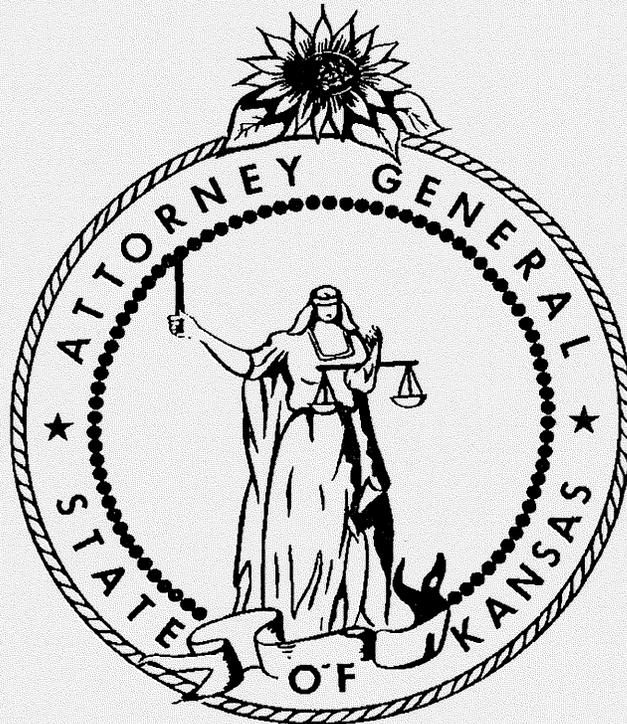


# 2006 ANNUAL REPORT

## Consumer Protection & Antitrust Division



Office of Attorney General  
**PAUL MORRISON**

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



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

**PAUL J. MORRISON**  
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

December 31, 2007

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

I commend to your reading the following report of the Consumer Protection/Antitrust Division of the Attorney General's Office. In 2006, the Division received 3,883 formal written complaints resulting in consumer savings of \$621,609. Over three hundred written inquiries were also received.

Members of the Division also traveled throughout Kansas to give educational presentations to schools, civic groups, and community organizations. In 2006 the staff made 53 of these presentations. Approximately 2,650 consumers and business persons attended these presentations, in addition to the thousands of people who visited the Division's booth at the 2006 Kansas State Fair in Hutchinson. In conjunction with these educational efforts, the Division also published and distributed brochures on a variety of consumer topics. As a result of these educational efforts, many Kansas consumers have been made aware of the services provided by the Division and are less likely to fall victim to unscrupulous business practices.

It is a top priority of this office to protect Kansas consumers from deceptive, unconscionable and anti-competitive business practices through a combination of firm, yet fair, enforcement of the Kansas Consumer Protection Act and antitrust laws and effective consumer education efforts.

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

Sincerely,



PAUL J. MORRISON  
Attorney General

OFFICE OF THE ATTORNEY GENERAL  
STATE OF KANSAS

PHILL KLINE  
ATTORNEY GENERAL

CONSUMER PROTECTION/ANTITRUST DIVISION STAFF  
DURING THE PERIOD COVERED BY THIS REPORT  
JANUARY 1, 2006 THROUGH DECEMBER 31, 2006

Brian J. Brown	Deputy Attorney General
Lynette Bakker	Assistant Attorney General
Brad Burke	Assistant Attorney General
James R. McCabria	Assistant Attorney General
Joseph N. Molina	Assistant Attorney General
Chris Pryor	Assistant Attorney General
Emilie Burdette Rush	Assistant Attorney General
Jerry W. Howland	Lead Special Agent
Natalie Hogan	Special Agent
Jared M. Reed	Special Agent
Erica D. Strome	Special Agent
Michael Aguilar	Consumer Protection Investigator
Marti Bauer (Nelson)	Consumer Protection Investigator
Meagan Harmon	Consumer Protection Investigator
Larry Larsen	Consumer Protection Investigator
Amber Meseke	Consumer Protection Investigator
Marshall Kennedy	Accountant/CPI
Ralf Mondenedo	Paralegal
Kathy Dorst	Legal Assistant/Secretary
Connie Ullman	Secretary
Marcia Shuart	Secretary
Carol Bainum	Secretary
Ashley Heidrick	Support
Kelsee Hickey	Intern
Sean Fraser	Intern

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

**PAUL MORRISON  
ATTORNEY GENERAL**

**CONSUMER PROTECTION/ANTITRUST DIVISION STAFF  
AT THE TIME OF THIS REPORT  
DECEMBER 31, 2007**

Linda J. Sheppard	Deputy Attorney General
Michael J. Allen	Assistant Attorney General
Lynette Bakker	Assistant Attorney General
Patrick Broxterman	Assistant Attorney General
Joseph N. Molina	Assistant Attorney General
Emilie Burdette Rush	Assistant Attorney General
Amber Capoun	Special Agent
Natalie Hogan	Special Agent
Jerry W. Howland	Special Agent Supervisor
Erin Land	Special Agent
Larry Larsen	Special Agent
Tshlaine Webster	Special Agent
Ralf Mondenedo	Paralegal
Carol Donavon	Administrative Assistant
Paula Lunnon	Receptionist
Marcia Stuart	Administrative Assistant
Jackson Lindsey	Intern
Ryan Ludwig	Intern

## CATEGORIES OF NEW COMPLAINTS

<b>Complaints Filed:</b>	<b>3883</b>
<b>Complaints Closed:</b>	<b>3893</b>
<b>Written Inquiries:</b>	<b>301</b>
<b>Total Annual Savings:</b>	<b>\$621,609.04</b>

Category	Complaints Received	Percent of Total
Advance Fee	5	0.14%
Advertising	64	1.65%
Antitrust	17	0.44%
Appliances	26	0.67%
Assistive Device Lemon Law	0	0.00%
Auto	391	10.07%
Boats, Boating Equipment, Repairs, etc.	2	0.06%
Book, Record & Tape Clubs	7	0.19%
Business Opportunities Services	48	1.25%
Cable Television	18	0.47%
Campgrounds	1	0.03%
Cemeteries	70	1.81%
Charitable Organizations	27	0.69%
Clothing	2	0.06%
Collectibles/Antiques	0	0.00%
Collection	348	8.97%
Computer - Internet Gambling	2	0.06%
Computer - Internet Sales	102	2.63%
Computer - Online Services	57	1.48%
Computers	22	0.58%
Contests/Sweepstakes	192	4.95%
Credit	167	4.31%
Credit Reporting Agencies	34	0.88%
Discount Buying Clubs	9	0.24%
Door-To-Door Sales	33	0.86%
Education	5	0.14%
Employment Services	3	0.09%
Energy Savings Devices	1	0.03%
Failure To Furnish Merchandise (other than mail order)	13	0.34%
Farm Implement/Equipment	12	0.31%
Faxes Unsolicited	52	1.35%
Fire, Heat & Smoke Alarms	0	0.00%
Floor Coverings	3	0.09%

<b>Category</b>	<b>Complaints Received</b>	<b>Percent of Total</b>
Food Products	6	0.03%
Funeral Homes	8	0.21%
Furniture	23	0.59%
Gasohol & Stills	1	0.03%
Gasoline Pricing and Contents	13	0.34%
Health Services (doctors, dentists, hospitals, etc.)	78	2.01%
Health Spas & Weight Salons	73	1.89%
Hearing Aids	4	0.11%
Heating & Air Conditioning	8	0.22%
Home Construction	23	0.59%
Home Improvement	166	4.28%
Identity Theft	95	2.46%
Invoice & Billing Schemes	35	0.91%
Jewelry	5	0.14%
Land Resale Companies	1	0.03%
Loan Finders	9	0.24%
Magazine Subscriptions	65	1.68%
Mail Order	192	4.95%
Medical Discount Cards	39	1.01%
Medical Equipment/Devices	14	0.37%
Miscellaneous	29	0.76%
Mobile Home Parks	0	0.00%
Mobile Homes & Manufactured Homes	12	0.31%
Mortgage Escrow Problems	4	0.11%
Mortgages	45	1.16%
Motorcycles & Bicycles	13	0.34%
Moving & Storage	19	0.49%
Multi-level & Pyramid Distributorship Co.	5	0.14%
Musical Instruments, Lessons, etc.	2	0.06%
Negative Selection	2	0.06%
Nigerian Style Letters	55	1.43%
No-Call	31	0.81%
Nurseries, Lawn, Gardening and Landscape Service	9	0.24%
Nursing Homes	3	0.09%
Office Equipment & Supplies	1	0.03%
Overpayment Scam	4	0.11%
Pest Control	6	0.16%
Pets/Animals	8	0.21%
Photo Studios, Equipment & Services	4	0.11%
Privacy Issues	2	0.06%
Real Estate (houses)	14	0.37%

<u>Category</u>	<u>Complaints Received</u>	<u>Percent of Total</u>
Real Estate (other than houses)	4	0.11%
Rebates	141	3.64%
Recovery Complaints	2	0.06%
Referral Selling	1	0.03%
Satellite Systems	42	1.09%
Scanning Equipment	1	0.03%
Securities & Investment (other than stocks & bonds)	20	0.53%
Security Systems and Services	24	0.63%
Services (general)	243	6.27%
Services (professional)	32	0.83%
Sewing Machines	0	0.00%
Sporting Goods	2	0.06%
Steel Buildings	2	0.06%
Stereo Equipment	4	0.11%
Telephone - 800#s, 900#s and International Calls	13	0.34%
Telephone - Cramming	48	0.13%
Telephone - Service, Cell Phones & Slamming	253	6.53%
Telephone - Prepaid Phone Cards	2	0.06%
Telephone Solicitations	32	0.83%
Televisions and VCRs	4	0.11%
Timeshare Sales	18	0.47%
Tobacco Sales	2	0.06%
Toys	2	0.06%
Trade & Correspondence Schools	4	0.11%
Travel	37	0.96%
Unauthorized Practice of Law	20	0.53%
Unsolicited e-mail (spam)	15	0.39%
Vending Machines	0	0.00%
Warranty Problems (other than automobiles)	42	1.09%
Water Softeners, Conditioners, Purifiers, etc.	6	0.16%
Work-at-home Schemes	8	0.22%
<b>TOTAL CASES OPENED</b>	<b>3883</b>	<b>99.48%*</b>

\* Percentage does not equal 100% due to rounding

## 2006 DISPOSITION OF CLOSED COMPLAINTS

	<b>Complaints Received</b>	<b>Percent of Total</b>
Inquiry or Information Only	707	18.16%
Referred to BBB	48	1.23%
Referred to Private Attorney	173	4.44%
Referred to County/District Attorney	14	0.36%
Referred to Other State Attorney General	33	0.85%
Referred to Other Government Agency	236	6.06%
Referred to Small Claims Court	59	1.52%
Referred to Federal Agency (FTC, Post Office, etc.)	35	0.90%
Referred to BBB and Small Claims Court	57	1.46%
Referred to BBB, Small Claims Court and Private Counsel	23	0.59%
Money Refunded/Contract Cancelled	438	11.25%
Merchandise Delivered to Consumer	2	0.05%
Repaired/Replaced Product	17	0.44%
Mediation Only - No Savings	209	5.37%
No Reply From Complainant	41	1.05%
Unable to Locate Respondent	52	1.33%
Practice Complained of Discontinued	6	0.15%
Respondent Out of Business	130	3.34%
Need More Information From Complainant	197	5.06%
No Violation	211	5.42%
No Resources	15	0.38%
Insufficient Evidence to Prove Violation	158	4.06%
Complaint Withdrawn	24	0.61%
Unable to Satisfy Complaint - No Further Action	54	1.39%
Other	53	1.36%
No Call - Established Business Relationship	1	0.02%
No Call - Collection Exemption	1	0.02%
No Call - Affirmative Defense	1	0.02%
No Jurisdiction Under KCPA	36	0.92%
Self Help	582	14.95%
Lawsuit Complaint Files:		
Consent Judgment	87	2.23%
Default Judgment	36	0.92%
Dismissed	1	0.02%
Judgment for State - Civil Penalties Only	14	0.36%
Judgment for State - Penalties, Restitution and Injunction	1	0.02%
Voluntary Compliance Agreement	141	3.62%
<b>TOTAL CASES CLOSED</b>	<b>3893</b>	<b>99.93%*</b>

\* Percentage does not equal 100% due to rounding

## **SUMMARY OF 2006**

### **CONSUMER PROTECTION ENFORCEMENT ACTION**

#### **In re Advantage Nursing Services**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to misrepresentations of the status of the company as a medical service provider. The company agreed to pay \$2,500 in fees and cease the deceptive behavior.

#### **State of Kansas ex rel. v. Ameriquest Mortgage Company, et al**

The Attorney General filed a lawsuit on March 21, 2006 alleging violations of the KCPA related to deceptive acts and practices in the origination and funding of real estate secured loans with borrowers in the state of Kansas. The Court issued an Entry of Permanent Injunction and Final Judgment and the Defendant agreed to pay restitution to affected consumers and \$62,500 in civil penalties and fees.

#### **State ex rel v. Automotive Financial Consultants, Inc.**

The Attorney General entered into a Consent Judgment with the Defendant for violations of the KCPA related to deceptive solicitations for extended automobile warranty coverage. Defendant agreed to pay \$10,000 in civil penalties and fees and to cease sending deceptive solicitations.

#### **In re Beacon Industries Worldwide, Inc.**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to making misrepresentations that a warranty would be applicable when it was not in fact applicable in the given circumstances. The company agreed to pay \$1,795 in civil penalties and fees.

#### **State of Kansas ex rel. v. Berkeley Premium Nutraceuticals, Inc.**

The Attorney General entered into a Consent Judgment with the Defendant for violations of the KCPA related to the marketing and sale of dietary supplements. Defendant agreed to pay \$25,000 in civil penalties, fees, and costs and was enjoined from making certain deceptive statements regarding the quality or effectiveness of its products.

#### **State of Kansas ex rel. v. Brian Blevins, d/b/a Central Plains Construction**

The Attorney General filed a lawsuit on September 7, 2006 alleging violations of the KCPA related to Defendant's failure to provide home renovation services to a consumer after receiving payment. The case is currently pending in Douglas County District Court.

#### **In the Matter of The Bradford Exchange, Ltd.**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to sending unordered goods to consumers and solicitations that appeared to be invoices or statements for the unordered goods. The company agreed to pay \$10,000 in civil fees and penalties.

**State of Kansas ex rel. v. William Allen Brock, d/b/a SAO Marketing Listing Service**

The Attorney General filed a lawsuit on November 26, 2006 and entered into a Consent Judgment with the Defendant for violations of the KCPA related to Defendant's mailing of an internet directory listing service solicitation that appeared to be a bill, invoice, or statement of account due without proper notice on the solicitation. Defendant agreed to pay \$1,500 in penalties and fees.

**State of Kansas ex rel v. Cardholder Management Services**

The Attorney General entered into a Consent Judgment with the Defendant for violations of the KCPA related to the reassignment of a consumer account for collections when the account had been previously settled and causing a financial entity to be named as the creditor on the consumer's account when said entity was not affiliated with the account in question. Defendant agreed to pay \$2,000 in civil penalties and fees.

**State of Kansas ex rel. v. Jesse D. Casares, d/b/a Promotional Marketing**

The Attorney General filed a lawsuit on November 1, 2006 alleging violations of the Kansas No-Call Act and the Kansas Discount Card Act related to Defendant's transmission of unsolicited facsimiles into the state of Kansas and engaging in the unregistered sale of medical discount cards. When Defendant failed to respond to the State's petition the Court entered default judgment in favor of the State and Defendant was ordered to pay \$20,000 in civil penalties and fees.

**In the Matter of CCC Information Services, Inc.**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's attempts to collect a debt when it had reason to know that the debt was fully satisfied. The company agreed to pay \$829 in civil penalties and fees.

**In the Matter of Chrysler Jeep of Olathe**

The Attorney General entered to an Assurance of Voluntary Compliance with the company for violations of the KCPA related to misrepresentations made by the company when attempting to arrange financing for a consumer for the purchase of an automobile. The company agreed to pay \$5,300 in restitution to the consumer and \$3,000 in civil penalties and fees

**In the Matter of Cingular Wireless**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to contracting with a third party collection agency to collect a debt that the consumer had already paid. The company agreed to pay \$5,000 in civil penalties and fees.

**In the Matter of Cingular Wireless**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's release of confidential debtor information to a third party while attempting to collect a debt from a consumer. The company

agreed to implement and maintain procedures to prevent this type of disclosure in the future and to credit the consumer's account for the amount owed.

**State of Kansas ex rel. v. James Curry**

The Attorney General filed a lawsuit on June 5, 2006 alleging violations of the KCPA related to Defendant, an asphalt contractor, receiving payment for services never provided. The Court entered default judgment in favor of the State and Defendant was ordered to pay \$61,600 in restitution, civil penalties and fines, investigative fees, and costs. Defendant was also enjoined from operating as an asphalt contractor within the state of Kansas.

**In the Matter of CVS Pharmacy, Inc.**

The Attorney General entered into a multi-state Assurance of Voluntary Compliance with the company for violations of the KCPA and other state laws related to the sale of tobacco products to persons under the age of 18 by retail outlets owned by the company. The company agreed to pay \$10,000 in civil penalties and fees.

**In the Matter of Cybrcollect, Inc.**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA and the Fair Debt Collection Practices Act related to its attempts to collect on a stop payment check issued by a consumer for the purchase of magazines. The company agreed to cease collection proceedings against the consumer, to treat all future stop payment checks as disputed debt, and to pay \$1,000 in civil penalties and fees.

**State of Kansas ex rel v. Design Savers Plan, LLC**

The Attorney General entered into a Consent Judgment with the Defendant for violations of the Kansas Discount Card act related to the marketing and unregistered sale of discount cards to Kansas consumers without maintaining the required surety bond or designating a resident agent. Defendant agreed to pay \$5,000 in civil penalties and fees.

**In the Matter of Directory Billing, LLC**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's issuance of "live checks" to Kansas businesses who unknowingly authorized the company to change or add telecommunication services to their accounts when cashing such checks. The company agreed to cease the use of such "live checks" or other negotiable instruments and to pay \$2,500 in civil penalties and fees.

**State of Kansas ex rel v. Feature Films for Families, Inc.**

The Attorney General filed a lawsuit on July 12, 2006 and entered into a Consent Judgment with the Defendant for violations of the Kansas No-Call Act. Defendant agreed to pay \$5,000 in civil penalties and fees.

**State of Kansas ex rel. v. First Capital Bankcard, Inc.**

The Attorney General entered into a Consent Judgment with Defendant for violations of the KCPA related to Defendant's door to door sales of credit card processing equipment and its

failure to provide the required cancellation notices upon completion of the sales to three consumers. Defendant agreed to cancel the contracts and to pay \$2,896 in restitution and \$15,000 in civil penalties and fees.

**State of Kansas ex rel v. Larry Forgy d/b/a Advanced Window and Door Systems**

The Attorney General filed a lawsuit on August 18, 2006 alleging violations of the KCPA related to Defendant, an installer of windows, doors and siding on residential homes, receiving payment for the installation of windows that were never provided. The case is currently pending in Shawnee County District Court.

**In re Genesis Financial Solutions**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to collection efforts against a consumer when the consumer had effectively disputed the debt on two different occasions and the company could not validate the debt in question. The company agreed to establish procedures designed to prevent future violative collection behavior and to pay \$1,500 in civil penalties and fees.

**State ex rel. v. Dan Griggs, d/b/a Auto-Werks**

The Attorney General filed a lawsuit on August 23, 2006 alleging violations of the KCPA related to charging a Kansas consumer for repairs and parts when no such repairs or parts were performed or installed on the consumer's vehicle. Defendant agreed to refund \$1,475 to the consumer and to pay \$20,000 in civil penalties.

**State of Kansas ex rel v. Haag Oil. Co.**

The Attorney General entered into a Consent Judgment with the Defendant for violations of the KCPA related to Defendant's unconscionable acts of printing more than the last five digits of a credit or debit card account number and expiration date on receipts issued to consumers. Defendant agreed to pay \$5,000 in civil penalties and fees.

**In the Matter of Gary Hardy Dodge**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's failure to make proper disclosures regarding the status and condition of an automobile prior to sale to a Kansas consumer. The company agreed to pay \$2,500 in civil penalties and fees and to provide a replacement vehicle to the consumer.

**In the Matter of Horizon's Hamburger Palace**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's addition of a 50 cent surcharge on all consumer credit card transactions. The company agreed to cease such acts, to post a notice advising its customers that such acts were illegal, and to offer a discount to affected customers.

**State of Kansas ex rel v. International Level**

The Attorney General filed a lawsuit on May 31, 2006 alleging violations of the KCPA related to representations to a consumer that a leveling jacks would fit his motor home when, in

fact, such jacks were too long and did not fit. When Defendant failed to respond to the State's petition, default judgment was entered in favor of the State and Defendant was ordered to pay \$62,000 in damages.

**In the Matter of Jinna Jeffery d/b/a Bridges Consulting Services**

The Attorney General entered into an Assurance of Voluntary Compliance with Ms. Jeffery for violations of the KCPA related to misrepresenting herself as an attorney and the unauthorized practice of law. Ms. Jeffery agreed to cease such acts.

**State of Kansas ex rel v. Kansas Food Service Compliance Center**

The Attorney General entered into a Consent Judgment with the Defendant for violations of the KCPA related to deceptive solicitations for hand washing compliance posters. Defendant agreed to cease sending or distributing in Kansas any solicitation for the purchase of its goods or services without including the Kansas Office of Attorney General in the mailing or distribution. Defendant further agreed to pay \$10,000 in civil penalties and fees.

**In the Matter of Kansas Wireless, Inc.**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to its failure to provide all relevant cancellation and return procedures and policies when entering into contracts with Kansas consumers. The company agreed to pay \$1,500 in civil penalties and fees.

**State of Kansas ex rel. v. David Leanders, d/b/a/ DM Roofing**

The Attorney General filed a criminal complaint on November 29, 2006 accusing Defendant, a roofing contracting, of theft by deception related to Defendant's targeting of storm victims in need of roof repairs, receiving payment for such repairs but failing to pay suppliers for the roofing materials, resulting in liens being placed on the victims' homes. The case is pending in Brown County District Court.

**State of Kansas ex rel. v. Magazine Billing Services**

The Attorney General filed a lawsuit on September 12, 2006 and entered into a Consent Judgment with the Defendant for violations of the KCPA related to Defendant issuing solicitations that could be reasonably construed as a bill, invoice, or statement of amount due. Defendant had mailed numerous solicitations to Kansas consumers that appeared to be renewal notices when they were, in fact, nothing more than solicitations for magazine subscriptions. Defendant agreed to pay \$2,000 in penalties and fees.

**State ex rel. v. The Mandatory Poster Agency**

The Attorney General entered into a Consent Judgment with Defendant for violations of the KCPA related to the company's inclusion in its solicitations a fictitious name that included the word "Kansas" when the company had no business location in Kansas, failure to make required disclosures, and offering a product at a price that grossly exceeded the price at which similar products were available. The Defendant agreed to pay \$5,000 in penalties and fees and to cease sending deceptive solicitations.

**State of Kansas ex rel v. Manorcare Health Services**

The Attorney General entered into a Consent Judgment with Defendant for violations of the KCPA related to collection efforts against a consumer who was not liable for a family member's account when Defendant's records clearly indicated consumer was not the responsible party. Defendant agreed to pay \$1,000 in civil penalties and fees.

**In the Matter of McCarthy Olathe Hyundai**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's advertisement for the sale of automobiles for a "Hail Sale" discount that required consumers to qualify for various rebates in order to buy at the "sale" price. The company agreed to pay \$3,500 in civil penalties and fees and to refrain from such acts and practices in the future.

**In the Matter of McCoy's Home Furnishing & More, Inc. d/b/a TNT Rentals**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to its imposition of an unconscionable penalty clause in cellular telephone contracts. The company agreed to pay \$1,000 in civil penalties and fees.

**In the Matter of MedPlus**

The Attorney General entered into an Assurance of Voluntary Compliance with the company, a medical discount card supplier, for violations of the KCPA related to its failure to maintain a surety bond and failure to designate a resident agent. The company agreed to cease marketing of medical discount cards in Kansas or to come into full compliance with the Kansas Discount Card Act and to pay \$2,500 in civil penalties and fees.

**In the Matter of MSM-B2B, Inc. d/b/a MSm-B2B.COM**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to Defendant's placing unauthorized charges on Kansas consumers' telephone bills. The company agreed to refund the unauthorized charges and pay \$1,000 in civil penalties and fees.

**State of Kansas ex rel. v. National Campaign to Stop Pornography Fund**

The Attorney General filed a lawsuit on July 26, 2006 and entered into a Consent Judgment with Defendant for violations of the Kansas Charitable Organizations and Solicitations Act related to Defendant's solicitation of Kansas consumers for donations without being registered as a charitable solicitor with the Secretary of State and for placing undue pressure on Kansas consumers who objected to receiving such solicitations by continually contacting them via pre-recorded telephone calls. Defendant agreed to pay \$5,000 in civil penalties and fees.

**In re Nicholas Media Consultants, Inc.**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to deceptive solicitations that misrepresented that an auto dealership had a supply of vehicles sufficient to meet reasonable and expected public demand for the advertised promotion, misrepresenting that special arrangements were made for

financial backing during the term of the promotion when such backing was available during the ordinary course of business, and falsely stating reasons for offering vehicles at sale or discounted prices. The company agreed to pay \$9,000 in civil penalties and fees.

**In the Matter of Jim Norton Ford**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's failure to provide door to door sales disclosures and deceptive solicitations regarding the sale of a vehicle. The company agreed to refund the consumer's payments on the vehicle, buy back the vehicle, and release the consumer from all claims. The company also paid \$800 in restitution to the consumer and \$2,000 in civil penalties and fees.

**State of Kansas ex rel. v. Nusser Motors and Terry Nusser**

The Attorney General filed a lawsuit on August 8, 2006 alleging violations of the KCPA related to the sale of used auto parts. The lawsuit is pending.

**In the Matter of Popular Leasing, USA, Inc.**

The Attorney General entered into a multi-state Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's attempts to collect from consumers payments owed under financing agreements for services no longer being provided to the consumers by the original supplier. The company agreed to collect only 15% of the remaining balances owed under the financing agreements and to forgive the remaining balances owed.

**State of Kansas ex rel v. David Martin Price, Janice King, Rosemary Denise Price, and Pro Se Advocates**

The Attorney General filed a Quo Warranto Proceeding with the Kansas Supreme Court seeking an injunction against Respondents for engaging in the unauthorized practice of law. Following oral argument in September 2007 the Court issued an Order on December 7, 2007 enjoining David Martin Price from appearing in any Kansas legal proceeding in any representative capacity for another; from taking any action intended to assist nonmembers of the state bar of Kansas in the presentation of any legal matter; from preparing or aiding in the filing of any pleading or legal document in a Kansas controversy or legal proceeding except when doing so solely on his own behalf; and/or from counseling or advising any nonmember of the state bar on any legal matter whatsoever. The quo warranto proceeding regarding the remaining defendants (Janice Lynn King, Rosemary Denise Price, and Pro Se Advocates) was remanded for further proceedings.

**In the Matter of SecureNet Alarm Systems**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the unconscionable automatic renewal of alarm service contracts. The company agreed to pay \$30,000 in civil penalties and fees, provide cancellation to consumers as requested, and revise contract provisions regarding automatic renewal.

**State of Kansas ex rel v. Sharp Honda, Inc.**

The Attorney General entered into a Consent Judgment with the Defendant for violations of the KCPA related to Defendant's misrepresentations to a consumer regarding the status and condition of an automobile prior to the sale. Defendant agreed to pay \$5,000 in civil penalties and fees and was enjoined from engaging in such acts and practices in future transactions.

**State of Kansas ex rel v. Barbara Snyder, et al**

The Attorney General filed a lawsuit on February 23, 2006 alleging violations of the KCPA related to Defendants' acceptance of payment for repairs to a consumer's automobile and failure to perform such repairs in an acceptable manner. The Attorney General dismissed the suit and entered into an Assurance of Voluntary Compliance with the Defendants in which Defendants agreed to pay restitution in the amount of \$800 to the consumer.

**In the Matter of State Directory Billing, LLC.**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to Defendant's placing unauthorized charges on Kansas consumers' telephone bills. The company agreed to refund the unauthorized charges and pay \$2,500 in civil penalties and fees.

**State of Kansas ex rel v. St. Clair Corporation**

The Attorney General entered into a Consent Judgment with Defendant for violations of the KCPA related to Defendant's acceptance of payment for and installation of vinyl siding on consumers' home without disclosing to consumers that the installation of vinyl siding was prohibited in the City of Leawood. The company agreed to pay \$5,142 in restitution to the consumers and \$3,000 in civil penalties and fees.

**State of Kansas ex rel v. Steven Import Group, et al**

The Attorney General entered into a Consent Judgment with Defendant for violations of the KCPA related to deceptive practices in obtaining financing for the sale of an automobile to a consumer. Defendants agreed to pay \$1,231 to the consumer and \$5,769 in civil penalties and fees.

**In the Matter of Triplett, Inc.**

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's failure to comply with receipt printing requirements within the statutorily-mandated time frame. The company agreed to \$500 in civil penalties and fees and to bring all credit card printers into compliance.

**State of Kansas ex rel v. Yellow Pages, Inc., et al**

The Attorney General entered into a multi-state Consent Judgment with Defendant for violations of the KCPA related to Defendant's issuance of "live checks" to consumers which resulted in consumers unknowingly authorizing the company to bill them for other telecommunication services when such checks were cashed. Defendant agreed to pay \$10,000 in civil penalties and fees and to issue refunds to Kansas consumers identified through discovery.

**State of Kansas ex rel. v. YP Corp., d/b/a YP.com, YP.net, and Yellow-Page.net**

The Attorney General filed a lawsuit on December 14, 2006 and entered into a Consent Judgment with Defendant for violations of the KCPA related to Defendant's distribution of "live Checks" that automatically authorized Defendant to place charges on consumers' telephone bills after the checks were deposited. Defendant agreed to pay \$7,936 in restitution to Kansas consumers and \$15,000 in civil penalties and fees.

## **SUMMARY OF 2006 ANTITRUST ENFORCEMENT ACTION**

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

This case was originally filed by 32 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 involved the anti-anxiety drug BuSpar, which is Bristol Myers Squibb's name for buspirone. The states' complaint alleged that Bristol-Myers Squibb fraudulently listed its patent for BuSpar in the FDA's Orange Book and that Bristol-Myers Squibb entered into anticompetitive agreements with two companies to prevent distribution of generic buspirone. A settlement was 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 were distributed to a nonprofit mental health organization in 2006.

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

Kansas, along with a group of 28 other states, the District of Columbia, Puerto Rico, and the Virgin Islands joined together in a multi-state action that accused Bristol-Myers Squibb of acting illegally to keep the less expensive, generic version of Taxol off the market. Suit was later filed in the United States District Court for the District of Columbia. The lawsuit alleged that Bristol-Myers Squibb knowingly manipulated the U.S. Patent and Trademark Office process by fraudulently securing patents that had no legal validity and prevented generic drug manufacturers from entering the marketplace until 2000. Bristol-Myers Squibb's sales of Taxol totaled at least \$5.4 billion from 1998. A settlement was reached, and consumers were paid based upon claims submitted, averaging \$500 each. The settlement also provided for the recovery of \$260,000 for state agencies and Medicaid and also permitted the University of Kansas Medical Center to be eligible to participate 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 received during 2005 and distributed during 2006.

### ***State of Maryland, et al. v. SmithKline Beecham Corporation***

The States contended that SmithKline fraudulently manipulated the patent process for its drugs Paxil and Augmentin in order to prevent generic versions of the drugs from entering the marketplace. Settlement negotiations were conducted during 2005. Settlement was reached in February of 2006, and proceeds were distributed in 2006.

