payment of \$80,000 in investigative costs and civil penalties. Adoption of best practices model.

LITIGATION TEAM: Brown, Schumaker, Hogan

State vs. On-Line Yellow Pages, Inc., d/b/a Yellowpagescompany,

DATE FILED: July 25 2005

ENFORCEMENT FILE: E-05-000026

COURT FILE: 05-C-925

STATE'S ALLEGATIONS: Violation for billing for unauthorized internet directory services.

DATE RESOLVED: July 25, 2005

RESOLUTION DETAILS: Consent Judgment enjoined the Defendant from placing unordered services on sole proprietor's telephone bills future and to pay \$5,000.00 to the state.

LITIGATION TEAM: Molina, Reed

State vs. Randall L. Paulson, Individually and d/b/a Paulson Roofing and/or Advantage Roofing and Teresa L. Pagenkopf, individually and d/b/a Paulson roofing and or Advantage Roofing and Paulson roofing, Inc., a corporation and Advantage Roofing, an unincorporated concern.

DATE FILED: June 3, 2004

ENFORCEMENT FILE: E-04-000033

COURT FILE: Shawnee, 04-C-777

STATE'S ALLEGATIONS: KSA 50-627(b)(3)(no material benefit),

DATE RESOLVED: May 13, 2005

RESOLUTION DETAILS: Journal Entry of Consent Judgment against RBI, Inc. in amount of \$565,000.00 (civil fees and penalties) and \$110,393.53 (consumer restitution). Enjoined from any further business in Kansas until judgment satisfied.

LITIGATION TEAM: Brown, Howland

In the Matter of PNG Telecommunications, Inc. d/b/a Powernet Global Communications

DATE FILED: April 11, 2005

ENFORCEMENT FILE: E-05-000012

COURT FILE: N/A

STATE'S ALLEGATIONS: Violation of the Kansas slamming statute, K.S.A. 50-6,103.

DATE RESOLVED: April 11, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance requiring the Respondent to cease switching consumer's long distance service without authorization and requiring the Respondent to pay \$3,000.00 to the state.

LITIGATION TEAM: Molina, Meneses

State vs. Alicia Morales-Phillips

DATE FILED: February 10, 2004

ENFORCEMENT FILE: E-04-000011

COURT FILE: Barton County, 04-CV-32

STATE'S ALLEGATIONS: K.S.A. 50-626(b)(1)(B), K.S.A. 50-626(b)(2), K.S.A. 50-626(b)(3), K.S.A. 50-626(b)(8) (deceptive representations), K.S.A. 50-627(b)(1), K.S.A. 50-627(b)(3), K.S.A. 50-627(b)(5), 50-627(b)(6) (unconscionable acts), the unauthorized practice of law, common law barratry and maintenance.

DATE RESOLVED: March 17, 2005

RESOLUTION DETAILS: Default Judgment was entered on July 4, 2004 against Defendant in the amount of \$660,000.00 as civil penalties, court cost and fees, along with a permanent injunction barring Phillips from holding herself out, in English or Spanish, as an attorney or notary public. On May 4, 2005 a Restitution Order was entered against Defendant in the amount of \$88,228.13.

LITIGATION TEAM: Brown, Mondonedo, Reed

State vs. Rusty L. Rathbun d/b/a Gold's Gym, LTD & R, LLC

DATE FILED: August 25, 2004,

ENFORCEMENT FILE: E-04-000058

COURT FILE: Barton County, 04-CV-161

STATE'S ALLEGATIONS: KSA 50-631(e)(failure to answer subpoena), KSA 50-626(b)(1)(A)(deceptive claims), KSA 50-627(b)(1)(3)(6)(unconscionable acts).

DATE RESOLVED: May 2, 2005

RESOLUTION DETAILS: Case dismissed after Defendant agreed to restitution of \$12,876.82 and investigatory costs of \$960.

LITIGATION TEAM: Brown, Hogan

State vs. Robert Blackford Consultants, Inc., Robert Blackford, an Individual

DATE FILED: June 3, 2004

ENFORCEMENT FILE: E-04-000033

COURT FILE: Shawnee, 04-C-777

STATE'S ALLEGATIONS: KSA 50-627(b)(3)(no material benefit),

DATE RESOLVED: May 13, 2005

RESOLUTION DETAILS: Journal Entry of Consent Judgment against RBI, Inc. in amount of \$565,000.00 (civil fees and penalties) and \$110,393.53 (consumer restitution). Same terms issued against Blackford in form of a default judgment. Blackford incarcerated on federal charges related to this litigation. Blackford and RBI, Inc. enjoined from any further business in Kansas until judgment satisfied.

LITIGATION TEAM: Brown, Howland

State vs. Sentinel Credit Services, Inc. d/b/a Consumer Public

DATE FILED: March 3, 2005

ENFORCEMENT FILE: E-05-000008

COURT FILE: 05-C-299

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670(6)(d) for making unsolicited consumer telephone calls.

DATE RESOLVED: March 3, 2005

RESOLUTION DETAILS: Respondent was required to register for the Kansas No-Call Act and pay \$2,000.00 to the state.

LITIGATION TEAM: Molina, Reed.

State vs. David Scott d/b/a Slanted Fedora Entertainment

DATE FILED: September 19, 2003

ENFORCEMENT FILE: E-03-000056

COURT FILE: 03-CV-6735

STATE'S ALLEGATIONS: The Attorney General filed a Petition alleging 27 violations of the KCPA. The Defendant organizes and promotes Star Trek and science fiction related conventions across the country. Allegations include misrepresentations as to which stars will appear at the conventions, failure to comply with refund policies and charging consumers' credit or debit cards without authorization.

DATE RESOLVED: June 10, 2005

RESOLUTION DETAILS: The Defendant agreed to enter into a Journal Entry of Consent Judgment that required him to pay consumer restitution in the amount of \$21,947.35 and be enjoined from operating within the state of Kansas. Collection of this restitution is still ongoing.

LITIGATION TEAM: Molina, Strome

State vs. 7 Eleven

DATE FILED: October 10, 2005

ENFORCEMENT FILE: E-05-000039

COURT FILE: N/A

STATE'S ALLEGATIONS: Multistate action alleging unlawful sale of tobacco to minors.

DATE RESOLVED: October 10, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance requiring the Respondent to adopt a best practices model developed by the Multistate Tobacco Task Force and pay \$9,824.84 to the state.

LITIGATION TEAM: Molina.

In the Matter of Smart Automotive Group LLC.

DATE FILED: February 25, 2005

ENFORCEMENT FILE: E-05-000006

COURT FILE: N/A

STATE'S ALLEGATIONS: K.S.A. 50-626 (deceptive advertising)

DATE RESOLVED: February 25, 2005

RESOLUTION DETAILS: Attorney General entered into an Assurance of Voluntary Compliance with this Louisiana-based advertising agency for promoting ads within

Kansas to Kansas car dealers that the Attorney General alleged were deceptive and implied affiliations that did not exist. The agency agreed to civil penalties/costs of \$32,000.00 and to be enjoined from such practices in the future.
LITIGATION TEAM: McCabria, Hogan

In the Matter of Dae H. Song d/b/a SK Janitorial Services

DATE FILED: November 3, 2005

ENFORCEMENT FILE: E-05-000007

COURT FILE: N/A

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670(6)(d) for transmitting a written solicitation to a consumer after the consumer requested such transmissions cease.

DATE RESOLVED: November 3, 2005

RESOLUTION DETAILS: Respondent was required to register for the Kansas No-Call Act and pay \$1,000.00 to the state.

LITIGATION TEAM: Molina, Reed.

State vs. Sonnenschein Marketing

DATE FILED: July 20 2005

ENFORCEMENT FILE: E-05-000027

COURT FILE: 05-C-923

STATE'S ALLEGATIONS: Attorney General filed a lawsuit for violation of the Kansas No-Call Act, K.S.A. 50-670(6)(d).

DATE RESOLVED: March 3, 2006

RESOLUTION DETAILS: Defendant agreed to be permanently enjoined from engaging in telemarketing within the state of Kansas.

LITIGATION TEAM: Molina, Reed

In the Matter of Southwestern Bell Telephone, LP d/b/a SBC Kansas

DATE FILED: September 8, 2005

ENFORCEMENT FILE: E-05-000031

COURT FILE: N/A

STATE'S ALLEGATIONS: Billing for unordered merchandise, K.S.A. 50-626.

DATE RESOLVED: September 8, 2005

RESOLUTION DETAILS: Respondent agreed to cease future marketing strategies that offered a promotional product, then placing bills on the consumer's telephone bill for such promotional product and pay \$175,000.00 to the state.

LITIGATION TEAM: Molina, Reed

State vs. Specialty Retailers

DATE FILED: May 27, 2005

ENFORCEMENT FILE: E-05-000042

COURT FILE: N/A

STATE'S ALLEGATIONS: Violation for a failure to properly maintain price scanning equipment, K.S.A. 83-219(a) and K.S.A. 50-626.

DATE RESOLVED: May 27, 2005

RESOLUTION DETAILS: Defendant agreed to recalibrate all price scanning equipment, implement a training policy and transfer ownership over 342 shares to the state.
LITIGATION TEAM: Molina

State Farm Mutual Automobile Insurance Company

ENFORCEMENT FILE: E-05-000002

STATE'S ALLEGATIONS: Multi-state investigation. Branded-titled issues.

DATE RESOLVED: January 5, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance. Payment of \$1,000,000 to settling states, of which Kansas received \$15,000. Implementation of practices to maintain compliance with branded-title laws of the settling states. Implementation of efforts to resolve all title issues for applicable vehicles, including re-titling.

Compensation to eligible consumers equal to \$40,000,000.

LITIGATION TEAM: McCabria

State vs. Steakhouse Quality Meats Inc., d/b/a Steakhouse Meats, Reem Khashou, Rodney Creighton, and Clayton Simpson

DATE FILED: May 8, 2003

ENFORCEMENT FILE: E-03-000025

COURT FILE: Shawnee County, 03-C-702

STATE'S ALLEGATIONS: K.S.A. 50-640(b)(1) (failure to provide receipt), K.S.A. 50-640(b)(2) and/or (b)(3) (failure to furnish notice of cancellation), K.S.A. 50-640(b)(5) (3-day right to cancel), K.S.A. 50-903(b)(4) (price per pound)

DATE RESOLVED: May 16, 2005

RESOLUTION DETAILS: Attorney General filed a petition against this business for violations of the door-to-door statute while selling meat. After protracted pre-trial litigation, Journal Entry of Consent Judgment. Defendant paid \$10,000 in civil penalties/costs and restitution to consumers.

LITIGATION TEAM: McCabria, Meneses

In the Matter of Talk too Me, LLC d/b/a OO Operator

DATE FILED: February 8, 2005

ENFORCEMENT FILE:

COURT FILE:

STATE'S ALLEGATIONS: Placing unordered services on a consumer's telephone bills, K.S.A. 50-617(c).

ENFORCEMENT FILE: E-05-000001

COURT FILE: N/A

DATE RESOLVED: February 8, 2005

RESOLUTION DETAILS: Respondent agreed to be permanently enjoined from conducting business within the state of Kansas.

LITIGATION TEAM: Molina, Reed.

State vs. Transmasters

DATE FILED: November 9, 2005

ENFORCEMENT FILE: E-05-000037

COURT FILE: Douglas County, 05-C-581
STATE'S ALLEGATIONS: K.S.A. 50-626(b)(9) (deception claims), K.S.A. 50-627(b)(1) (unconscionable pricing), K.S.A. 50-627(b)(2) (unconscionable contract formation), and K.S.A. 50-627(b)(5) (grossly excessive pricing)
DATE RESOLVED: Case Pending
RESOLUTION DETAILS:
LITIGATION TEAM: Brown, Meseke, Pryor

In the Matter of Union Cemeteries Assoc: Inc., d/b/a: Roselawn Memorial Park

DATE FILED: March 1, 2005
ENFORCEMENT FILE: E-05-000009
STATE'S ALLEGATIONS: K.S.A. 50-627(b)(1)(unconscionable marketing)
DATE RESOLVED: March 1, 2005
RESOLUTION DETAILS: Assurance of Voluntary Compliance. Paid \$1000 investigative fees and expenses, agreed to adopt best practices model.
LITIGATION TEAM: Ritthaler, Hogan

State vs. US Express Leasing, Inc.

DATE FILED: May 27, 2005
ENFORCEMENT FILE: E-05-000036
COURT FILE: N/A
STATE'S ALLEGATIONS: Violation of a failure to state a material fact, K.S.A. 50-626(3).
DATE RESOLVED: May 27, 2005
RESOLUTION DETAILS: Consent Judgment requiring the Defendant to cease collection of up to 85% of the original debt from Kansas consumers who were deceived into personally guaranteeing a debt for telecommunication hardware.
LITIGATION TEAM: Molina, Reed

In the Matter of Warner Lambert Company LLC

DATE FILED: 6/9/04
ENFORCEMENT FILE:
COURT FILE:
STATE'S ALLEGATIONS: The states alleged that Warner Lambert Company, LLC engaged in certain promotional and marketing practices for off-label uses of Neurotin, a prescription drug approved by the FDA as safe and effective in adjunctive treatment for epilepsy and in the treatment of post-herpetic neuralgia. The states alleged that such off-label promotional and marketing practices violated the state consumer protection laws. Warner Lambert Company, LLC agreed to enter into an AVC with the states but did not admit to any violation of the state consumer protection laws.
DATE RESOLVED: 6/9/05
RESOLUTION DETAILS: Kansas joined with 48 other states in executing an Assurance of Voluntary Compliance for alleged violations of promotional and marketing practices. The Respondent agreed to pay \$28,000,000.00 of which Kansas was paid \$142,503.09.
LITIGATION TEAM: Burdette

In the Matter of Wells Fargo Financial Leasing, Inc.

DATE FILED: May 26, 2005

ENFORCEMENT FILE: E-05-000016

COURT FILE: N/A

STATE'S ALLEGATIONS: Failure to state a material fact that products were not of the type or quality represented, K.S.A. 50-626(3).

DATE RESOLVED: May 26, 2005

RESOLUTION DETAILS: Assurance of Voluntary Compliance requiring the Respondent to cease collection of up to 85% of the original debt from Kansas consumers who were deceived into personally guaranteeing a debt for telecommunication hardware.

LITIGATION TEAM: Molina, Reed

SUMMARY OF 2005
ANTITRUST ENFORCEMENT ACTIONS

State of Kansas ex rel. vs Abbott Laboratories Inc., Geneva Pharmaceuticals, Inc., and IVAX Pharmaceuticals, Inc., formerly known as Zenith Goldline Pharmaceuticals, Inc.

DATE FILED: September 27, 2001

ENFORCEMENT FILE: E-05-0000049

COURT FILE: 1:99-MD-01317

STATE'S ALLEGATIONS: Monopolization, Price-fixing

DATE RESOLVED: March 7, 2005

RESOLUTION DETAILS: Settlement approved by court on March 7, 2005. Distribution of funds still pending.

LITIGATION TEAM: Hansen

On September 27, 2001, Kansas joined Florida and Colorado in filing a complaint against Abbott Laboratories, Geneva Pharmaceuticals, Inc and IVAX Pharmaceuticals. The case involves the drug Hytrin, a brand-name drug manufactured by Abbott that is prescribed for the treatment of hypertension and benign prostatic hyperplasia ("BPH"). The complaint alleges that certain conduct by these companies prevented generic versions of Hytrin from coming to the market and that this conduct violates the antitrust laws of the United States and Kansas. A settlement was reached with IVAX Pharmaceuticals in 2004. The case involving Abbot Laboratories, Inc. and Geneva Pharmaceuticals, Inc. was settled in 2005 for \$30.7 million and will benefit consumers nationwide. Proceeds from this settlement will be distributed early in 2006.

State of Kansas ex rel. vs BMG Music, Bertelsmann Music Group Inc., Capitol Records Inc., d/b/a EMI Music Distribution, Virgin Records America Inc., Priority Records, L.L.C., MTS Inc., d/b/a Tower Records, Musicland Stores Corporation, Sony Music Entertainment, Inc., Trans World Entertainment Corporation, Universal Music Group, Inc., Universal Music & Video Distribution Corp., UMG

Recordings Inc., Warner-Elektra-Atlantic Corp., Warner Music Group Inc., Warner Bros. Records Inc., Atlantic Recording Corp., Elektra Entertainment Group Inc., and Rhino Entertainment Co.

DATE FILED: August 8, 2000

ENFORCEMENT FILE: E-05-000053

COURT FILE: MDL Docket No. 1361

STATE'S ALLEGATIONS: Price-fixing, Retail Price Maintenance

DATE RESOLVED:

RESOLUTION DETAILS: Settlement in which Defendants agreed to pay civil penalties and contribute free music CD's to the State. Distribution of funds still pending.

LITIGATION TEAM: Hansen

On August 8, 2000, the Attorney General, along with 41 other states and three territories, filed suit in the United States District Court for the Southern District of New York, against the nation's largest distributors of recorded music, affiliated labels and various retailers for price fixing. Also named were retail giants Musicland, which operates more than 1,300 retail outlets under the Musicland and Sam Goody trade names, Trans World, which operates more than 900 stores under the names Camelot, FYE, Music & Movies, Planet Music, Record Town, Saturday Matinee, Spec's Music, Strawberries and the Wall, and MTS Inc. (doing business as Tower Records.) The complaint further targets unnamed co-conspirators "both known and unknown" and call for the awarding of triple damages to consumers and the assessment of civil penalties against the companies. The complaint alleges that in the early 1990's, recorded music outlets such as Best Buy, Circuit City and Target began to offer stiff competition to mall-based music stores. The Defendants are accused of engaging in an unlawful scheme designed primarily to stop retail outlets from offering music at deep discounts. The parties have agreed to a settlement which included a cash payment of \$13.86 to consumers who made a timely claim, and a contribution of music CD's to the States. Kansas share of the CD's has been distributed to its public libraries. Distribution of residual monies had been expected to be distributed in 2005. Due to some unforeseen logistical issues, distribution of remaining settlement funds will not occur until 2006.

State of Kansas ex rel. vs Bristol-Myers Squibb Co., Danbury Pharmacal, Inc., and Watson Pharma, Inc. (In Re Buspirone Antitrust Litigation)

DATE FILED: April 3, 2002

ENFORCEMENT FILE: E-02-000040 (but closed)

COURT FILE: No. 01-CV. 11401, MDL 1413

STATE'S ALLEGATIONS: Monopolization

DATE RESOLVED: E-05-000050

RESOLUTION DETAILS: Settlement was reached resulting in a consent order, limiting Defendant's conduct, and payment of damages and costs.

LITIGATION TEAM: Hansen

This case was first filed by thirty-two states in December, 2001, in the federal district court for the Southern District of New York. Kansas joined the multistate suit in April, 2002. The case involves the anti-anxiety drug BuSpar, which is Bristol Myers Squibb Co.'s name for buspirone. The states' complaint alleged that Bristol-Myers Squibb Co. fraudulently listed its patent for BuSpar in the FDA's Orange Book and that

Bristol-Myers Squibb Co. entered into anticompetitive agreements with two companies to prevent distribution of generic buspirone. A settlement has been reached resulting in payments to consumers based upon claims submitted. Consumer claims were paid first. State agencies, including Medicaid, recovered approximately \$650,000. An additional \$10,570 was received from the residual settlement fund late in 2005. These monies will be distributed to a nonprofit mental health organization in 2006.

In re Cardizem CD Antitrust Litigation

DATE FILED: July 2, 2001

ENFORCEMENT FILE: E-05-000055

COURT FILE: 99-MD-1278

STATE'S ALLEGATIONS: Monopolization, Price-fixing

DATE RESOLVED: May 23, 2005

RESOLUTION DETAILS: A settlement was reached with Defendants involving an injunction and payment of damages.

LITIGATION TEAM: Hansen

On July 2, 2001, this action was brought by the Attorney General, along with Attorneys General of 26 other states, seeking relief for a series of anti-competitive and illegal acts by which Defendants sought to delay or prevent the marketing of less expensive, generic alternatives to Cardizem CD, a highly profitable, brand-name drug for treatment of chronic chest pains, high blood pressure, and prevention of heart attacks. The parties have agreed to an \$80 million settlement which has been approved by the court, but has been contested by one objector. The objector's complaint was rejected by the court in 2005. Consumer payments were finally distributed shortly thereafter. The Office of the Kansas Attorney General received an additional \$171,000 from the settlement residue fund in December of 2005.

State of Kansas ex rel. v. Microsoft

DATE FILED: May 18, 1998

ENFORCEMENT FILE: E-05-000047

COURT FILE: CA No. 98-1233 (CKK); DC Cir No. 02-1755

STATE'S ALLEGATIONS: Monopolization; Tying

DATE RESOLVED:

RESOLUTION DETAILS: Settlement requiring Defendant to take various steps to correct antitrust actions, including making technology available to other parties. The court and the States continue to monitor Defendant's progress.

LITIGATION TEAM: Hansen

On May 18, 1998, the Attorney General, along with 18 other states and the Department of Justice, filed an antitrust action against Microsoft Corporation in the United States District Court for the District of Columbia. The suit alleged that Microsoft's conduct violated state and federal antitrust laws. In November 1999, the court found that Microsoft had violated the state and federal antitrust laws and caused consumer harm by, *inter alia*, engaging in a series of actions designed to protect its monopoly power. The Court issued an order in June 2000 which included remedies involving the reorganization of the structure of Microsoft. Microsoft appealed to the United States Court of Appeals for the District of Columbia which affirmed the Findings of Fact that

Microsoft's conduct violated the law, but reversed and remanded the case for further proceedings and consideration of the remedy to be imposed for the illegal conduct. In November 2000, nine states and the Department of Justice entered into a settlement of the case which must be approved by the Court. The State of Kansas and the other non-settling states continued to litigate and submitted a separate remedy proposal. Although there was significant industry opposition to the DOJ settlement, the court approved the settlement while at the same time granting judgment to the litigating states for some, but not all, of the additional relief suggested by the litigating states. Kansas and the other states continue to work with Microsoft to insure compliance with the settlement and judgment.

State of Kansas ex rel. vs. Bristol-Myers Squibb Co. ("BMS"), (Taxol)

DATE FILED: June 4, 2002

ENFORCEMENT FILE: E-05-000054

COURT FILE: DC-1:02-CV-01080 (EGS)

STATE'S ALLEGATIONS: Monopolization, Horizontal Non-price Restraint

DATE RESOLVED:

RESOLUTION DETAILS: Settlement involving damages and injunctive relief against Defendant.

LITIGATION TEAM: Hansen

Kansas, along with a group of 28 other states, the District of Columbia, Puerto Rico, and the Virgin Islands joined together in the multi-state action that accuses Bristol of acting illegally to keep the cheaper, generic version of Taxol off the market. Suit was filed in the United States District Court for the District of Columbia.

The lawsuit alleges that Bristol knowingly manipulated the US Patent and Trademark Office process by fraudulently securing patents that had no legal validity, which prevented generic drug manufacturers from entering the marketplace until 2000. Bristol's sales of Taxol have totaled at least \$5.4 billion since 1998. A standard course of treatment using the name brand drug can cost between \$6,000 and \$10,000 per patient. A settlement has been reached. Consumers will be paid based upon claims submitted, averaging \$500.00 each. Proceeds of \$260,000.00 recovered for state agencies and Medicaid. Further, it was negotiated for the University of Kansas Medical Center to be eligible for participation in a program that provides for the distribution of free Taxol doses for the treatment of underinsured cancer victims. Additional residual monies earmarked for charitable purposes were finally received during 2005 and are expected to be distributed during 2006.

Fatema Azizian, et al. v. Federated Department Stores, Inc., et al.

DATE FILED: N/A (Objection filed March 26, 2004)

ENFORCEMENT FILE: E-05-000041

COURT FILE: Civil No. 3:03 CV-03359 SBA

STATE'S ALLEGATIONS: Insufficient remedy

DATE RESOLVED:

RESOLUTION DETAILS: N/A

LITIGATION TEAM: Hansen

This matter is a private class action alleging collusion and price fixing in the cosmetics industry. The settlement in this case is questionable and as presented, the true value of the settlement to consumers cannot be determined. There are also concerns with regard to proper notice to consumers. The State of Kansas along with ten other states filed an objection to the settlement on behalf of consumers in their respective states. The parties have preliminarily agreed to much needed improvements to the settlement, including improved product selection for distribution to the affected class, as well as improved methods of notice. Final disposition of the matter is pending.

State of Ohio, et. al. v. The Hearst Trust, et. al.

DATE FILED: January 2005

ENFORCEMENT FILE: E-05-000023

COURT FILE:

STATE'S ALLEGATIONS: 15 U.S.C. § 2 (Monopolization, Attempted Monopolization), K.S.A. 50-101, et. seq.

DATE RESOLVED: July 8, 2005

RESOLUTION DETAILS: AVC. \$17,172.25

LITIGATION TEAM: Hansen

First Data Bank (owned by Hearst), and Medi-Span, Inc. were competitors in the field of electronic drug information databases. First Data Bank acquired Medi-Span in 1998. The FTC has since investigated and determined that the combination gave First Data Bank an illegal monopoly. The FTC and Hearst finally reached a settlement on behalf of non-governmental consumers, including the disgorgement of profits and the divestiture of Medi-Span. The investigating states subsequently negotiated a settlement on behalf of state governmental consumers. Funds were received and distributed in 2005.

State of Maryland, et al. v. SmithKline Beecham Corporation (Relafen)

DATE FILED: July 2004

ENFORCEMENT FILE: E-05-000052

COURT FILE: 04-11726 WGY (D. Mass)

STATE'S ALLEGATIONS: 15 U.S.C. § 2 (Monopolization)

DATE RESOLVED: February 2005

RESOLUTION DETAILS: Settlement requiring payment of damages for state's proprietary claims.

LITIGATION TEAM: Hansen

In July 2004, Kansas joined a multi-state action contending that SmithKline fraudulently manipulated the patent process for its drug Relafen, as means by which to prevent generic versions of the drug from coming to the marketplace. A \$10 million settlement was finally reached in the case. Proceeds were distributed in May of 2005.

State of Maryland, et al. v. SmithKline Beecham Corporation (Paxil)

DATE FILED: N/A

ENFORCEMENT FILE: E-05-000057

COURT FILE: N/A

STATE'S ALLEGATIONS: Monopolization

DATE RESOLVED: N/A

RESOLUTION DETAILS: Settlement negotiations. No agreement reached in 2005.

LITIGATION TEAM: Hansen

The States contend that SmithKline fraudulently manipulated the patent process for its drug Paxil, as means by which to prevent generic versions of the drug from coming to the marketplace. Settlement negotiations were conducted during 2005.

State of Maryland, et al. v. SmithKline Beecham Corporation (Augmentin)

DATE FILED: N/A

ENFORCEMENT FILE: E-05-000058

COURT FILE: N/A

STATE'S ALLEGATIONS: Monopolization

DATE RESOLVED: N/A

RESOLUTION DETAILS: Settlement negotiations. No agreement reached in 2005.

LITIGATION TEAM: Hansen

The States contend that SmithKline fraudulently manipulated the patent process for its drug Augmentin, as means by which to prevent generic versions of the drug from coming to the marketplace. Settlement negotiations were conducted during 2005.

State of Texas, et al. v. Organon USA, Inc. and AKZO Nobel, N.V.

DATE FILED: October 20, 2004

ENFORCEMENT FILE: E-05-000056

COURT FILE: Master Docket 02-CV-2007 (D.C. N.J.)

STATE'S ALLEGATIONS: 15 U.S.C. § 2 (Monopolization), K.S.A. 50-101, et. seq.

DATE RESOLVED: August 30, 2005

RESOLUTION DETAILS: Settlement

LITIGATION TEAM: Hansen

The States contend that the Defendants fraudulently manipulated the patent process for its drug Remeron, as a means by which to prevent generic versions of the drug from coming to the marketplace. A \$36 million settlement has been reached in the case late in 2004. Due to unexpected delays, proceeds from the settlement are now expected to be distributed in 2006.

State of Colorado, et al. v. Warner Chilcott Holdings Company, III, Ltd., et al, and Barr Pharmaceuticals, Inc.

DATE FILED: November 7, 2005

ENFORCEMENT FILE: E-05-000046

COURT FILE: 1:05-CV-021810 CKK

STATE'S ALLEGATIONS: Monopolization

DATE RESOLVED:

RESOLUTION DETAILS:

LITIGATION TEAM: Hansen

The States contend that Warner Chilcott and Barr entered into an anticompetitive agreement not to compete. Warner Chilcott is a pharmaceutical company that develops, manufactures, and markets proprietary women's healthcare products. Barr is a pharmaceutical company that markets both proprietary and generic prescription

pharmaceutical products. The affected drug in this matter is Ovcon, a women's oral contraceptive product. The matter is in early stages of litigation.

NO-CALL ENFORCEMENT ACTIONS

State v. Glam Promotions Inc., f/k/a CSI Consulting

DATE FILED: January 20, 2004

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670.

DATE RESOLVED: January 20, 2004

RESOLUTION DETAILS: Court granted default judgment. Collection is still pending.

LITIGATION TEAM: Molina, Meneses

State v. Grand Vacations International, Inc.

DATE FILED: March 17, 2003

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670.

DATE RESOLVED: March 17, 2003

RESOLUTION DETAILS: Court granted default judgment. Collection is still pending.

LITIGATION TEAM: Molina, Meneses

State v. Take Time for Branson Inc., d/b/a Branson Bound

DATE FILED: September 18, 2004

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670.

DATE RESOLVED: September 18, 2004

RESOLUTION DETAILS: Court granted default judgment. Collection is still pending.

LITIGATION TEAM: Molina, Meneses

State v. TZ Enterprises, Inc., and Fred Jeff May, Individually

DATE FILED: October 29, 2004

STATE'S ALLEGATIONS: Violation of the Kansas No-Call Act, K.S.A. 50-670.

DATE RESOLVED: October 29, 2004

RESOLUTION DETAILS: The Defendant agreed to pay \$1,000.00 in civil penalties and investigation fees.

LITIGATION TEAM: Molina, Meneses

2005 NO-CALL COMPLAINTS

Complaints Filed: 284
Complaints Closed: 166

	<u>Category</u>	
No-Call		284

2005 DISPOSITION OF NO-CALL CLOSED COMPLAINTS

	<u>Complaints Received</u>	<u>Percent of Total</u>
No Jurisdiction	1	0.49%
Practice Discontinued	0	0.00%
Unable to Locate Respondent	11	5.29%
Respondent Out of Business	1	0.49%
No Violation	33	15.87%
Insufficient Evidence	1	0.49%
Withdrawn	0	0.00%
Other	0	0.00%
Defendant Enjoined & Violations Found	0	0.00%
Consent Judgment	8	3.85%
Assurance of Voluntary Compliance	4	1.92%
Default Judgment	0	0.00%
No-Call Charity	34	16.35%
No-Call Political	3	1.44%
No-Call Polling	15	7.21%
No-Call Established Business Relationship Exemption	36	17.31%
No-Call Express Authorization Exemption	9	4.33%
No-Call Collection Exemption	48	23.08%
No-Call Affirmative Defense - Business Phone	2	.75%
No-Call Affirmative Defense – Mistake	2	.75%
TOTAL CASES	208	99.62%

*Note: Percentages do not equal 100% because they have been rounded off.

CONCLUSION

The fact patterns and positive results demonstrated by the foregoing enforcement actions reflect the priorities of the Office of Attorney General Phill Kline. These priorities are set forth in the Division's mission statement. All case numbers are set forth above, and the files will be opened for any wishing to review the enforcement actions in the offices of the Consumer Protection and Antitrust Division. The Division was able to recapture \$921,553.00 in actual funds for consumers in 2005. Additional monies were brought into the state general fund and into accounts funding the Division's work.

Calendar year 2005 was a very successful year in the Consumer Protection Division.

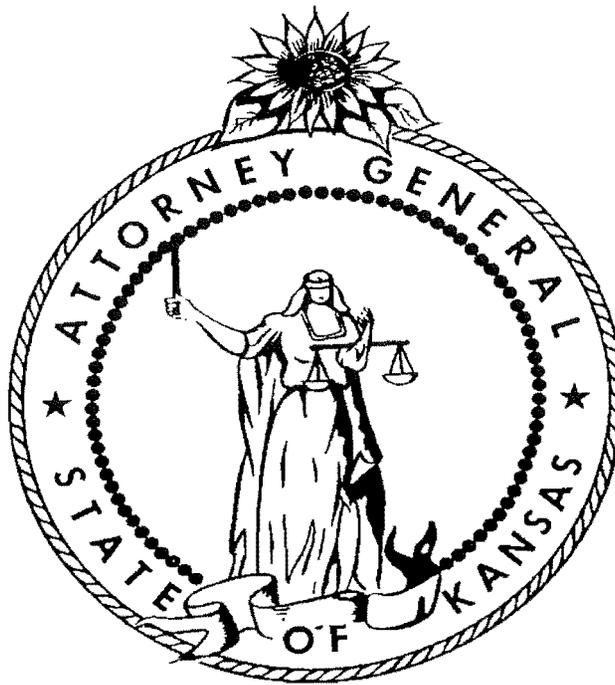
PHILOSOPHY AND MISSION STATEMENT OF ATTORNEY GENERAL PHILL KLINE'S CONSUMER PROTECTION/ANTITRUST DIVISION

The Consumer Protection/Antitrust Division strives to promote human dignity through justice with compassion by carrying out its statutory duties under the KCPA with professional excellence and judicious restraint.

- *The Division exists to promote healthy commerce by investigating and taking enforcement action against deceptive, unconscionable and anti-competitive business practices.*
- *The Division strives to minimize the need for such investigations and enforcement action by educating consumers, suppliers and business leaders.*
- *When enforcement action must be taken, the Division vigorously prosecutes violators of the KCPA toward the goal of developing a body of case law that protects Kansans from unscrupulous business practices.*

2005 ANNUAL REPORT

Consumer Protection & Antitrust Division



REPORT ON THE REFORM OF THE POLICIES AND PROCEDURES OF THE DIVISION

(Submitted pursuant to K.S.A. 50-628 and K.S.A. 50-109)

**ATTORNEY GENERAL
PHILL KLINE**

MEMORANDUM

**CONSUMER PROTECTION
& ANTITRUST DIVISION**

To: All Interested Parties
From: Deputy Attorney General Bryan J. Brown
Subject: The Reform of the Consumer Protection and Antitrust Division
Date: October 30, 2006

I am pleased to tender an overview of the reformation and reconstruction of the Consumer Protection and Antitrust Division pursuant to the directives communicated to me in December 2002 and January 2003 by Attorney General Phill Kline.¹

The following are the foundational stones upon which General Kline ordered his re-organized Consumer Protection and Antitrust Division erected:

1. The mission statement of the Kline Administration as a whole: "Promoting human dignity through justice with compassion and professional excellence."
2. The charge to never "engage in extortion or misuse the power of the office to achieve an unjust result, regardless of who the consumer is" and to carefully balance against this order the directive to "identify and serve the most vulnerable, especially those vulnerable due to advanced years or medical conditions, and to grant them a preference when investigating consumer cases."

¹
This report is tendered in keeping with the obligation that the annual report detailing the activities of the Attorney General "include a statement of the investigatory and enforcement procedures and policies of the attorney general's office." K.S.A. 50-628(b) and K.S.A. 50-109(d). Other than General Kline's previous introductions reporting on the change in managerial philosophy in the Division, the instant thorough and detailed reporting constitutes the only known overview of the historic policies and procedures of the Division. No such explanation is found in any annual report of the Division filed in the State Library. This report is a continuance of a report tendered to the Legislative Budget Committee of the Kansas House of Representatives on September 1, 2005. The author of this memo recommends that report to any who seek further details on the Division's Reform of 2003.

3. The charge to "create a management system in which each public interface is governed by protocols to ensure professionalism; in which all due process rights are respected; and that generates rapid, accurate, brief responses."

I submit that the following report documents the transformation of the Consumer Protection and Antitrust Division along the lines ordered by a constitutional office holder. This transformation is presented herein as the "Reform of 2003."

The State of the Consumer Protection and Antitrust Division Prior to January, 2003

By reading the annual reports of the Division since 1979 and by conducting interviews with those working in the Division in 2003 (and some that had worked in the Division in years before that), the author of this memo was able to ascertain with some certainty the operational philosophy of the Division prior to 2003.

That operational philosophy is presented herein. It is one so common among government offices in states, counties and municipalities across the nation as to be stereotypical.²

Pre-2003 Operational Philosophy

It was my observation that the primary goal of the Division prior to 2003 was to successfully resolve the most number of consumer complaints in the complaining consumers' favor, and by so doing return the most monies to complaint-writing consumers in the form of so-called "consumer restitution."³ For this reason, the previously filed annual reports of the Division contain few statistics other than "consumer restitution" and the gross number of consumer

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See, e.g., Former Nebraska Attorney General Don Stenberg, *Avoiding and Settling State Attorney General Lawsuits*, Washington Legal Foundation Vol. 19 No. 15 (May 30, 2004).

3

One can consult the annual reports from 1979-2002 for more detail on this stated objective. They are filed in the archives of the State Library. Any discussion of "consumer restitution" dollars and the Consumer Protection Division leads one through fuzzy math and onto soft ground, for the numbers found in past annual reports are seldom reflected in accounts managed by the Division. Some are merely the telephonic report of a consumer who was able to receive an economic benefit (in the form of contract rescission, monies returned, apology or a nuisance value payment) sometime after filing a complaint with the Division. Some investigators recounted being ordered to claim such undocumented savings even when the merchant's agreement to refund came before the Division could respond to the filed complaint. It should also be noted that many of the largest consumer restitution returns, such as the \$13.5 million dollar gain of 1988, were the result of lucrative multistate actions in the years before that source in income began to wane. See Tables, *infra*.

complaints received – regardless of the merit of the claims advanced.⁴

This primary goal of “successfully” addressing consumer complaints was primarily realized through the mailing of “investigation” letters bearing the seal of the Office of the Attorney General. Many former laborers in that process refer to the pre-reform procedures as a secretarial pool for that very reason.

A secondary goal appeared to be the accumulation of the maximum amount of operational monies into the Division’s accounts. This accumulation of monies was primarily from multi-state investigations led by the National Association of Attorneys General. (NAAG) The most lucrative of these multistate actions (since 2000) are presented in the statistical analysis portion of this report. The previously filed annual reports of the Division contain few reports on these crucial statistics. The statistics for the past seven years are presented, *infra*.

My review further convinced me that principles of right reason, sound economics, justice, or governmental restraint were not the primary touchstones informing Divisional decisions once a consumer complaint was tendered or multistate action announced.

By way of example, standard procedure followed prior to the Reforms of 2003 mandated that almost every complaint tendered to the Division generated a form letter to the business targeted by the complainant. That letter informed the merchant of an investigation by the Office of the Attorney General, and also communicated the Attorney General’s desire that the merchant consider resolving the complaint to the consumer’s advantage.

This is the standard consumer protection model deployed in government offices across the nation, and has its roots in the consumer empowerment movement of the 1970’s. While

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Statistics that are not commonly reported in the annual reports are found at the conclusion of this report. The above footnote discusses the tendency toward inflation and even exaggeration found in “consumer restitution” numbers. The same can be found in the reporting of monetary judgment arising out of litigation efforts. It is not uncommon for litigation to result in a large judgment and no funds. The Division’s 2005 judgment against Alicia Morales Phillips for \$660,000 is but one example. That judgment has resulted in no payments to the Division. A similar example is the \$100,000 judgment against a litigant from many years ago. That judgment was recently satisfied, after the statute of limitations had run, by payment of less than \$5,000. This was collected only due to the new emphasis upon the collection of judgments in the Division, a process completely lacking in the years prior to the Reform of 2003. This debt collecting task force, dubbed the Delta Five, is yet another positive result of the Reform of 2003. The point to be made in this footnote is this: **Many of the monetary statistics that have been reported out of the Division in the past are debatable at best.** This is especially the case when “consumer restitution” is investigated in the files of the Division. Real dollars in the bank is the benchmark that should be most valued. Those numbers are presented in Table B, *infra*.

effective in pleasing constituents, such a system does little to promote the development of consumer law jurisprudence or educate suppliers as to their obligations under the Consumer Protection Act, K.S.A. 50-623, *et seq.* ("KCPA")

Also by way of example, it appears that few, if any, multistate opportunities were passed over before the Reforms of 2003. While joining any and all such actions is a certain path to increased revenue, many of the past NAAG multistates have been critiqued as a form of state sanctioned extortion. There can be little doubt that the announcement of an investigation by a consortium of state attorneys general can cause great consternation on the board of a corporate entity, regardless of the merits of the underlying action. See, Stenberg, footnote 2, *supra*.

Nevertheless, such multistate actions have been the standard consumer protection model utilized by the National Association of Attorneys General (NAAG) for decades. It has only recently began to show signs of failing as a methodology to fund consumer protection agencies and attorney general offices.

The primary goal of increasing the filing of consumer complaints, which is front and center in most all of the annual reports filed between the years 1996 to 2002, was accomplished by broadcasting the message that the Attorney General's Consumer Protection Division stood prepared to address most any and all problems arising in the transactional context.

And they did just that, as the five examples (*infra*) from a fourteen month period aptly demonstrate.

The prior annual reports of the Consumer Protection Division document an exponential rise in complaints received and processed, from 4,308 in 1995 to an all time high of 8,332 in 2001.⁵ This almost 95% increase in the number of complaints being filed with the Consumer Protection Division took place while the population of Kansas grew less than 5% during that same time period.⁶

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Note that the following year (2002) was the ten year low point for actual dollars brought into the Division and also the ten year low for the filing of enforcement actions. These statistics suggest that the sheer number of complaints filed does not result in increased revenue or increased litigation. It was not, however, a low point for the mailing out of investigatory letters of questionable merit. See data analysis, *infra*.

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See population statistics, Table G , *infra*.

Heavy Case Loading and Mediation Tactics Prior to the Reform of 2003⁷

The emphasis upon a constantly increasing case load resulted in overburdened support staff, investigators and Assistant Attorneys General. In January, 2003, most investigators were tasked with a case load exceeding 300 in number; more than a few of the Division's investigators struggled under a load exceeding 400 open cases. Such heavy loading had a predictable result: the cases that appeared easiest to process received the most attention. These cases were most often allegations against a "brick and mortar" Kansas business, since such "targets" were easy to reach and easier to intimidate into compliance.⁸

This overwhelming case load also created the conditions in which cases were not closed in an efficient time frame. During initial interviews, the author of this memo heard a constant refrain from Assistant Attorneys General along these lines: Stale cases were often presented to them that could have been resolved through credit card challenges or in small claims court had the complaints been presented to an AAG in a timely fashion. Because these cases were often subjected to review by an AAG only after many letters had been sent to the merchants and consumers, and usually after the period to challenge a credit card charge or statute of limitations had run, such common sense resolutions were not viable. The problem was then one that could be resolved only by state action – action that had not been justifiable in the first instance, but that would have to be taken up in the second instance since all other routes were then closed due to the passage of time.

Statistical sampling of the database revealed the following temporal trend analysis:

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"[E]fforts to mediate and settle complaints to the Attorney General's Consumer Protection Division have led to the collection of nearly \$700,000 in restitution paid directly to Kansas consumers." 1988 Annual Report, page 2. "As a result of lawsuits, settlements and mediation, consumers were saved \$1,426,699 [in 1994]". 1994 Annual Report, Introduction. While no mention of mediation efforts are found in the annual reports after 1995, the mediation program that had proved so successful in transferring monies from merchants to complaining consumers in years past continued unabated until the Reform of 2003. While a mediation of some type may be the result of an investigation, the Division is not situated to serve as a mediator in the truest sense of that word. While the mediation prior to 1996 appeared to be checked by the rubrics of the KCPA, much that occurred between 1996 and 2003 appears to have been unchecked. But see footnote 10, *infra*.

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As the overreaching examples presented herein demonstrate, resident Kansas businesses were not allowed the luxury of ignoring a consumer complaint filed with the Office of Attorney General, no matter how banal or bereft of merit the allegations contained in the complaint. Even too much mayonnaise was considered a violation of K.S.A. 50-626 or K.S.A. 50-627. (The file contains no clue as to whether the reviewing Special Agent and AAG thought too much mayonnaise to be a deceptive act or unconscionable act – or both.)

Year	Most days file open	Average days file open
2000	1065	173
2001	841	148
2002	667	187

These random samplings suggest that most of the merchants subject to a complaint filed with the Division in the period before the Reform of 2003 could look forward to an "investigation" lasting, on the average, about five and a half months. Many lasted for years. Some Special Agents confessed a bias against closing investigations under the old regime, noting that they feared consumer complaints over the lack of result and hoped that future complaints against the same business would cause a disgorging of consumer restitution. In other words, the heavy emphasis placed upon consumer restitution and consumer satisfaction operated against concerns of due process and against the interests of the businesses targeted by complaint-filing consumers.

These letterhead-driven investigations were usually begun within weeks of receipt of the complaint, at which time the consumer's complaint was sent to the merchant for review and response. Very little substantive review was afforded the consumer's complaint before the merchant received a form letter stating that an investigative file had been opened and that a copy of the sometimes illegible consumer complaint was enclosed. Assistant Attorney Generals spoke of many instances in which a file was brought to them that had been opened for more than a year. In those cases it was not uncommon to find that multiple letters had been sent out, despite the file lacking this **one crucial element** -- any semblance of a nexus to the Consumer Protection Act. In other words, under the previous system the lack of any substantive review early in the process, coupled with the dedication to "investigate" (through form letters) almost every complaint tendered caused the Division to approach many merchants with complaints that could not, under any set of facts, add up to the allegation of a KCPA violation.

Some will find a governmental program so designed and sending out investigatory demand letters more than (conservatively speaking) 4,000 times a year (77 times a week, 15 times each business day) of little concern.⁹ Attorney General Phill Kline and the author of this report are not among that number. It is most unlikely that those merchants forced to answer a rather trivial complaint that arrived at their business on letterhead from the Office of the Chief Law Enforcer of the State of Kansas are among those who would count such arguably unconstitutional acts of little concern.

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This statistic is arrived at through consideration of the number of complaints seemingly pre-empted by the Reforms of 2003 and the likelihood, based upon Divisional records, that more than half of those complaints would not have contained a credible allegation of a KCPA violation.

The Limits Inherent in the KCPA Were Not Respected Prior to the Reform of 2003

These oft-repeated *ultra vires* acts are crucial to understanding the Reform of 2003. A proper view of the governmental powers inherent in the office of Attorney General is that even a duly elected Attorney General does not have the ability to write any resident of the State and demand that they write him or her back simply because such a demand is made. When commerce is at issue, it is only the presence of a viable KCPA violation that grants the Consumer Protection Division jurisdiction to contact a supplier in the first instance. According to the very Act that created the Consumer Protection Division,

If, by the attorney general's own inquiry or as a result of complaints, the attorney general has reason to believe that a supplier **has engaged in or is about to engage in an act or practice that violates this act**, the attorney general, or any deputy attorney general or assistant attorney general, may administer oaths and affirmations, subpoena witnesses or matter and collect evidence.

K.S.A. 50-631(a).

The KCPA nowhere enables Kansas' Attorney General to investigate any and every run-of-the-mill commercial transaction brought to his attention or to operate a mediation clinic that emulates the very function undertaken in the private sphere by the Better Business Bureau. Due process and the rule of law mandate that the attorneys of the Consumer Protection Division should be able to articulate a reasoned belief that the KCPA has been violated before merchants are forced to answer letters of demand.¹⁰

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Consumer protection divisions the nation over tout their *status quo ante* supporting programs designed to maximize consumer restitution as ones dealing out "firm but fair enforcement" of KCPA-like statutes. There is nothing fair about forced mediation of the kind found throughout the pre-2003 files of the Consumer Protection Division. **Mediation, according to Black's Law Dictionary, is a "private, informal dispute resolution process in which a neutral third person, the mediator, helps disputing parties to reach an agreement. The mediator has no power to impose a decision upon the parties."** Such is the important role that the BBB or a small claims court judge plays when commercial transactions go awry. The Consumer Protection Division was neither chartered nor armed to play the role of "private" and "neutral" arbitrator between merchants and consumers. This Division is not private and it is not neutral. It is a governmental agency attached to the Chief Law Enforcer of Kansas that is statutorily endowed with an almost unchecked subpoena power and the directive to investigate and take enforcement action against only "suppliers." Merchants who file complaints against consumers (some do) can gain no traction in this Division, for this Division is granted no jurisdiction over consumers who do wrong. The prohibitions of the KCPA flow only one way. Thus the merchant subjected to "mediation" over a complaint that contains no nexus to the KCPA is put in a position similar to a delinquent taxpayer hailed into "mediation" with the Department of Revenue. The question is not the direction the

This jurisdictional check upon the power of the "nanny state" was nonexistent in the Consumer Protection Division in the years prior to the reforms documented herein. As the five examples below demonstrate, the Division was more than ready to investigate law abiding businesses through letters printed on official letterhead for the most trivial of reasons.

The five cases briefed below are representative of a multitude of files worked prior to the Reform of 2003. Many Kansas businesses have rather humorous stories to tell about the spurious nature of complaints received from the Consumer Protection Division prior to our reorganization in 2003. Some can testify that merely ignoring mailed complaints (that should have never been acted upon by the Attorney General's Office in the first place) caused them many more problems than the initial complaints ever could have generated. Of greater concern from an economic perspective, some businesses can testify as to having to pay attorney fees to respond to letters and investigations that arose out of complaints that did not, either on their face or after investigation, reveal any connection to the Consumer Protection Act. This is worthy of repeating. Since the Division seemingly did not care whether the complaints it investigated sounded under the very law that the Division was suppose to enforce, and instead took the approach of investigating nearly every complaint tendered to it, businesses were burdened with the dead weight of responding to even the sometimes vacuous demands of the Office of the Attorney General.

It can be argued that such foundationless investigations constituted due process violations, since legitimate, law abiding businesses were forced to expend monies responding to a government probe (*i.e.* fishing expedition) that lacked a predicate to exist under the law.

The author of this memo is happy to report that this fishing license has now been invalidated.

An additional invalidated longstanding practice took place on the telephone. Prior to the Reform of 2003, it was standard practice to report the number of closed complaints in the Divisional database to any caller. This process allowed suppliers to direct prospective customers toward the Division to receive an immediate report of the sheer number of complaints filed against their competition. In certain instances callers were then informed of complaints that lacked merit under the KCPA. Such a reporting of all complaints, regardless of merit, at the direction of the competition smacks of a violation of K.S.A. 50-626 (b)(1)(G). Thus it is likely that the Division, under the previous reporting policy, was an active participant in acts violative of the KCPA. Beyond involving the Division in the

monies will flow, the question is only how much money will flow. As the McDonalds example presented herein demonstrates, even Missouri residents were given latitude to dictate terms to Kansas companies that had done no wrong under the pre-2003 mediation-driven process. None of the five examples presented herein are fair, but all are do exhibit an unconscionable dose of unconstitutional firmness.

broadcasting of quite dubious information, this policy and practice also offended the spirit and rules of the Kansas Open Records Act. A caller who requests the same information after the Reform of 2003 is directed to the following Consumer Information Line recordings: (785) 296-2424, category 2, message 3 and category 2, message 8. There the caller is informed that the Division no longer reports on the sheer number of complaints received against a company in response to a telephone call, for good reason, and the caller is informed on how he or she can present a legitimate KORA request.

Overreaching plagued the Division prior to the Reform of 2003. The following five examples from the years just prior to the reorganization of 2003 more than demonstrate this overreaching, and especially as it affected Kansas businesses.

OVERREACHING EXAMPLE ONE

Consumer file 2002-3913
Damages claimed: \$5.00
Date closed: 8/9/02

Consumer tendered a complaint that an order of four 99 cent chicken sandwiches *without* mayonnaise resulted in tender of four 99 cent chicken sandwiches *with* mayonnaise. Complaint was assigned to a Special Agent of the Consumer Division for investigation.¹¹ The Agent followed protocol and sent a letter thanking the consumer for filing the complaint and noting that it was being investigated. The Special Agent then sent a form letter from the Consumer Protection Division to McDonalds notifying them of an investigation of the claim. The letter was unanswered. The Special Agent then sent an additional letter to McDonalds. McDonalds then awarded the consumer a \$5 refund, two "give us another chance to serve you" certificates of unknown worth and a heartfelt apology.

The Special Agent then sent the award to the consumer, claimed \$5 in consumer restitution and closed the file.

All of the letters described herein were signed by "Special Agents of the Office of the Attorney General" and sent on letterhead stationary bearing the seal of the Office and the name of the Attorney General. In 2003 it was decided that "Consumer Investigator" better identified those who investigated the complaints in the Consumer Protection and Antitrust Division. This was in deference to the Special Agents of the KBI, since our Division's jurisdiction was civil, not criminal, and since none of the investigators working in our Division were certified law enforcement officers. A grandfathering of those previously titled Special Agent yet results in some employing that moniker, but all of the investigators brought on after the Reform of 2003 are ordered to identify themselves as "Consumer Investigators," as do their badges.

Postscript: This same consumer filed about a dozen other complaints with the Consumer Protection Division prior to 2003. All were investigated, all resulted in letters going to suppliers (including KU ticket sales and Burger King).¹²

OVERREACHING EXAMPLE TWO

Consumer file 2001-3813
Damages claimed: \$25.00
Date closed: 12/17/01

Consumer tendered complaint stating that Kentucky Fried Chicken in Gardner took 40 minutes to prepare a 12 piece dinner with two sides. Consumer had also filed complaints with the BBB and the Gardner Chamber of Commerce. The complaint was assigned to a Special Agent of the Consumer Protection Division for investigation. A letter acknowledging this was sent to the consumer. Consumer's filing generated no less than five (5) additional letters in the Consumer Protection Division. The final letter to KFC noted that an Assistant Attorney General had reviewed the file and was poised to file litigation seeking \$5000 in fines pursuant to the Kansas Consumer Protection Act – for failing to respond to the office, and presumably, for taking 40 minutes to fry up two chickens. A letter then issued from the franchise office in Springfield, Missouri to the Division with a \$25 gift card for the inconvenienced consumer.

The Special Agent sent this award onto the consumer, claimed \$25 in "consumer restitution" and closed the file.

OVERREACHING EXAMPLE THREE

Consumer file 2001-2144
Damages claimed: \$0.00
Date closed: 5/31/01

Consumer bought a bra at Walmart. The register rang it up at \$19 instead of the sale price of \$12. The cashier caught the error and immediately voided and re-rang the bra at the cash register. Consumer mistakenly thought she was charged tax twice, so went to the customer service desk where they explained to her that she did not get overcharged. She alleged that the Walmart service desk personnel were rude to her and so she filed a

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The Reform of 2003 has now made it common (upon receipt of a complaint of the spurious nature of those briefed above) to check the Divisional database for similar complaints from the same consumer. It is not uncommon to discover that the database contains multiple other complaints from the same consumer, usually of similar merit. Almost all such complaints resulted in mailings to the businesses named in the complaint prior to the Reform of 2003. The Division has noted a decrease in filings by these frequent complainers in the past years.

complaint with the Consumer Protection Division. The rudeness-alleging complaint was assigned to a Special Agent of the Consumer Division for investigation. The Special Agent wrote two letters. The first letter thanked the consumer for filing the complaint and advised her that she might want to consider small claims court or obtaining private counsel while the complaint was under investigation. (The allegation of rudeness was not of a nature that could support a suit alleging the intentional affliction of emotional harm or any other such tort, so how it could be addressed in those venues is unknown.) An additional letter was sent to Walmart's corporate office in Bentonville, Arkansas, letting them know that the complaint was being investigated as a potential violation of the Kansas Consumer Protection Act. The letter to Walmart's corporate headquarters actually asked them to "provide the consumer the relief requested" and answer in writing, as was the boilerplate language in most of the letters sent out by the Consumer Protection Division. An assistant to the Director of Customer Relations sent a kind letter back to the Office of the Attorney General and the consumer, sincerely apologizing to the consumer and tendering a \$5 gift certificate to compensate.

The Special Agent sent this award onto the consumer, claimed \$5 in "consumer restitution" and closed the file.

OVERREACHING EXAMPLE FOUR

Consumer File 2001-7019
Damages claimed: \$10.00
Date closed: 1/16/02

Consumer received a curtain rod from Target as a gift. It was too long, and the consumer had no receipt. Target refused to take the rod back or exchange the rod. The consumer took five minutes to fill out a complaint form, send it to the Consumer Protection Division, and a Special Agent of the Office of the Kansas Attorney General then wrote three letters in response. The letter to Target asked the retailer to "provide the relief requested" and to respond in writing within two weeks. The file contains no evidence that an attorney reviewed the file and no evidence of a violation of the Kansas Consumer Protection Act. The Division was investigating a case in which the merchant was accused of refusing to refund or exchange an item when the consumer could produce no receipt proving the item was bought at that location or even from that retailer in the first place. The rod, in fact, could have been bought on the internet, purchased at a garage sale or even stolen. Nevertheless, the letter from the Attorney General had the intended effect. Target not only acted upon the consumer's individual complaint, Target even changed its policy since the Attorney General so requested. The Consumer was allowed an exchange and now all similarly situated consumers are also allowed an exchange.

The Special Agent notified the consumer of this opportunity to exchange, claimed \$10 in "consumer restitution" and closed the file.

OVERREACHING EXAMPLE FIVE

Consumer File 2002-1934
Damages claimed: 37 cents per day for life
Date closed: 6/12/02

A Missouri consumer complained that he had paid \$3 for an "everlasting mug" from McDonalds in 1999 and that this \$3 purchase was supposed to entitle him to free coffee for life. He was incensed that the Overland Park McDonalds insisted on charging him 37 cents for each fill up. His complaint moved the Consumer Protection Division to immediately issue two letters, one back to him thanking him for the complaint and one to the Overland Park McDonalds. McDonalds did not answer and so a second letter was sent to them. When McDonalds had not answered either demand letter within 60 days a Special Agent of the Office of the Kansas Attorney General sent a third letter, via overnight express mail, which included a threat to "issue a subpoena requiring your appearance or resort to other legal process" if the supplier continued to ignore the Office of the Attorney General of Kansas. This threat to issue legal process finally moved McDonalds to action. The Kansas and Missouri Operations Manager offered the Freeman, MO resident \$100 in gift certificates to be used to fill up his \$3 coffee cup, even though McDonalds still denied having any knowledge of any such "free coffee" campaign and perceived no legal obligation to the Missouri resident. Convinced that the Office of the Attorney General was standing with him, the consumer boldly refused that offer as insufficient. The Consumer Protection Division Special Agent and Assistant Attorney General working this case thus rejected that offer as insufficient. On May 15, 2002, Jill A. Cameron of the U.S. Legal Dept. for McDonalds Corporate (located in Oak Brook, Illinois) then delivered, via airborne express, a letter to the Assistant Attorney General that doubled the offer. The offer had become \$200 in McDonalds gift certificates, enough to buy, by McDonalds's reckoning, 364 free coffees at retail. (This is 540 cups at 37 cents per cup.)

The Special Agent sent this award onto the Missouri resident (who yet presented no evidence of a Kansas transaction falling under the rubrics of the KCPA), claimed \$200 in "consumer restitution" and closed the file as a successful mediation. (The author of this memo doubts that McDonalds Corporate viewed it as positively resolved.)

Analysis of the Five Examples

These examples were not difficult to locate in the Division's archives. A search of a few fast food and big box store complaints brought them to the fore with little effort. Those who worked in the Division prior to the Reform of 2003 assure the author of this memo that these are typical of hundreds, and even thousands of complaints in the Consumer database.

A takings clause (*i.e.*, constitutional) analysis of these five examples would raise troubling questions. In each instance the "nanny state" is found demanding that a legitimate business expend time and resources answering to a complaint that could not have been pled as a KCPA violation given the demands of K.S.A. 60-211. No private attorney would have taken these cases forward. Few of the complaining consumers would have deemed their concerns worthy enough to docket in small claims court, and none of the above five could be dubbed *prima facie* cases in that venue. The BBB would have found most of the above unresolvable. But prior to the Reform of 2003, none of these options were necessary when such transactional problems arose. One had to only request an investigation by taking five minutes to fill out a consumer complaint form; get the same to the Office of the Consumer Protection Division, and the Attorney General of the State of Kansas would take up the offense, shoot out a form letter, and usually deliver "restitution" to the allegedly harmed constituent (consumer).¹³

Sampling and interviews suggest that thousands (perhaps tens of thousands) of the complaints that the previous administration acted upon could be characterized as ones in which a consumer advanced poorly evidenced allegations against a Kansas company with no history in the Consumer Protection Division's database while seeking less than \$200 in damages. Any meaningful review of the past cases would reveal that much of the "consumer restitution" claimed under the now-replaced paradigm was as tenuous as the examples set forth above.

Three of the above complaints seek less than \$10 in damages for grievances that simply have no relationship to the KCPA. Such complaints should not, ideally, move the Attorney General of the State of Kansas to any action. They almost always did under the previous administration. Seasoned investigators report that even complaints of less than a dollar resulted in letters to suppliers prior to the Reform of 2003.

A Question of How Much is Enough to Justify the Marshaling of State Resources

The Consumer database clearly records the result of the Reform of 2003 as related to complaints asking the State to expend more monies in mediation that the aggrieved

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Each of these cases, if presented under the 2003 reformed rules of engagement, would result in one form letter back to the consumer recommending problem solving alternative to state intervention and a packet of educational material designed to aid the consumer in the sharpening of his or her problem solving skills and understanding of the serious role that the Division is called to play in Kansas commerce. The costs for sending this form letter and educational material are minimal. Such educational material has been mailed out to no fewer than 8,000 Kansas households since the Reform of 2003. Less involved educational mailings have been sent to no fewer than 20,000 Kansas households. No such programs existed prior to 2003. These mailings have been received by households that formerly tendered multiple complaints to the Division, with "consumer restitution" being the likely result.

consumer can identify as a loss. Consider the number of complaints investigated that claimed \$10 or less in damages:

<u>Year</u>	<u>Number of complaints investigated claiming less than \$10 in damages</u>
2000	88
2001	58
2002	61
2003	Transition
2004	15
2005:	2

It cannot be said that every complaint tendered to the Consumer Protection Division stating damages of \$10 or less is frivolous. Some are raising legitimate concerns regarding billing issues or scams designed to take less than \$10. This explains the few post 2003 complaints alleging under \$10 were actually investigated. Most of the complaints stating damages for less than \$10 would have the taxpayers expend many times more than that amount to recover the aggrieved consumer's losses.¹⁴ They not only offend common sense and responsible management principles, they offend the dignity of a statewide constitutional office that is entrusted with letterhead bearing the seal of the State of Kansas. Moreover, such conduct is potentially violative of the very oath that every Kansas attorney pledges in order to become licensed to practice law. Such oath swearing binds an attorney to pledge allegiance to the Constitution of the United States and to the State of Kansas and to not "knowingly foster, or promote, or give ascent to any fraudulent, groundless or unjust suit".

More than a few of the five examples set forth above could be adjudged as the fostering of such suits. At least one AAG confessed to being troubled by this *spectre* prior to the Reform of 2003.

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Standard practice prior to the Reform of 2003 caused such complaints to generate a letter to the consumer and a letter to the merchant and copying costs, at a minimum, along with the internal file creation. The Reform of 2003 resulted in the letter to the merchant and the copying costs being dropped when the complaint was one for \$10 or less. While the Division has not quantified the cost of sending a letter to a merchant, it likely costs the taxpayers much more than \$10. Since the great majority of such complaints lack a nexus under the KCPA, the cost that such "investigatory" letters shifted onto the merchants is also, in most instances, quite unjustifiable and an unwelcome burden upon Kansas commerce.

**THE 2003 REFORM OF THE INVESTIGATORY AND ENFORCEMENT
PROCEDURES AND POLICIES**

A New Management Paradigm for the Division

The Division met for a series of training sessions in the Spring of 2003. Those sessions addressed existing concerns in the Division and the statutory purpose of the Consumer Protection and Antitrust Division. Using a collaborative management paradigm, the team worked with General Kline's mission statement of "Promoting human dignity through justice with compassion and professional excellence" to come up with the following application of the same to the Consumer Protection function:

***PHILOSOPHY AND MISSION STATEMENT OF ATTORNEY GENERAL
PHILL KLINE'S CONSUMER PROTECTION/ANTITRUST DIVISION***

The Consumer Protection/Antitrust Division strives to promote human dignity through justice with compassion by carrying out its statutory duties under the KCPA with professional excellence and judicious restraint.

- *The Division exists to promote healthy commerce by investigating and taking enforcement action against deceptive, unconscionable and anti-competitive business practices.*
- *The Division strives to minimize the need for such investigations and enforcement action by educating consumers, suppliers and business leaders.*
- *When enforcement action must be taken, the Division vigorously prosecutes violators of the KCPA toward the goal of developing a body of case law that protects Kansans from unscrupulous business practices.*

**A Foundational Change in How Consumer Complaints are Distributed and
A Structural Change in How the Decision is Made
to Require that a Merchant Answer a Consumer Complaint**

The reforms of the policies and procedures of the Consumer Protection and Antitrust Division that have been put in place at the insistence of the current Attorney General have significantly altered the pre-existing *status quo ante*. The most significant changes are twofold, one affecting consumer education and the other affecting investigatory practices:

- (1) **AGGRESSIVE CONSUMER EDUCATION INITIATIVES:** No consumer receives a complaint form without, at the same time, receiving a letter explaining the mission and jurisdictional limits of the Consumer Protection Division. A copy of that letter

is attached to this report. That letter is accompanied by the Division's 2003-produced brochure entitled "10 Steps to Resolving Disputes with Merchants." This new, improved and educational "complaint packet" and a change in how telephone inquiries are processed are the likely causes for the 50% reduction in complaints tendered to the Consumer Protection Division. This change in the level of consumer education undertaken prior to the filing of a complaint is a dramatic shift from the policies of the previous administration.

As stated, the telephone interface with the public was also changed in the Reform of 2003. Prior to the reform, the primary goal of the receptionist was to send a complaint form (*sans* any consumer educational material) to the caller. This made sense at that time, as it furthered the primary Divisional goal of increasing complaint filings.¹⁵ With the Reform of 2003, the telephone receptionists became more actively involved in consumer educational efforts. Instead of automatically inviting the filing of a complaint, they were instructed to direct callers toward the most applicable problem solving agency or activity. A new tool in consumer education was put in place to ensure that callers received consistent and accurate problem solving advice in response to frequently asked questions. That tool is the 64 pre-recorded messages managed on the Consumer Information Line, which can be audited by dialing (785) 296-2424. These prerecorded messages, which are grouped into eight categories, cover a multitude of legal, procedural and problem solving areas with all content being authorized by the Division Chief. The policies and procedures of the Division are detailed in the first four messages recorded in category two. The philosophical underpinnings of the Reform of 2003 is recorded as message eight of category seven.

The messages recorded in the Consumer Information Line are changed as necessary to reflect demand. The message center is also used as part of the training in the Division, and all personnel are required to listen to all 64 messages as part and parcel of their orientation.

This serious and substantive commitment to consumer education is one of the most important byproducts of the Reform of 2003. It has had a dramatic effect upon the

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For the same reason complaint forms (again *sans* any letter of explanation) were liberally distributed at every speech, most all events occurring outside of the office and at the State Fair. Such a methodology resulted in the filing of many "impulse" complaints, in which a filing with the Division was the first step in problem solving activity by the consumer. The Reform of 2003 ended these practices, and consumer educational materials, rather than complaint forms, are liberally distributed by the post-Reform Division. See, e.g., the educational materials included in the appendix of this Annual Report.

number of complaints filed by advising consumers to exhaust alternative problem solving remedies before seeking the aid of the government.

- (2) **JUDICIOUS RESTRAINT AS TO INVESTIGATIONS:** No merchant receives a letter from Attorney General Phill Kline's Consumer Protection Division until and unless an Assistant Attorney General has approved such contact in writing. An AAG can approve such contact only after initially determining that he or she has "reason to believe that a [merchant] has engaged in or is about to engage in an act or practice that violates this act." K.S.A. 50-631(a). In other words, when the post-reform Division contacts a merchant regarding an "investigation" it is only after probable cause for an investigation has been reduced to writing. The post reform Division does not conduct fishing expeditions or attempt to displace the BBB and function as mediation teams just because someone has filed a complaint with the Office of the Attorney General.

This serious and substantive commitment to investigate only viable allegations of unlawful acts falling within the jurisdiction of the Division is one of the most important byproducts of the Reform of 2003. It has had a dramatic effect upon the number of contacts this Division makes with businesses, and allowed the Division to focus its efforts and energies upon those businesses that most deserve the attention of the Office of the Attorney General.

These substantial changes in the processing of consumer complaints and the procedures employed to process the same are the result of our Incoming Review Committee (IRC). This Committee did not exist prior to 2003. A more thorough understanding of how that important committee functions is necessary to appreciate how it serves to check the previously unchecked power of the Division.

The Change in How Written Complaints are Processed

The policies and procedures that define the IRC cause written complaints to be handled in a far different fashion than during previous administrations. In the previous administration, complaints were received by a lead Special Agent, who merely identified the category under which they were to be processed and then tendered them to the Special Agent working that category. This assignment was undertaken without the benefit of review by an Assistant Attorney General.¹⁶ The investigating Special Agent then sent

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One great frustration expressed by Agents and AAG's during the interviews that preceded the Reform of 2003 was that key personnel investigating consumer complaints received very little training addressing the legal limits or requirements of the KCPA. These same former investigators and attorneys alleged that no meaningful review, let alone legal analysis, occurred before a complaint letter announcing an "investigation" was sent to a supplier prior to the Reform of 2003.

the complaint directly to the business for a response in most instances, asking the business to either remedy the situation or respond to the allegations. These formerly utilized processes and procedures differ little, if at all, from those employed by the Better Business Bureau.

Please consult the flow chart (enclosed in the appendix) to understand the next few paragraphs. The flow chart and following paragraphs detail the policies and procedures that govern the reformed investigatory function.

Once a consumer complaint is received in the office it is reviewed by a committee made up of no less than three individuals. Upon receipt, Divisional support staff personnel fill out a work sheet and check our extensive database to determine if we have received prior complaints against the supplier. This information is recorded on the work sheet for the complaint. The support staff also scour the complaint to determine if the complainant falls into any categories that we track through our "vulnerable adults task force." We added these categories and many additional fields of inquiry to the basic complaint form during our 2003 reorganization. A sample complaint form is included in the appendix of this report.

The complaint and work sheet are then sent into a conference room specially appointed for the processing of incoming complaints.¹⁷ In that room a rotating team of investigators and Assistant Attorneys Generals meet (each morning) to review the recently received complaints. The goal of this second review is to weigh the merits of the complaint against the backdrop of the KCPA and determine if an investigation should be opened. It is, in essence, a determination as to whether an allegation that a Kansas law policed by the Consumer Protection Division can be found within the consumer's complaint. In many cases it is determined that the complaint does not present a situation best addressed through investigation. In those cases the reviewing team promptly communicates the best problem solving advice available. This advice is selected from a well researched collection of more than 34 form letters, any of which can be edited to make a particular point. The

The IRC and Consumer Information Line have addressed both of these concerns by facilitating training and coordinating internal communications on the crucial topics of policies, procedures and philosophy.

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This conference room is appointed with myriad consumer problem solving resources, allowing the reviewing team the ability to best advise the complaining party. Our mission statement is also prominent in the room, along with the following inspirational quote from the esteemed jurist Louis D. Brandeis' dissenting opinion in *United States v. Olmstead*, 277 U.S. 438, 479 (1925):

Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficial.... The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding.

Division prides itself on the quality of the problem solving advice communicated through the IRC process.

A copy of the current Incoming Review Evaluation Form is included in the appendix of this report. Note that the bottom of that form is a matrix to guide the reviewing team in weighing the harm that the complaint documents. This "specific harm" analysis is further explained in one of the more than twenty standard operating procedures (SOP) that have been drafted to define the operation of the Consumer Protection Division since the 2003 reforms. These SOP's are available upon request.

If the consumer is identified as a Vulnerable Adult then the complaint is processed with a deference toward opening an investigation. The more vulnerable the complainant, the more deferential the review. All files that are identified as "vulnerable" are tracked as such in our database, allowing separate statistical analysis of the complaints coming from vulnerable adults. Such tagging of the vulnerable adults cases was not done prior to 2003. Such tagging allows investigators to quickly identify merchants that are targeting vulnerable adults.¹⁸

The following is a crucial and key difference between the system that existed before 2003 and the system that exists after the Reform of 2003: If the consumer's complaint does not allege a deceptive or unconscionable act cognizable under the Consumer Protection Act then the complaint is processed during this initial review, and **does not** result in the business being contacted by the Office of Attorney General. In such instances the consumers receive the best possible advice from the reviewing team, advice for which we have received multiple thank you letters.

Had the Division been operated under the same policies and procedures in the past four years as had been used in the four years previous to that, approximately 20,000 contacts with merchants would have been made on behalf of complaining consumers that were **not** made due to the Reform of 2003. Most all of these contacts would have been unjustifiable under the KCPA, and would have constituted the Office of Attorney General shifting a "mediation" burden upon businesses that was, in most instances, unwelcome and unconstitutional.

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IRC personnel are also encouraged to make immediate telephonic contact with vulnerable adults or any other complainants when an emergency situation presents at this stage in the review process. For example, those who can mount credit card challenges to consumer transactions are often called and directed to listen to the recording at (785)296-2424, category 3, message 4. Vulnerable adults that appear to be targets of con artists are also promptly contacted by Division personnel.

Assuming that each such unsent letter would have caused the wrongly contacted merchant to expend an average of \$200 in responding, either due to communication costs, attorney fees, lost time or an undeserved disgorging of restitution, then the Reform of 2003 has saved not only the dignity of a constitutional office, but has also saved businesses, the bulk of them Kansas businesses, approximately four million (\$4,000,000) dollars.

This is a commerce friendly philosophy, as is befitting a state that highly values honest commerce.

Investigations are Reserved for Complaints Alleging a Violation of the KCPA

If the complaint processed through the IRC contains a credible allegation of a KCPA violation (*i.e.* deceptive or unconscionable act and a consumer transaction) or other law policed by this Division (such as antitrust, cemetery, unauthorized practice or charitable solicitation) then it is slated for further review by a Consumer Investigator and Assistant Attorney General. This third review constitutes the beginning of an official investigation. In some instances the third review results in phone calls that resolve the issue. In other instances letters are sent out. When the allegations are of a kind that cause the Assistant or Deputy Attorney General concern as to the preservation of evidence or shading of testimony, the full impact of the statutory tools are brought to bear. In other words, the Divisional attorneys are not shy to act as directed by the Legislature and to "administer oaths and affirmations, subpoena witnesses or matter and collect evidence," as is our duty pursuant to K.S.A. 50-631(a). We take such formal steps only when an enforcement action appears justified on the face of the complaint. We take such formal steps more frequently after the Reform of 2003 than was done before the reform. In other words, our investigations are more hard hitting after the Reform, and now involve less letter writing and more subpoena letting.

We refer to the second review as the IRC (Incoming Review Committee) review and the third as "assignment." Once again, previous administrations had only the assignment, and most, if not all, of the complaints resulted in a letter to the supplier. A letter which, at least hypothetically, caused the supplier to expend time and possibly even attorneys fees responding to a complaint that far too often lacked warrant under the KCPA.

Conclusion

This concludes the description of the restructuring and reform of the procedures and policies of the Consumer Protection and Antitrust Division in 2003. It is my belief that these positive changes to the procedures and polices of the Division fulfilled the mandate that General Kline communicated to me when he placed the Division under my charge. That mandate was to ensure that:

1. The Division was dedicated to promoting human dignity through justice with compassion and professional excellence.
2. The Division never engaged in extortion or misuse the power of the office to achieve an unjust result, regardless of who was served by such means.
3. The Division identified and served the most vulnerable Kansans, especially those vulnerable due to advanced years or medical conditions.
4. The Division granted the most vulnerable Kansans a preference when investigating consumer cases.
5. The Division was recreated with a management system in which each public interface was governed by protocols to ensure professionalism
6. The Division was recreated with a management system in which due process rights were respected.
7. The Division was recreated with a management system generating rapid, accurate, brief responses.

The following statistics are offered as evidence that the Reform of 2003 has been both positive and successful.

STATISTICAL ANALYSIS AND COMMENTARY ON TRENDS IN DIVISIONAL OUTPUTS

Seven Year Statistical Trend Analysis on File Processing Time

Table A

The following chart is the result of statistical sampling of the Consumer database. While the samples were large enough to satisfy the demands of the Central Limit Theorem, this data is not put forth with a 99% confidence level. That being said, the trend it presents is beyond cavil.

Year	Most days file open	Average days file open
2000	1065	173
2001	841	148
2002	667	187
Transition	Transition	
2004	470	76
2005	210	33
2006	279	43

- These statistics reveal that the Division has significantly reduced the amount of time cases remain open.

- The general drop in case load as a result of the Reform of 2003 follows a similar trajectory.
- This significant drop in file processing is a byproduct of the streamlined intake procedures and a requirement that investigators report, each month, on cases that are older than 3, 6, and 12 months.
- The new IRC procedures are currently responding to consumers with either a letter of sound advice and consumer education or a post card notifying the consumer that the case has been assigned for investigation within 20 calendar days of receipt of the complaint.
- Cases identified as necessitating a challenge against a credit card or other escrow service result in immediate contact with the consumer via letter or telephone.

The above analysis satisfies General Kline's directive that the management system deployed in the Division "generate rapid ... responses." The following statistical measures further demonstrate the success of the Reform of 2003 in implementing the directives that opened this report.

Seven Year Statistical Trend Analysis on Revenue Sources and Multistate Litigation Efforts

As detailed in the foregoing text, multistate recoveries have historically funded the Division. The following analysis of income coming into the Division reveals the extent to which this has been the case since 2000. These are recoveries that are placed into the general fund as actual dollars. They are thus monies used to underwrite the cost of the Consumer Protection and Antitrust Division, these are not "consumer restitution" dollars that are routinely reported in the Annual Reports.

"M Recoveries" are the multistate recoveries. "K Recoveries" are those recoveries that begin and end in Kansas. Most of the multistate recoveries begin with NAAG and are monies bestowed upon Kansas merely by virtue of the State having a Consumer Protection and Antitrust Division – regardless of who stands at the helm. In some instances Divisional personnel play a role in the multistate process, but in most instances the role is minor, at best. The multistate actions are primarily managed by NAAG personnel and the large, institutionalized Consumer Protection Divisions of the most populous states.

Table B
(Fiscal year analysis)

A STUDY OF CONSUMER PROTECTION DIVISION INCOME, 2000-2006

M = MULTISTATE (NAAG INITIATED) LITIGATION
K = KANSAS OFFICE INITIATED LITIGATION

<u>Year</u>	<u>Total Recoveries</u>	<u>M Recoveries</u>	<u>K Recoveries</u>	<u>+</u>	<u>No Call</u>
2000	\$1229k	\$889k	\$340k		--
2001	\$1428k	\$144k	\$1284k		--
2002	\$402k	\$198k	\$204k		--
2003	\$1639k	\$824k	\$639k	+	\$176k
2004	\$764k	\$473k	\$159k	+	\$132k
2005	\$494k	\$156k	\$303k	+	\$34k
2006	\$1103k	\$361k	\$737k	+	\$5k
<hr/>					
Averages	\$1008k	\$435k	\$524k		\$87k

Table B tracks nonrestitution dollars brought in through Multistate and in office actions. These are monies that are deposited in the state general fund and used to operate the Consumer Protection Division.

Analysis of this data reveals the following:

- FY 2002 (July 1, 2001 - June 30, 2002) was the low water mark of the past seven years as to operational monies received through enforcement actions.
- Recoveries from multistate actions ebb and flow. The current two year period suggests that multistate recoveries are currently waning.
- No Call revenues have dropped off precipitously since the National No Call law was enacted.
- If No Call recoveries are added into the in office actions, as they should be, then FY 2002 is revealed as the low water mark of the past seven years as to civil penalties and fines recovery, in terms of both multistate and in office recoveries.
- The Consumer Protection Division of FY 2006 brought in total recoveries \$218,000 above the seven year average, multistate recoveries \$74,000 below the seven year average, and in office recoveries \$95,000 above the seven year average.
- These FY 2006 statistics demonstrate, as do others found herein, that the Reform of 2003 visited positive economic benefits upon the Division as a whole.

Table C

An analysis of the fourteen top generating income dollar (to the state) cases of past seven years reveals the degree to which multistate actions (in **bold** with an M) account for the Consumer Protection Division's budget:

Case	Year	Income	Source
Knoll Pharmaceutical (Synthoid)	2000	\$834k	M
Bridgestone/Firestone	2003	\$528k	M
Qwest Communications & LCI	2001	\$350k	K
Collingwood Grain	2001	\$325k	K
Ford Motor	2003	\$300k	M
Warner-Lambert	2004	\$185k	M
Southwestern Bell	2006	\$175k	K
Fleming	2001	\$140k	K
Pfizer	2003	\$127k	M
Publisher's Clearing House	2006	\$111k	M
Wireless Multistate	2005	\$107k	M
Direct TV	2006	\$100k	M
Reed Freeman	2003	\$100k	K
Kohl's Dept. Stores	2001	\$100k	K
Total		<u>\$3462k</u>	

- Of the \$3462k recovered in these top 14 cases of the past seven years, \$2292k, or 66% of the money, arose out of multistate actions.
- Of the above referenced multistate actions, Kansas, like most of the smaller states, usually plays little more than a *de minimis* role in the process.
- The above income-generation statistics, an understanding of which is crucial to the planning of the future of the Division, have never before been included in an Annual Report.

Table D

An analysis of trend in big dollar recoveries, analyzing largest cases for Kansas, reveals that the size of the recoveries (multistate or otherwise) is waning:

	# cases	Total dollars	Source
2000	1	\$843k	M
2001	4	\$915k	K
2002	0	\$0	
2003	4	\$1055k	90% M
2004	1	\$185	M
2005	1	\$100	M
2006	3	\$386	54% M

- This trend analysis of top income producers reveals that huge dollar multistates have been the cause of the primary influx of monies into the Consumer Protection and Antitrust Division.
- Trend analysis reveals that years 2000 - 2003 put approximately \$1,700,000 into the CPD from such sources, but that 2004 - 2006 have yielded less than \$500k from this formerly lucrative multistate source.

The above analysis could simply demonstrate the ebb and flow of multistate actions. Alternatively, it could be that the era of large multistate settlements is drawing to a close. A recent multistate settlement with State Farm suggests the latter. That company approached NAAG to self-report commercial acts that were likely to become the focus of a multistate action. State Farm set aside monies for consumer restitution, took certain steps to ensure that the past problems would not be repeated, and then tendered very little money to NAAG for distribution to the states as income. Kansas was awarded only \$15,000. If this portends a trend that will become more common in the future, then the era of large multistate recoveries is indeed waning.

Seven Year Statistical Trend Analysis on the Filing of Enforcement Actions

Table E

The Consumer Protection Division's statutory charter is found in the KCPA. The Division exists, in essence, to engage in consumer educational efforts, investigate potential violations of the Act, and take enforcement actions when appropriate. There is no warrant for consumer mediation of the kind that was standard practice prior to the reforms of 2003.

The 2003 reform had the predictable result of freeing up more Divisional resources for the above-stated core mission. This freeing up of resources has translated into, *inter alia*, the filing of more enforcement action.

Enforcement Actions Filed (calendar year)

2000	62	
2001	84	
2002	40	
2003	75	
2004	79	
2005	58	
2006	62	(As of October 23, 2006)

- The seven year trend analysis reveals 2002 as the low water mark in enforcement filings.
- The above reveals that more enforcement actions were filed in the first three years of the Kline Administration (212) than in the final three years of the previous administration (186). This trend constitutes a 14% increase in the filing of enforcement actions since the Reform of 2003.

TWENTY YEAR STATISTICAL TREND ANALYSIS OF "CONSUMER RESTITUTION" RECOVERIES

Total Annual Consumer Savings is the amount of money that consumers gained in restitution through the efforts of the Office of Attorney General. This is the statistic that has proved most dynamic over the many years that it has been tracked, and it is one of the few monetary statistics prominent in the previous annual reports.

These restitution monies have historically arisen from four actions, ranked herein in order of their proven effectivity at transferring monies into the accounts of Kansas consumers:

1. Multistate litigation in which Kansas joins. (*i.e.*, litigation is filed in some jurisdiction)
2. Multistate settlements without litigation in which Kansas joins. (*i.e.*, no litigation is filed in any jurisdiction)
3. Mediation efforts by the Office of Attorney General on behalf of consumers and adverse to businesses. (*i.e.*, no litigation is filed by the Kansas Attorney General.)
4. Litigation filed by the Kansas Attorney General in Kansas (*i.e.*, litigation is filed by the Kansas Attorney General)

The management philosophy enacted by the Reform of 2003 purposely minimizes 2 and 3 above as sources of restitution, since they are too often based upon the fact that businesses fear the Office of Attorneys General rather than being based upon documented violations of the law. These avenues of wealth transfer have been questioned as to whether they offend basic due process safeguards in periodicals of some esteem.¹⁹ If litigation cannot be filed (at the minimum in the form of a consent judgment) then justice is not served by forcing "nuisance value" settlements upon merchants. Because the Kline Administration has not been involved in such strong arm settlement tactics, and because the Kline Administration has eschewed forced arbitration and intimidation based upon letterhead, and because the "large dollar" multistate actions are currently waning, the amount of monies received from businesses and distributed to Kansas consumers is significantly less in the past years.

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See Perspectives on State and Federal Antitrust Enforcement, 53 Duke Law Journal 673 (especially Judge Posner discussion); see *also* Former Nebraska Attorney General Don Stenberg, Avoiding and Settling State Attorney General Lawsuits, Washington Legal Foundation Vol. 19 No. 15 (May 30, 2004)(setting forth strategies for dealing with A.G. offices); see *also* Horizontal Federalism: Exploring Interstate Interactions, Bowman J Public Adm Res Theory, Vol. 14: 535-546 (2004)(for the most scholarly of the three).

Table F

The following twenty year analysis reveals the significant changes of the past three years:

Year	Consumer restitution dollars	Largest single source of restitution		
2005	\$922k	Daimler Chrysler	\$38k	K
2004	\$681k	Taxol	\$208k	M
2003	\$1388k	[REDACTED] Ford	\$52k	K
2002	\$2850k	Pres. Manor	\$90k	K
2001	\$9300k	Firestone	\$3886k	M
2000	\$2200k	N.W. Lad	\$131k	M
1999	\$3800k	Staub, Intl	\$174k	K
1998	\$2600k	Sears	\$778k	M
1997	\$2071k	Natl. Tour Assoc.	\$100k	M
1996	\$1400k	AT&T Corp	\$56k	M
1995	\$1143k	Wichita RV	\$72k	K
1994	\$1413k	Brad'd Home Corp	\$80k	K
1993	\$1116k	Ag Chem Equip Co	\$75k	K
1992	\$750k	Sonny Hill Chevy	\$18k	K
1991	\$798k	GM Chevrolet	\$25k	K
1990	\$1359k	Chrysler	\$249k	M
1989	\$829k	N.W. Fin. Express	\$24k	K
1988	\$14188k	Continental Airlines	\$13850k	M
1987	\$654k	Carl L. Brown	\$36k	K
1986	\$1000k	Regional Invest Co	\$110k	K

- Some of the \$1388k realized in 2003 was due to actions taken by the previous administration. The most accurate currently available estimate of the reconstituted Division's recovery of consumer restitution per year (without the benefit of multistate recoveries) would be an average of 2004 and 2005, which results in \$801k per year.
- This figure purposely excludes a more than \$1,000,000 transfer of monies from the accounts of Renaissance, TTP into the accounts of the Attorney General in 2005. This is because these monies were earmarked for consumer restitution, but only \$200,000 worth of restitution could be justified based upon the claims made in the applications received. The Division will soon move the court to return \$800,000 of these monies to the court accounts, to be distributed from those accounts as is just.
- The two years with the most consumer restitution recovery are 1988 and 2001. The huge recoveries in both of those years were the result of multistate actions directed by NAAG. The 1998 record setting recovery was the result of the fine work of former Attorney General Bob Stephan. The monies so reported did not benefit only Kansans. The 1988 annual report notes that these funds benefitted consumers "in the state and in the nation." Such is often the case in multistate recoveries, as that the settlement monies

marked for "consumer restitution" must be distributed, and often to nonresidents of Kansas.

- An analysis of the sources of the previous "high dollar" compensations reveals that the bulk of these transfers (that were not multistate actions) were in the form of contract rescissions on property and vehicles. Most of those marked "K" above, in other words, were the result of the Division causing the unwinding of a 
- From 1996 - 2001 the high dollar consumer restitution most years was a multistate action. These were "fat years" for NAAG, as is reflected on the revenue chart (Table B). It appears that a waning may be in process in these numbers as well. The only multistate tendering significant consumer restitution during the Kline Administration was one targeting a major pharmaceutical manufacturer.

**TWENTY YEAR STATISTICAL TREND ANALYSIS
 OF CONSUMER COMPLAINT FILINGS**

The following twenty year analysis reveals the significant changes of the past three years and that the current level of complaints closely approximates the number of complaints received prior to the managerial emphasis of the previous administration:

Table G

Year	Consumer complaints received	Population of Kansas
2005	4308	2,662,616
2004	4391	
2003	5244	
2002	7554	2,688,418
2001	7891	
2000	8585	
1999	7052	2,572,150
1998	7454	
1997	7714	
1996	5571	2,532,394
1995	data unavailable	
1994	4942	
1993	4508	2,461,995
1992	4130	
1991	5058	
1990	5342	2,432,614
1989	5175	
1988	5406	
1987	4358	
1986	4017	

Analysis

- The average number of complaints received in the three years preceding 1995 was around 4500.
- The average number of complaints received in the three years after 1999 was around 8000.
- The average number of complaints received by the Division in 2004 and 2005 was around 4300.
- The population increase in Kansas from 1995 to 2000 was about 3.5%.
- Thus while the population slowly rose 3.5% over a half-decade, the number of complaints received nearly doubled in the same time frame.
- The 1988 annual report attributes a 25% increase in the number of complaints received to the awarding of \$14.2 million dollars through multistate enforcement actions.
- The annual reports filed between 1996-2002 reveals the cause of the nearly doubling in the number of consumer complaints filed with the Division. It was a premeditated campaign by the previous administration to increase these numbers.
- This nearly 85% increase in the number of complaints resulted in an increase in "consumer restitution" but no corresponding 85% increase in the filing of enforcement actions or 85% increase in revenue brought in for the operation of the Division.
- This nearly 85% increase in the number of complaints resulted in no appreciable increase in enforcement actions because the Division was involved primarily in mediation efforts.
- The year 2002 was rather the low point for both the filing of enforcement actions and the realizing of actual funds from fines and civil penalties.
- The increase in "consumer restitution" under the previous administration was the result of mediation efforts that were not sanctioned by statute and that may therefore constitute unconstitutional takings and unconscionable acts on the part of the Office of the Attorney General.

Conclusion

The "drop" in consumer complaint filings and restitution numbers under the Kline Administration should be viewed as a mid-course correction for the Division. As such this "slow down" in the transfer of wealth from law-abiding businesses to complaining consumers constitutes statistical proof that the reforms of 2003 have remedied state action often accused of overreaching due to a seeming anti-business bias. The above data set aptly demonstrates that the reforms of 2003 ended a longstanding practice of investigating legitimate, law abiding businesses under the excuse of "protecting" consumers.

George Washington stated that, "Government, like fire, is a dangerous servant and a terrible master." His keen insights into the proper role of government caused our Founding Father to issue strongly worded cautions to those managing governmental functions, lest mission creep be allowed to grow government too large and well beyond its proper limits.

The Consumer Protection Division was established by an act of the Legislature in 1973. It was given broad powers, including subpoena power, and sent on a mission to confront businesses polluting the stream of commerce in Kansas. Somewhere along the way, based, most likely, on the desire to serve constituents, a bureaucratic mediation unit grew up in the midst of the Division. This history has been repeated in the consumer protection divisions imbedded in attorney general offices across the nation. The result has been a blurring of the original mission and a conflating of the consumer protection function with the Better Business Bureau's mediation model. There must be a difference between the two.

The Reform of 2003 has remedied this myopic and bureaucratic mediation focus in the Consumer Protection Division imbedded within the Office of the Kansas Attorney General. Businesses who actively pollute the stream of commerce in Kansas are not allowed to simply "pay off" consumers (*i.e.* engage in "consumer restitution") and continue down the road conducting business as usual. Such failed policies do nothing save create a revolving door of complainants and forge a symbiotic relationship between the supposed enforcers of the KCPA and the seeming violators of the same.

Those merchants who pollute the stream of Kansas commerce have much to fear from a Consumer Protection Division that continues on the path set forth herein. A much improved system of "target acquisition," coupled with increased emphasis on the filing of enforcement actions, coupled with a no nonsense approach to litigation is the most certain path to guarding the stream of honest commerce in Kansas. Such procedures and polices send a message to those who would prey upon hapless Kansas consumers that they do so at their own economic peril. Our Division has been actively pursuing those merchants operating in Kansas who can be called the "baddest apples" since the Reform of 2003. We have been successful in convincing more than a few to not do business in Kansas ever again. We believe that the continued operation of the model set forth herein will lead to a continued cleansing of the stream of commerce in Kansas, and allow the Office of Attorney General to demonstrate both a strong aversion to dishonest commerce and a

strong affinity for honest commerce. This balance is the best approach since honest commerce is a positive economic virtue benefitting the State of Kansas.

It is said that the eldest signer of the United State Constitution, Benjamin Franklin, was approached by a woman soon after signing that magnificent charter of individual liberty. She inquired, 'Dr. Franklin, what have you given us?' The elder statesman wisely replied, 'A republic, madam, if you can keep it.' The price of keeping such a highly valued system of governance is eternal vigilance against the encroaching powers of statist bureaucracy. Those powers have been rolled back in Kansas' Consumer Protection and Antitrust Division by the Reform of 2003, and Kansas now enjoys the light yoke of a Consumer Protection Division that values healthy commerce and considers itself a friend of honest businesses. Con artists and scammers are now haunted by the spectre of a Consumer Protection Division that wastes little precious time or dear resources on complaints that fall outside of the jurisdiction of the KCPA. Those who intentionally pollute the stream of Kansas commerce must now fear a Consumer Protection Division that chooses to hunt for targets among those businesses that operate in an unlawful manner – rather than a merely dissatisfying fashion.

We have, after the massive restructuring of the past four years, a Consumer Protection and Antitrust Division that once again operates as the 1973 Legislature intended. It is my hope that all future Divisional managers will have the constitutional fortitude to keep it.

A handwritten signature in black ink, appearing to read "Bryan J. Brown", with a long horizontal flourish extending to the right.

Bryan J. Brown
Deputy Attorney General
KS Bar # 17634

Post Script

It is good to give credit where credit is due. All of the Divisional employees identified in the 2005 Annual Report have played a positive role in the implementation of the Reform of 2003. The following list identifies those members of the team who were already "on deck" when the Kline Administration took office and who also played a major role in the implementation of the policies and procedures that constitute the Reform of 2003.

- Assistant Attorney General Jim McCabria, for imparting vision, constitutional clarity and leadership through the entire process.
- Chief Investigator and Special Agent Jerry Howland, for demonstrating steadfast resolve, exemplary service and a principled demeanor while aiding in the management of the Division.
- Assistant Attorney General Joe Molina for organizing and operating the No Call and Delta Five Task Forces in keeping with the philosophies set forth herein.
- Special Agent Jared Reed, for applying top notch organizational and computerization skills to streamline the process for the good of the order.
- Special Agent Teresa Salts, for thinking outside a longstanding box and identifying areas where systemic changes were needed.
- Special Agent Natalie Hogan, for welcoming the changes and proving beyond cavil that investigations could be more hard hitting and effective because of the changes.
- Consumer Investigator Amber Meseke, for always being ready for a new challenge and for working with steadfast resolve to see all of the new procedures implemented.
- Consumer Investigator Larry Larsen, for always standing ready to catch any balls in play and imparting the wisdom that comes from age to the processes being forged.
- Consumer Support Staff Connie Ullman, for serving as the intercessor between the Division and the public, and for always being prepared to counsel consumers as to the best path toward problem resolution.
- Chief of Staff Eric Rucker, for giving the Division the space necessary to reinvent itself as ordered and for managing the Division with a light reign.

- Attorney General Phill Kline, for being wise enough to recognize that a reinventing of the Consumer Protection Division was sorely needed, and for being courageous enough to allow that constitutionally proper but sometimes unpopular process to take place on his watch.

2005 ANNUAL REPORT

Consumer Protection & Antitrust Division



APPENDIX



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION AND ANTITRUST DIVISION

PHILL KLINE
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-3751 • FAX (785) 291-3699
CONSUMER HOTLINE (800) 432-2310
WWW.KSAG.ORG

Dear Consumer,

Find enclosed the complaint form used to report a potential violation of the Kansas Consumer Protection Act (KCPA) to Attorney General Phill Kline's Consumer Protection Division.

Please be accurate, concise and neat when completing the form, and try to fully complete the form. Be certain to attach copies of all relevant documents (such as sales receipts, bills or exhibits). Do not send original documents, and do not send any material to our Division via fax machine.

Please consider the following as you complete this form:

*PHILOSOPHY AND MISSION STATEMENT OF ATTORNEY GENERAL
PHILL KLINE'S CONSUMER PROTECTION/ANTITRUST DIVISION*

The Consumer Protection/Antitrust Division strives to promote human dignity through justice with compassion by carrying out its statutory duties under the KCPA with professional excellence and judicious restraint.

- The Division exists to promote healthy commerce by investigating and taking enforcement action against deceptive, unconscionable and anti-competitive business practices.*
- The Division strives to minimize the need for such investigations and enforcement action by educating consumers, suppliers and business leaders.*
- When enforcement action must be taken, the Division vigorously prosecutes violators of the KCPA toward the goal of developing a body of case law that protects Kansans from unscrupulous business practices.*

It is important to understand how this law-enforcing Division of state government differs from the private bar. We are not a private law firm representing individual Kansans, but rather a statutorily-created public interest law firm established to act for the good of *all* Kansans. For that reason we consider more than just the facts of your particular case when we analyze your complaint, and for that reason we handle your complaint in a different manner than would a private attorney. Our review causes us to first and foremost consider the public harm allegedly being done. Some are disappointed to learn that we are not an alternative

to the private bar, but such is the limited jurisdiction this Division is granted under the Consumer Protection Act, a limitation which ensures that our Division works for the well being of all Kansas taxpayers, and not just a privileged few.

Our goal is to initiate investigations against suppliers who are engaged in ongoing consumer transactions harming multiple Kansans. In other words, we target companies that have made an (apparently) conscious business decision to operate in an illegal fashion. The farther your individual situation strays from that primary target, the less likely it is that scarce state resources will be assigned to investigate or take enforcement action against the business named in your complaint. Complaints that stray from this primary target are often better taken to the Better Business Bureau, small claims court, the private bar or other such non-law enforcement agencies.

Be assured, all complaints receive a thorough review by at least one attorney-agent team. It is our goal to subject all complaints to a standard analysis, in which the following questions are answered: Is this a violation of the KCPA? If not, what educational material and/or advice can we provide this consumer regarding resolution of his or her complaint? If an apparent or possible violation exists, does our database contain other complaints against this business? What alternative avenues to complaint resolution may better serve this consumer?

Due to the great volume of complaints our Division receives and the need to encourage consumers to communicate with businesses, we often ask the consumer to consider taking some of the first nine steps set forth in the enclosed brochure (entitled Ten Steps to Resolving Disputes with Merchants) before this office acts. If you have taken any of those nine steps, please document which steps you have taken on the complaint form.

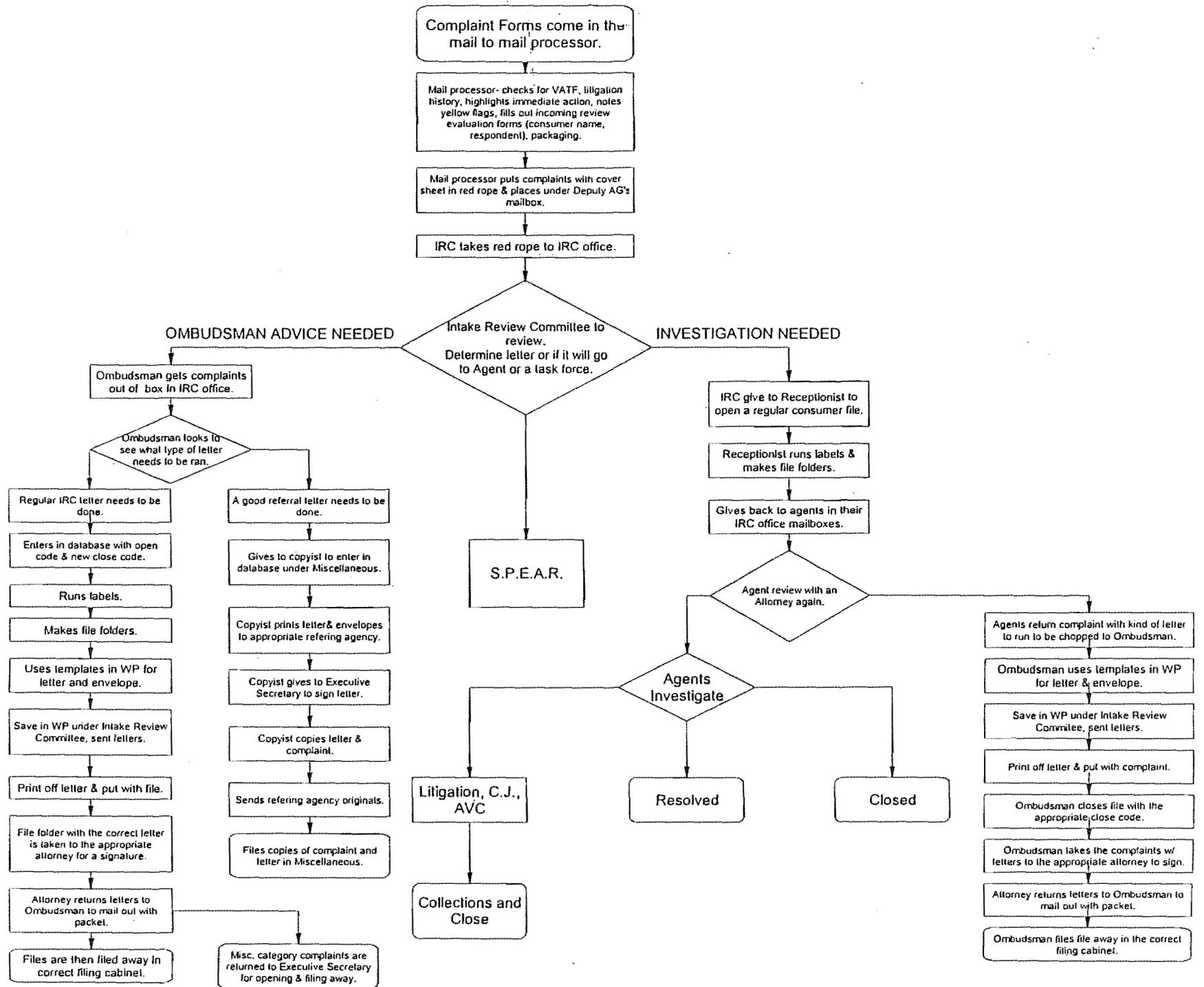
Finally, please carefully read the paragraph labeled "verification" at the end of the complaint form, as that your signature on the complaint form is your agreement to the terms set forth in that paragraph.

We look forward to reviewing your complaint form with all necessary supporting documentation. Please reference the section letters when attaching any documents or explanatory comments to the complaint form.

OFFICE OF THE ATTORNEY GENERAL
PHILL KLINE



Bryan J. Brown
Deputy Attorney General
Consumer Protection / Antitrust Division



INCOMING REVIEW EVALUATION FORM

DATE COMPLAINT RECEIVED _____ DATE COMPLAINT REVIEWED _____

CONSUMER _____ HISTORY? _____

SUPPLIER _____ LIT.HIST? _____ HISTORY? _____

EVIDENCE OF VULNERABLE STATUS?

CATEGORY:
AGENT:

GENERAL NATURE OF COMPLAINT:

CIRCLE THE OMBUDSMAN ROUTING RESULTING IN IMMEDIATE PROCESSING

- Selfhelp.credit(999) ▪Selfhelp.ltrs(998) ▪Selfhelp.unauthor(997) ▪SCC(996)
- Spam(995) ▪Scam.thanks(968) ▪Officials(989) ▪Please.read(969)
- Private.cns(979) ▪Moreinfo(959) ▪No.resource(949) ▪No.sig(958) ▪No.viol(948)
- Lotteryscam.congrats(965) ▪Lotteries/raffles.legal?(964) ▪Junk Mail(994)
- Lotteryscam.condolences(963) ▪Info.only(966) ▪Homebiz(967) ▪Govern(947)
- Good Refer(984) ▪Fairdebt.collection(988) ▪Fairdebt.creditreporting(983) ▪Faxes(992)
- Ebay(985) ▪Crim(986) ▪Crim & Civ(987) ▪Copied.merit(957) ▪Copied.nomerit(946)
- Corp.forprofit(945) ▪Bad Refer(993)
- BBB only (939) ▪BBB & SCC (938) ▪BBB & SCC & KBA (937)

INITIAL REVIEW AGENT

INITIAL REVIEW ATTORNEY

Close code _____

SENIOR ATTNY

***** ***** ***** ***** ***** ***** ***** ***** ***** ***** ***** ***** *****

This complaint must be reviewed by the specific review team.

INITIAL REVIEW AGENT

INITIAL REVIEW ATTORNEY

Initial review team notes to specific review team:

***** ***** ***** ***** ***** ***** ***** ***** ***** ***** ***** ***** *****
***** ***** ***** ***** ***** ***** ***** ***** ***** ***** ***** ***** *****

"SPECIFIC HARM" ANALYSIS:

Degree of Potential Harm to Public	Low	Mid	High
Degree of Actual Harm to Consumer	Low	Mid	High
Evidence of Vulnerable Adult Targeting	Low	Mid	High
Actual Vulnerability of Consumer	Low	Mid	High
Alternatives for Problem Resolution	Many	Few	None
Evidence of Supplier's Bad Intent	None	Possible	Likely
Bad Intent in Supplier's Case History	None	Some	Much
Aggravating Factors Advising Action	None	Some	Many

ACTION YOU HAVE TAKEN

HAVE YOU CONTACTED THE COMPANY? _____ DESCRIBE RESULT OR EXPLAIN WHY YOU HAVE NOT CONTACTED THE COMPANY:

SECTION
LETTERS
H.

HAVE YOU FILED A COMPLAINT WITH THE BETTER BUSINESS BUREAU OR ANY OTHER AGENCIES? _____

WHAT RESPONSE HAVE YOU RECEIVED?

I.

DO YOU KNOW OF OTHERS WITH SIMILAR EXPERIENCES WITH THIS SUPPLIER? _____

WHO AND WITH WHAT RESULT?

J.

HAVE YOU SOUGHT THE ADVICE OF AN ATTORNEY REGARDING THIS COMPLAINT? _____ WHO IS THE ATTORNEY?

WHAT WERE YOU ADVISED?

K.

HAS LEGAL ACTION BEEN TAKEN BY YOU OR AGAINST YOU WITH REGARD TO THIS COMPLAINT? _____ IF SO, PLEASE DESCRIBE THE CURRENT STATUS OF ANY LEGAL ACTION:

ARE YOU CONSIDERING FILING AN ACTION IN SMALL CLAIMS COURT? _____

L.

DESCRIPTION OF TRANSACTION

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (ADD ADDITIONAL PAGES AS NECESSARY).

M.

I ALLEGE THIS TRANSACTION WAS DECEPTIVE BECAUSE: _____

N.

I ALLEGE THIS TRANSACTION WAS UNCONSCIONABLE/UNSCRUPULOUS/UNETHICAL BECAUSE: _____

O.

DOCUMENTATION OF THE TRANSACTION

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS COMPLAINT, INCLUDING ADVERTISING MATERIAL, CONTRACTS, WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, BILLS, AND INVOICES, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS MAY CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR COMPLAINT.

_____ DOCUMENTS ENCLOSED

_____ NOTHING TO ATTACH

P.

VERIFICATION

I AM: _____ OVER AGE 60 _____ OVER AGE 70 _____ PARTIALLY DISABLED _____ TOTALLY DISABLED _____ ILLITERATE
_____ NON-ENGLISH SPEAKING

Q.

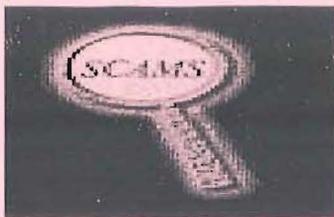
IN FILING THIS COMPLAINT, I UNDERSTAND AND AGREE THAT THE ATTORNEY GENERAL AND HIS STAFF ARE NOT MY PRIVATE ATTORNEYS, BUT INSTEAD REPRESENT THE STATE OF KANSAS IN ENFORCING LAWS DESIGNED TO PROTECT THE PUBLIC FROM DECEPTIVE AND UNCONSCIONABLE BUSINESS ACTS AND PRACTICES. I UNDERSTAND THAT KANSAS LAW LIMITS THE PERIOD OF TIME DURING WHICH I MAY FILE ANY PRIVATE LEGAL ACTION(S), AND I HAVE BEEN ADVISED TO CONTACT A PRIVATE ATTORNEY IF I HAVE ANY QUESTIONS CONCERNING THOSE TIME LIMITATIONS AND MY LEGAL RIGHTS WITH REGARD TO ANY PRIVATE ACTION(S). I FURTHER UNDERSTAND AND AGREE THAT THE CONTENTS OF THIS COMPLAINT MAY BE FORWARDED TO THE BUSINESS OR PERSON THE COMPLAINT IS DIRECTED AGAINST, MAY BE FORWARDED TO OTHER APPROPRIATE AGENCIES, AND WILL BECOME ACCESSIBLE TO OTHERS UNDER THE KANSAS OPEN RECORDS ACT. FINALLY, I DECLARE AND VERIFY UNDER PENALTY OF PERJURY AND THE LAWS OF KANSAS THAT ALL OF THE FOLLOWING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNATURE OF COMPLAINANT
(REQUIRED)

EMAIL
(OPTIONAL)

DATE

(0806comp.frm)



TWELVE TIPS TO PROTECT VULNERABLE ADULTS FROM SCAMMERS

1. Register your home and cell phones on the national and state do-not-call list: 888-382-1222. Three months after so doing, any telemarketing call you receive should be considered an illegal act. Anyone who calls you and requests any financial information should be considered a scam artist, regardless of what institution they claim to represent, for legitimate businesses never request such information over the telephone.
2. Be sure that your social security number is not on your driver's license, checks, or other documents to which others may gain access. Guard credit card information, social security number, and checking account information as you do the keys to your house. They are the keys to your bank accounts.
3. Request removal of your name from direct mail solicitations by writing to: Mail Preference Service, P.O. Box 643, Carmel, NY 10512.
4. Closely scrutinize all credit card and bank statements for charges that have been applied to your account without your permission. If you discover such charges call (785) 296-2424, category 7, boxes 3 & 4 for information on steps to take.
5. Be aware of your 3-day right to cancel most door-to-door sales. Call (785) 296-2424, category 6, boxes 1 & 2 for more information on this topic.
6. Know where to report the abuse, neglect, or exploitation of a vulnerable adult - Adult Protective Services Hotline: 800-922-5330.

7. Research charitable organizations before trusting them with donations. Call (785) 296-2424, category 8, box 5 for more information.
8. Check out the complaint resolution history of a company or charitable organization with your local Better Business Bureau. The three Kansas BBB numbers are (316) 263-3146, (785) 232-0454 and (816) 421-7800.
9. Be wary of who is given power of attorney, realizing that much fraud and financial abuse starts with trusted family members. Only sign those power of attorney forms that have been approved by an attorney hired to represent your interests.
10. Consider posting "No Trespassing" and "No Soliciting" signs near property entrances. Immediately point them out and call the police or a designated guardian when the signs are disregarded by solicitors.
11. Never place bank statements, credit card information or any such sensitive financial or personal information in the trash without first shredding or otherwise defacing all account numbers. Do not leave mail in mailbox overnight or on weekends.
12. Inform your bank's manager that Attorney General Phill Kline participated in a video entitled "Preventing Elder Financial Exploitation: How Banks Can Help" and ask the bank manager to use that tape to train bank tellers on elder abuse.

*Office of Attorney General Phill Kline
Consumer Protection Division
Vulnerable Adult Task Force
120 SW 10th Avenue
Topeka, KS 66612-1597
1-800-432-2310
www.ksag.org*

24 hour Consumer Infoline: 785-296-2424

