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STATE OF KANSAS

# 76 ANNUAL REPORT

OFFICE OF THE ATTORNEY GENERAL  
Consumer Protection Division



CURT T. SCHNEIDER  
ATTORNEY GENERAL

PREPARED IN ACCORDANCE WITH K.S.A. SUPP. 50-628  
KANSAS CONSUMER PROTECTION ACT

January 1, 1977

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STATE OF KANSAS

**Office of the Attorney General**

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**Curt T. Schneider**  
Attorney General

January 10, 1976

HONORABLE ROBERT F. BENNETT, GOVERNOR  
AND MEMBERS OF THE 68th LEGISLATURE

As required by the Kansas Consumer Protection Act, I am submitting my office's annual report on the activities of the consumer protection division for the calendar year 1976. During this past year approximately 4,000 Kansans utilized the services of this division. Thousands more contacted the consumer protection division for information to inquire about a specific venture. Many businessmen sought the advice of this office as they prepared to enter business ventures in the state.

During 1976, the consumer protection division hired an additional investigator through a federal grant. Therefore, the division now has four attorneys, along with two full time investigators plus one agent who works half time. Also, this office utilizes the services of undergraduate interns from the Washburn University Department of Political Science and Criminal Justice, plus legal interns through the law school.

During 1977, this division plans to institute several new programs which I feel will make this office more effective in enforcing the Consumer Protection Act. These programs will be discussed more fully in the report.

Please do not hesitate to contact me if further information is desired.

Very truly yours,

  
CURT T. SCHNEIDER  
Attorney General

This report, issued by the Consumer Protection Division, signals the conclusion of the first two years of this administration. Since January 13, 1975, this office has investigated 3,754 complaints and returned more than one million dollars to Kansans as the result of legal action, arbitration, and negotiation. As we start 1977, this office is making plans to institute several new programs. One of the most important functions of the division is a speakers bureau. During 1976, staff members of the consumer protection division appeared before 125 audiences ranging from schools, senior citizen groups, business and professional organizations, and women's groups to discuss the work of this office. These presentations included accounts of case histories and tips on techniques that consumers should use to prevent white collar crime. In one appearance, an agent from the office spoke before an entire college at a school convocation. Everyone who works in the consumer protection division participates in the speakers bureau during their time of employment. The office has informal agreements with many groups who utilize the speakers bureau yearly. For instance, a staff member visits business law classes at Kansas State University each semester. Also, a speaker annually appears before consumer protection workshops which are organized by K-State. The office will continue to make its staff available throughout 1977 for consumer protection speakers.

#### INTRODUCTION

In January, 1976, Attorney General Schneider asked the consumer protection division to begin formulating ideas for a consumer protection booklet to be prepared for distribution throughout the state. The staff working collectively spent nearly 250 hours in preparing this booklet. Also, the division was assisted by Dr. Jim Morris, a Kansas State University professor of Journalism, who worked many hours to assist in completing the project.

The booklet has been sent to the state printer and should be off the press by early March, 1977.

Included in the booklet is information about the 50 most common categories of white collar crime in Kansas. This booklet will provide tips on the purchase and resale of automobiles, information on the Federal Trade Commission Regulation regarding mail order purchases, and hints on how to spot salemen who peddle fraudulent franchises.

Also, included in the booklet is a detailed explanation of the Kansas Consumer Protection Act, Small Claims Court and the procedures to be followed in filing a consumer protection complaint.

This booklet will be provided to any organization or person who requests a copy. Already, the office has been flooded with requests on consumer information of this type.

As a part of the division's educational programs, the Attorney General authorized purchase of a twenty-four minute film on white collar crime. The film, quite fittingly entitled "On Guard" and produced by the Los Angeles County District Attorney's Office, contains actor portrayed stories of four common "bunko" schemes. These schemes include portrayals of older people being victimized by the age old pigeon drop and bank fraud plus examples of fraudulent door-to-door salesmen and home repairmen. Plus, the Attorney General's office has added six minutes of information on proper procedures for utilizing the service of the consumer protection division. This film will be loaned out free-of-charge on demand.

During 1976, the Attorney General's Office responded to invitations from radio and television stations who sought consumer information. The office produced three minute spots on a weekly basis for KTSB Television Station of Topeka. KAYS of Hays did weekly interviews as did KANU of Lawrence. At years's end, the division was completing arrangements with the K-State radio network for a series of program interviews on the consumer protection division.

Annually, the division issues many press releases to warn the public about white collar crime. During 1976, a total of 65 such press release were issued.

Early in 1976, Attorney General Schneider asked the Consumer Protection Division to institute administrative procedures to speed the process for investigating complaints. In his directive, the Attorney General said complaints should be acted upon as expeditiously as possible. In some instances it is impossible to act quickly on complaints, especially when legal action is involved. On the other hand, complaints which involve misunderstandings between buyer and seller can be resolved with a single phone call. Still other complaints can be handled by mail. Many investigations require on the spot investigations by agents from the Attorney General's office.

In January, 1976, an average of 100 days was required to investigate a consumer complaint and decide what course of action, if any, should be taken by the consumer protection division. By year's end, that number had been reduced by more than half.

Still more changes are expected in 1977 in hopes that the normal time for complaints can be further reduced.

Since the division's inception in 1968, this office has handled thousands of small complaints for Kansans. One of the greatest strengths of this office is the fact that Kansans with \$10, \$20, or \$30 complaints can contact their Attorney General's office and expect to receive assistance.

During 1976, the office received hundreds of small complaints, mainly mail order problems, from constituents throughout Kansas. Each complaint was individually investigated by the office.

In the last annual report, there was discussion about the Family Heritage Society of Windom, Kansas. This particular company worked western Kansas collecting photographs, biographical materials, township maps, and other materials for historical books to be printed about several counties. Also, orders were taken for these books. The normal charge was \$50 to \$55 per book.

The company's resources were depleted prior to the book's completion. Nearly 900 Kansans from Pratt and Ness Counties are awaiting their orders. During 1976, the Attorney General's office with the assistance of the respective County Attorneys' offices established a plan to resolve these complaints. Under this arrangement, an escrow bank account was established to pay a portion of the costs. A binding company will pay the remaining costs.

By resolving the complaints in these two counties nearly 900 Kansans will receive delivery of merchandise. It is believed that more Kansans are involved in this case than in any other case received in the entire history of the division.

In other consumer actions undertaken by this division the office intervened in behalf of twenty-five northeast Kansas residents who were unable to get their merchandise returned from individuals who operated a jewelry store that closed. The office was able to resolve all complaints and return merchandise valued at nearly \$1500.

The consumer protection division inspected nearly onehundred booths at the Kansas State Fair as part of the office's project to insure that all companies soliciting business were in compliance with the Kansas Consumer Protection Act. Also, the office negotiated a settlement whereby a Kansas farmer received a \$4500 rebate from a seed company after he filed a complaint with this office alleging that the seed he purchased had failed to grow. The division obtained a \$1,000 refund for a Kansas high school after a complaint was lodged against a travel agency which made arrangements for a school trip. The school alleged that the travel agency had misrepresented all the sights and scenes available for the trip.

These are just a few of the many cases investigated during 1976 by the consumer protection division. It is hoped that in the annual report we will be able to report a decrease in white collar crime in Kansas. With the continuing efforts of county attorneys, sheriffs, and police departments, we feel that much will be accomplished in the coming year.

STATISTICS FOR JANUARY 1, 1976 THROUGH DECEMBER 31, 1976

CASES RECEIVED----- 3,754  
CASES CLOSED----- 3,705  
MONEY RETURNED TO KANSAS CONSUMERS--\$447,766.91

Closing code

1.	Inquiry or information only-----	948
2.	Referred to Private Attorney-----	181
3.	Potential violator out of business-----	35
4.	Merchandise repaired, replace or delivered-----	1,454
5.	Referred to County Attorney-----	49
6.	Referred to Other Agency-----	304
7.	Referred to Small Claims Court-----	69
8.	No Jurisdiction-----	163
9.	Unable to locate violator-----	46
10.	No basis-----	170
11.	Unable to satisfy complainant. Further action not warranted-----	144
12.	Voluntary assurance of discontinuance-----	125
13.	Court Cases Closed-----	17

LAWSUITS

STATE OF KANSAS, ex rel.,           v.       RICHARD J. HILL  
CURT T. SCHNEIDER

Petition for civil remedies, restitution and other equitable relief was filed against a Manhattan, Kansas realtor, Richard J. Hill, in October, 1976. The suit alleges that the defendant misrepresented the status of surrounding property to three home buyers in the Manhattan area. It is also alleged that the defendant misrepresented the real property taxes of the purchased property to the same parties.

The lawsuit is presently in the process of discovery.

STATE OF KANSAS, ex rel.,           v.       ROBERT P. SPITLER, MARGARET  
MARGARET JORDAN AND CURT T.       J. SPITLER, PAUL E. WELLS,  
SCHNEIDER                           BERT NELIN, WILLIAM BUTTS,  
                                      EDWARD TIPTON a/k/a EDWIN  
                                      TIPTON AND PERFORMANCE  
                                      ENTERPRISES, INC.

On April 9, 1976, the Johnson County District Attorney's Office filed a petition for an injunction and obtained a temporary restraining order against defendants. On August 19, 1976, the Attorney General was given leave to intervene in the lawsuit to represent Kansas consumers not represented in the District Attorney's petition. Defendants sold coin-operated vending machines and distributorships to Kansans at prices which grossly and unconscionably exceed the price at which similar machines are readily obtainable in similar transactions by like consumers.

To induce consumers into purchasing the machines, defendants represented that the machines would be specifically located in businesses by location experts. These special locations would supposedly yield a minimum number of vending sales per day, which in fact they have not. Defendants also represented that purchasers would have no out-of-pocket expenses and that defendants were furnishing consumers with a business which would provide a secure investment with sound earning potential. In fact, the consumers do not earn the projected income and cannot make their monthly payments from their vending sales.

The lawsuit is in the discovery stages.

STATE OF KANSAS, ex rel.,           v.   FRANK DILLARD, SR.  
CURT T. SCHNEIDER

A petition was filed on September 16, 1976, in Miami County District Court alleging that defendant offered and sold his services for home repairs at unconscionable prices to elderly consumers. Defendant solicited door-to-door sales without providing consumers with written notice of their right to cancel the contract within three business days. Defendant obtains one-third to one-half of the contract price, telling the consumer he will use the money to purchase the materials. In fact, defendant charges the materials at local stores and refuses to reimburse the consumer. Defendant often does not complete the work after he has obtained payment. The petition requests recovery of actual damages for consumers and that defendant be permanently enjoined from selling his services as a carpenter and home repairman in the State of Kansas. Defendant cannot be found for service of process.

STATE OF KANSAS, ex rel.,           v.   BENNY SCHUCK  
CURT T. SCHNEIDER

A lawsuit was filed against All Seasons Basement Waterproofing Company and Benny Schuck its president and shareholders, alleging misrepresentations in the sale of basement waterproofing services. Approximately five hundred complaints have been filed with the Attorney General's Office against this now defunct company. The petition requests that the corporate veil be pierced and Benny Schuck be held personally liable. The petition requests a permanent injunction and restitution and penalties in excess of \$350,000. The lawsuit is presently in the discovery stage.

STATE OF KANSAS, ex rel.,           v.   EDUCATIONAL SCIENTIFIC  
CURT T. SCHNEIDER                   PUBLISHERS, et al.

This lawsuit was filed on May 23, 1975, against defendants who sold courses in trust creation. From the course materials, Kansans were told they could create family trusts to avoid estate taxes and probate costs. The IRS finds these trusts illusory; Educational Scientific Publishers is not registered under the Kansas Proprietary School Act as required; and defendants failed to provide purchasers with notice of their right to cancel the contract within three business days. The petition also alleges that defendants are practicing law without a license.

The lawsuit is in the discovery stages.

STATE OF KANSAS, ex rel.,           v.    GARY HOOPER, d/b/a  
CURT T. SCHNEIDER                    PHOTO MID-AMERICA

Defendant sent postcards to Kansas consumers advising they could receive a "free" movie camera and/or projector if they would purchase eighty rolls of film. Defendant failed to obey a subpoena served on him requesting certain information and his appearance in the Attorney General's Office. A petition for an injunction was filed pursuant to K.S.A. 1975 Supp. 50-631 (e); defendant did not file an answer and a judgment by default enjoining defendant from doing business in the State of Kansas until such time as he complies with the Attorney General's subpoena was granted on December 17, 1976.

STATE OF KANSAS, ex rel.,           V.    SPIRIT OF AMERICA, INC.  
CURT T. SCHNEIDER                    and LOWELL SMITH

A petition was filed in Wyandotte County District Court on November 9, 1976, alleging that in selling an ice cream parlor franchise, defendants represented that the buyers would receive supervision and training, a 100% turnkey operation, financing, discounts on dairy products from wholesalers, and the ability to purchase products on credit from certain companies. Defendants also misrepresented the number of retail franchise stores they had in operation. Certain inventory and equipment that the purchasers paid for has never been delivered by defendants. The petition asks for monetary damages, civil penalties, investigation expenses and an injunction permanently restraining defendants from making the described misrepresentations. Defendants have been served.

STATE OF KANSAS, ex rel.,           v.    MODULAR STEEL STRUCTURES,  
CURT T. SCHNEIDER                    INC., et al.

A petition for an injunction, civil penalties and other relief was filed in Shawnee County District Court on October 17, 1975, against the manufacturer of steel buildings and its dealers. Approximately two hundred Kansas farmers purchased "Wonder Buildings", paying several thousand dollars each for a deposit on a steel building. The manufacturer was unable to deliver many of the buildings because of the steel shortage and the





STATE OF KANSAS, ex rel.,        v.    ROBERT FEINBERG  
CURT T. SCHNEIDER

A petition alleging violations of the Consumer Protection Act was filed against Robert Feinberg on June 8, 1976, in the Shawnee County District Court. Defendant, representing himself as a manufacturer's representative, sold glassware which is purported to be ovenware. Defendant represented that the normal selling price or value of the purported ovenware is \$89.50, but because the company was going out of business, the buyer could obtain the merchandise for approximately \$15.00. In fact, the company was not going out of business and the normal selling price is \$12.00 to \$20.00 for a set of the purported ovenware. On June 8, 1976, a Journal Entry was filed with the Court wherein the defendant was permanently enjoined and restrained from representing that ovenware or other product is being sold at a "distress" price or at a loss for any reason or that the company is going out of business and wants to deplete its inventory; representing that the price is the usual retail price unless that is the price at which it is usually and customarily sold at retail in the recent, regular course of business in Kansas; misrepresenting the characteristics of the glassware; representing that any product sold by defendant can withstand any particular heat temperature unless such statements are true and can be substantiated by independent laboratory tests. The Court also ordered defendant to cancel contracts and make restitution to Kansas consumers.

STATE OF KANSAS, ex rel.,        v.    LOCATIONS, LTD., et al.  
CURT T. SCHNEIDER

A petition for a permanent injunction and recovery of actual damages and civil penalties was filed on December 27, 1976. The defendants held promotional meetings in Kansas to enroll consumers as distributors of "EI-5" fuel additive. Defendants falsely represent that "EI-5" causes a molecular change in petroleum products, has been tested by independent agencies and affords motor vehicle users an 18-25% reduction in fuel consumption. EPA tests show no fuel savings with "EI-5". Defendants also grossly exaggerated the income distributors will earn by selling "EI-5".

STATE OF KANSAS, ex rel.,           v.    FREDERIC DIAMOND,  
CURT T. SCHNEIDER                    ABRAHAM L. DIAMOND,  
                                      DIAMOND CHEMICAL  
                                      COMPANY, DIAMOND  
                                      INTERNATIONAL CHEMICAL  
                                      COMPANY, INC., DIAMOND  
                                      CHEMICAL INDUSTRIES, INC.

A petition for injunction, civil penalties and other relief was filed May 28, 1976, in Shawnee County District Court. A temporary restraining order was also issued on that date. Defendants, based in New Jersey, telephoned Kansas farmers soliciting sales of chemicals. Defendants represented that their chemicals would kill vegetation for three to ten years without any additional control being necessary, when in fact such chemicals would not perform as represented. Defendants failed to inform Kansas consumers of the composition of their chemicals, misrepresented the types of weeds the chemicals would control, charged an unconscionable price for the chemicals (approximately \$700.00 per acre), billed consumers for unordered merchandise, promised free gifts which were never delivered, and purported to exclude and limit implied warranties -- all in violation of the Consumer Protection Act.

On September 3, 1976, a consent decree was filed with the Court wherein the defendants agreed to never engage in offering for sale, selling and advertising chemicals for killing vegetation and weeds, herbicides, pesticides and soil sterilants in the State of Kansas. Furthermore, defendants have returned approximately \$22,000.00 to Kansas farmers who filed complaints with the Attorney General's Office, have cancelled contracts and will no longer bill Kansas farmers who filed complaints with our office but who did not pay for the chemicals.

STATE OF KANSAS, ex rel.,           v.    RICHARD SMITH and  
CURT T. SCHNEIDER                    WILLIAM CHARLES ADAMS  
   (a/k/a W.C. Adams)  
   d/b/a INTERNATIONAL  
   MAIL ORDER COMPANY  
   and INTERNATIONAL  
   SEWING MACHINE COMPANY

A petition requesting a permanent injunction and recovery of actual damages and civil penalties was filed on December 30, 1976, in Shawnee County District Court. Defendants run "contests" in which all entries but the name drawn are "second place winners" who receive a \$200.00 check toward the purchase of a \$299.95 sewing machine. In fact, the retail value of the machine is not \$299.95 and the sole purpose of the contest is to obtain names of individuals who are all contacted as "second place winners". Defendants also send brochures and letters to Kansas residents stating they have been computer selected to participate in a test being conducted by the company. Enclosed is a \$200.00 check toward the purchase of \$269.95 cookware set. As with the sewing machines, the stated retail value of the cookware is grossly inflated so that the enclosed check is of no intrinsic value.

STATE OF KANSAS, ex rel.,           v.    ARLEN D. WHITFORD,  
CURT T. SCHNEIDER                    d/b/a ALL PEST TERMITE  
   COMPANY

Case was filed in the District Court of Sumner County, Kansas. Defendant was alleged to have violated provisions of the Kansas Consumer Protection Act, by commission of certain unconscionable consumer sales practices in his dealings with Mrs. Kathryn Reimer, Argonia, Kansas, on or about August 21, 1975. It is further alleged that the defendant forced his services upon Mrs. Reimer and misrepresented the services that he performed for her and that he charged her an excessive unconscionable price for his services.

The case has been settled by Journal Entry which was agreed to by both parties. The Journal Entry provides that the defendant, Arlen Whitford and his agents, are permanently enjoined, ousted and restrained from doing business in the state of Kansas as provided by K.S.A. 1975 Supp. 50-632. The Journal Entry was dated 6/29/76 and signed by Judge White, District Judge.

STATE OF KANSAS, ex rel.,           v.   PAUL LAROSA, d/b/a  
CURT T. SCHNEIDER                    FARMLAND STRUCTURES

This case was filed in District Court of Atchison County, Kansas. The defendant is charged with engaging in the advertising, offering for sale, and sale of pre-fabricated metal buildings under the name of Farmland Structures, Roach, Missouri. That defendant is charged with the use and employment of said representations and concealment which are violations of the Kansas Consumer Protection Act and the common law of the state of Kansas.

The case has been completed by Journal Entry dated May 10, 1976, and signed by the Honorable Judge Lowry, District Judge. Defendant has been permanently enjoined, ousted and restrained from doing business in the state of Kansas, except to the extent necessary to perform contracts into which he already entered. The court rendered null and void all contracts agreements or transactions entered into by defendant or his agents in violation of Kansas law, and orders the defendant to make restitution of all down payments or deposits paid to him by Kansas consumers including the sum of \$2375.00. He was also ordered to pay \$6,000 in civil penalties and \$300.00 to the Attorney General's Court Cost fund.

Judgment has not been collected. Rick Buehler, Investigator with the Attorney General's office attempted several times to locate Mr. La Rosa and has been unsuccessful.

STATE OF KANSAS, ex rel.           v.   LIVESTOCK BUYERS,  
CURT T. SCHNEIDER                    LTD., et al.

Petition filed in the District Court of Shawnee County, Kansas. Defendant is a Missouri corporation which was operating a proprietary school in the state of Kansas and was not in compliance with the Kansas Proprietary School Act, K.S.A. 72-4934.

This case has been concluded by Default Judgment against the defendant corporation and several of its principals. The defendant corporation has been ordered to repay to certain Kansas consumers who entered the school and did not receive the courses they paid for a sum totalling \$14,560.00. Defendant was also ordered to pay \$1,000 per violation for some 22 violations of the Proprietary School Act for an additional \$22,000.00. Judgment has not yet been collected.

STATE OF KANSAS, ex rel.,           v.    STEVE LONG  
CURT T. SCHNEIDER

Case was filed in the District Court of Rooks County, Kansas. Defendant was engaged in the business of minor home maintenance painting houses, and fertilizing lawns and trees all within the State of Kansas. That the defendant is charged with engaging in false, misleading, deceptive and unconscionable trade practices in the course of dealings with Mrs. Martha Fischer of Plainville, Kansas and violating the Kansas Buyer Protection Act, K.S.A. 1972 Supp. 50-602 et seq.

This case has been concluded by Default Judgment in favor of the plaintiff wherein the defendant was found in default and permanently enjoined and restrained, and his agents, employees, representatives and any and all persons acting in concert or participating with him are likewise enjoined from the committing of any deceptive consumer sales practices as described in plaintiff's petition and the defendant was ordered to pay to Mrs. Fischer the sum of \$1,345.00. The defendant was assessed civil penalties in the amount of \$6,000.00, for three violations of the Consumer Protection Act. Defendant was also ordered to pay \$300.00 into the Attorney General's Court Cost fund.

Judgment has not been collected. Numerous attempts have been made to locate Steve Long and as yet have been unsuccessful.

STATE OF KANSAS, ex rel.,           v.    PAUL HENDERSHOT, d/b/a  
CURT T. SCHNEIDER                    CENTRAL TREE SERVICE

Filed in Rooks County District Court. Defendant was engaged in false, misleading deceptive and unconscionable trade practices in the course of his dealings with Mrs. Martha Fischer of Plainville, Kansas.

Case was concluded with the filing of a Consent Decree wherein defendant agrees to refrain from engaging in deceptive practices and act in accordance with K.S.A. 1975 Supp. 50-623 et seq., the Kansas Consumer Protection Act. He agreed to rearrange his price structure and agreed to repay Mrs. Fischer \$1,000 in restitution for her claim against him, which he has in fact done.

STATE OF KANSAS, ex rel.           v.   STUDIO FOUR, INC.,  
CURT T. SCHNEIDER                   GUY POLSELLI

Petition filed in Shawnee County District Court of Kansas. Defendant charged with false, misleading, deceptive and unconscionable trade practices in the course of sales of photographs to members of the police department of Topeka, Kansas and violating the Kansas Consumer Protection Act.

Judgment has been had against the defendant whereby the defendant corporation, agents, employees, representatives, any and all persons acting in concert or participating with it were permanently enjoined and restrained from doing business in the state of Kansas. Further, defendant corporation was ordered to complete all contracts entered into by Kansas citizens prior to the order. Further defendant corporation was assessed civil penalties in the amount of \$200.00 per violation, fifty violations for a total of \$10,000 in civil penalties. The \$10,000 has not yet been collected. The judgment had been turned over to the Michigan Attorney General's Office for assistance and collection since the defendants were residents of the state of Michigan.

STATE OF KANSAS, ex rel.           v.   JAMES BERRY  
CURT T. SCHNEIDER,

Case is pending in Johnson County District Court. The case originated in 1969. At that time a permanent injunction was granted prohibiting Mr. Berry from moving houses in Kansas. Mr. Berry violated that injunction and was found in contempt. Court order was filed against him. Defendant was sentenced to spend a couple days in jail. Also defendant must contact court and post bond when he plans to move houses in the state of Kansas.

STATE OF KANSAS, ex rel.           v.    SHELDON HINEMAN, JOHN  
CURT T. SCHNEIDER                   ALMA, CINDY WILSON;  
  d/b/a CASINO CLUB

Case was filed in Shawnee County District Court of Kansas. Petition alleges that the defendants were promoting certain puzzle type games and they contacted citizens in the state of Kansas offering citizens to participate in games. Due to certain suspicions of members of the Attorney General's staff a subpoena was issued and the defendants failed to reply to the subpoena and it was prayed that the defendants be enjoined and restrained from advertising or soliciting entries in their contests from Kansas residents. It was also requested that defendants be required to pay the cost of the action.

STATE OF KANSAS, ex rel.           v.    GERRY BEAGLE, et al.  
CURT T. SCHNEIDER

Petition was filed in Cherokee County, Kansas. The defendant was charged with offering business opportunities in the nature of raising rabbits for fun and profit. Case involved violation of the Kansas Consumer Protection Act and making false and misrepresentations. Case involved violation of the Kansas Consumer Protection Act and making false and deceptive misrepresentations. Case has been concluded. Defendant has been ordered to pay some \$5,830 in restitution to various consumers who purchased from the defendant rabbit raising operations. He was also ordered to pay \$8,000 in civil penalties and \$1,000 into the Attorney General's Court Cost fund. This judgment has not been totally collected. \$2,000 of the amount has been collected and distributed to the complainants. Continued efforts should be made to collect the remainder of the judgment assuming the defendant is located and his assets determined.

STATE OF KANSAS, ex rel.           v.    RAYMOND ANDERSON,  
CURT T. SCHNEIDER                   COLUMBIA RESEARCH  
  CORPORATION

Case filed in District Court of Shawnee County, Kansas. Defendants are charged with violating the Kansas Consumer Protection Act by engaging in acts of substantial fraud, deception and misrepresentation, false promises, and concealment of material facts with the intent and purpose of

causing consumers of this state to rely upon such concealment. Defendants offered free vacations to various exotic places for some minimal down payment for \$15.95. The defendant contacted the Attorney General's Office after being served with process and agreed to refund the amounts stated in the complaint. As a result some \$700.00 was returned to Kansas consumers. However, continued problems with the organization based in Chicago are occurring.

STATE OF KANSAS, ex rel.           v.   CHAS INDUSTRIES, INC., et al.  
CURT T. SCHNEIDER

The cases have been filed in Shawnee County, Russell County, Cowley County and Harvey County District Courts. In each of these cases it is alleged that the defendants used false, fraudulent and misleading misrepresentations in soliciting consumers to enter into distributorship agreements for the defendants product, A.I.D. Tire Sealant and Alsta floor cleaner. In the petitions it is alleged that the conduct of the defendants is a violation of the Kansas Consumer Protection Act.

The prayer in each case was that the defendants be required to make restitution to the complaining consumers in the full amount paid by the consumers to the defendants. Also, that the defendants be assessed civil penalties in the amount of \$2,000.00 per violation. That the defendants pay \$500.00 to the Attorney General's Court Cost fund for the expenses and fees involved in the investigation and prosecution of the matter. Further that the defendants be required to pay the court costs and finally that the Court grant whatever additional relief it deems appropriate. It has also been requested that the defendants be permanently enjoined from doing business in the state of Kansas.

STATE OF KANSAS, ex rel.           v.   W. M. ATKINSON and  
CURT T. SCHNEIDER                    ATKINSON CONSTRUCTION CO.

Case was filed in Reno County District Court. Petition alleged that Atkinson operates a construction business and in the course of his business dealings with complaining consumer made certain false, fraudulent and misleading misrepresentations of a material fact upon which the defendant relied to his detriment. The action has been dismissed because upon further investigation it was determined that the acts complained of were not in fact a violation of the Kansas Consumer Protection Act.

STATE OF KANSAS, ex rel.           v.   FRANK WITHERSPOON,  
CURT T. SCHNEIDER                   d/b/a AUTO DISCOUNT CORNER

The case is filed in the District Court of Lyon County, Kansas. Petition alleges that the defendant engaged in certain false and misleading representations in the selling of a 1972 Cadillac automobile to the complaining consumer. And that such conduct was a violation of the Kansas Consumer Protection Act. Petition requests that the defendant be required to repurchase the automobile in question, pay a civil penalty of \$2,000 and reimburse the Attorney General's Office for expenses incurred in investigation in the amount of \$1,000 and assessing against the defendant any and all court costs.

This particular case has been settled before judgment and the defendant will pay to the complaining consumer the sum of \$1500.00.

STATE OF KANSAS, ex rel.           v.   CHARLES B. JENKINS,  
CURT T. SCHNEIDER                   d/b/a JENKINS MOTORS

Case filed in the District Court of Linn County, Kansas. The petition alleged that the defendant engaged in acts of substantial fraud, deception, misrepresentation and false promise and concealment, omission of material fact with the intent that the plaintiffs rely thereon to their damage in the purchase of a used automobile and that further that the defendant's conduct complained of is a violation of the Kansas Consumer Protection Act and the Common Law of the State of Kansas.

Prayer requests that the defendant repurchase the automobile sold to the complaining consumers and that the defendant pay any and all court costs and the defendant and his employees be enjoined and restrained from engaging in any practices which were violations of the Kansas Consumer Protection Act in the sale of motor vehicles in the future.

This action is pending in Linn County and is ready for trial. The trial date has not been set.

STATE OF KANSAS, ex rel.           v.    GLEN BORCHERS  
CURT T. SCHNEIDER

Cas has been filed in District Court of Barton County, Kansas. Petition alleges that the defendant by means of false promise, deception, misrepresentation, false pretenses, concealment and omission of material fact did induce the complaining consumers to issue a check in the amount of \$2,000 payable to his company in the hope of reaping some return on their investment. It further alleges that the conduct of the defendant is a violation of the Kansas Buyer Protection Act.

The Prayer requests that the defendant be required to make restitution to complaining consumers. Further that the defendant be required to pay court costs.

This particular action is still pending. The defendant is at this time seriously ill and is physically unable to file an answer.

STATE OF KANSAS, ex rel.           v.    CHARLOTTE STITHAM  
CURT T. SCHNEIDER

Case is a criminal case. Actually two cases pending in Rooks and Phillips County. These cases arose from the investigation of a consumer complaint received by the Attorney General's Office. During the course of the investigation it became quite evident that there was criminal conduct involved on the part of the defendant. The County Attorneys in Phillips County and Rooks County were notified of our findings. They requested our assistance in prosecuting these actions. The defendant was arraigned, preliminary hearing held, bound over. At the present time the trial has been set in Phillips County for January 20, 21, 1977. A trial has not as yet been set for in Rooks County.

STATE OF KANSAS, ex rel.           v.    FIRESTONE PHOTOGRAPHS,  
CURT T. SCHNEIDER                    INC.

Petition filed in Shawnee County District Court in February, 1976. Petition alleges that Firestone Photographs committed fraud and misrepresentation to Kansas citizens who purchased distributorships.

Firestone Photographs have agreed to sign a Consent Decree whereby the claimants will receive 60% of their original purchase minus sales and a 100% refund of any subsequent purchases.

PROPOSED LEGISLATION

The Attorney General's office is proposing several amendments to the Consumer Protection Act for consideration by the 1977 Kansas Legislative Session. The Act should more clearly specify that the \$2,000.00 civil penalty that can be awarded in consumer actions be given to the consumer when he institutes a private action. When the action is initiated by the Attorney General or by the county or district attorney, the penalty will be paid to the State's general fund or to the county's general fund. This section should also be clarified to state that an aggrieved consumer is not a necessary element when the Attorney General and county or district attorney seeks to recover the civil penalty from a supplier who has violated the Act. A new section should be added to the Consumer Protection Act specifying that an action brought by the Attorney General or by a county or district attorney does not prevent or bar the aggrieved consumer under doctrines of res judicata or collateral estoppel from filing a private action asserting his individual rights arising from the transaction. This new section would merely codify the present law. Another proposal would require that notice be given to the Attorney General's office when a private party institutes his own

action to enforce the Consumer Protection Act. The final proposal is the amendment of K.S.A. 1975 Supp. 50-636 to provide that the provisions of K.S.A. 60-514 are inapplicable.

In addition to the proposed Consumer Protection Act amendments, the Attorney General's office is recommending that an Automobile Repair Act be passed. The major provision of this Act would require that persons who engage in the business of repairing or diagnosing malfunctions of motor vehicles for compensation provide a written estimated price for labor and parts for anticipated repairs costing more than \$25.00. If additional or unforeseen repairs amounting to 10% or more of the original estimate are necessary, the dealer would have to obtain oral or written authorization from the customer.

The Attorney General's office is also proposing the reintroduction of the Kansas Consumer Product Safety Act and a Debt Collection Act prohibiting certain practices by debt collectors. A new proposal would regulate the sale of franchises and distributors by requiring registration and certain disclosures in writing to the prospective purchaser.

CONCLUSION

The responsibilities of the consumer protection division are two-fold. First, it is our purpose to create an unfavorable atmosphere for the criminal element who seek to obtain money under deception and false pretenses. We are especially mindful of the many senior citizens who are victimized at the market place and by the door-to-door salesman.

Secondly, we have sought to establish as favorable atmosphere as possible for the honest businessmen of Kansas. In effect, we in the consumer protection division are working for the businessmen of Kansas to rid the State of those who seek to defraud the public. Kansas businessmen are continually helpful to this office in resolving complaints.

It should also be pointed out that this office annually works with hundreds of businessmen who make inquiries on the proper procedures to comply with state law.

This division, although small in number, will continue its efforts during 1977 in hopes of achieving even greater results. With the assistance of Kansas consumers and businessmen, much will be accomplished.

If further information is needed, please do not hesitate to contact this office.