

CONSUMER PROTECTION IN KANSAS

1993



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

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



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

February 8, 1994

TO: The Honorable Joan Finney, Governor
and Members of the Kansas Legislature

I commend to your reading the following report of my Consumer Protection Division. In 1993, my Consumer Protection Division received over 4,500 formal written complaints resulting in consumer savings of \$1,130,206. 3,218 written inquiries were also received. As a result of our educational efforts, more consumers have been made aware of our services. We continue to travel throughout Kansas and give consumer protection speeches to schools, civic groups and community organizations. Through my Consumer Protection Advisory Council, comprised of five citizens from each of the four Kansas congressional districts, I am advised of consumers' concerns from each area of the state.

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

It is a top priority of this office to protect Kansas consumers from deceptive or unconscionable business practices through strong enforcement of the Kansas Consumer Protection Act. Enforcement of consumer laws and consumer education efforts have been combined to protect Kansas consumers from unlawful business practices.

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

Very truly yours,

A handwritten signature in cursive script that reads "Robert T. Stephan".

ROBERT T. STEPHAN
Attorney General

INTRODUCTION

Through 1993, Attorney General Robert T. Stephan's Consumer Protection Division received a substantial number of inquiries and complaints from consumers. More than 4,500 formal complaints and 3,218 written inquiries were made to the division. Such strong communication with consumers is directly attributable to this office's commitment to enforce consumer laws and provide consumer education to Kansans. As a result of lawsuits, settlements and mediation, consumers were saved \$1,130,206.

Through actions taken under the Kansas Consumer Protection Act, the Attorney General stopped deceptive and unconscionable practices by telemarketers, car dealerships, prize and product promoters, and many others. Many consumers are assisted in obtaining refunds or product delivery from out-of-state mail order businesses.

Attorney General Stephan continues to request that those who violate the Kansas Consumer Protection Act make donations to charities in Kansas. Food banks, shelters, the poor, children and cancer victims have benefited from this effort.

Consumer awareness and education continue to play an important role of the Consumer Protection Division. During 1993, the consumer protection division staff spoke to over 50 different groups located throughout Kansas. By speaking to students, civic groups and community organizations, consumers are provided valuable suggestions and alerted to fraudulent business practices.

A weekly newspaper column, "Consumer Corner", is sent to more than 200 newspapers throughout Kansas and provides useful reviews of problems experienced by other consumers. Also, the public can see examples of past scams, rip-offs, etc. and speak with the Attorney General and his staff at the Kansas State Fair.

CATEGORIES OF NEW COMPLAINTS

Complaints Filed: 4,508
Complaints Closed: 4,269
Written Inquiries: 3,218
Total Annual Savings: \$1,130,206

| | Complaints Received | Percent of Total |
|---|--------------------------------|-----------------------------|
| Miscellaneous | 16 | 0.35% |
| Advertising | 124 | 2.75% |
| Appliances | 26 | 0.58% |
| Automobiles | 728 | 16.15% |
| Boats, Boating Equipment, Repairs, etc. | 6 | 0.13% |
| Book, Record and Tape Clubs | 22 | 0.49% |
| Business Opportunity Services | 74 | 1.64% |
| Cable Television | 114 | 2.53% |
| Clothing | 9 | 0.20% |
| Cemeteries | 46 | 1.02% |
| Collectibles/Antiques | 9 | 0.20% |
| Collection Practices | 99 | 2.20% |
| Computers | 29 | 0.64% |
| Contests | 858 | 19.03% |
| Credit Reporting Agencies | 8 | 0.18% |
| Credit Code | 142 | 3.15% |
| Dance Clubs | 1 | 0.02% |
| Discount Buying Clubs | 28 | 0.62% |
| Door-to-Door Sales | 33 | 0.73% |
| Education | 19 | 0.42% |
| Encyclopedias | 1 | 0.02% |
| Employment Services | 7 | 0.16% |
| Energy Savings Devices | 1 | 0.02% |
| Failure to Furnish Merchandise (non-mail order) | 32 | 0.71% |
| Farm Implements/Equipment | 22 | 0.49% |
| Fire, Heat and Smoke Alarms | 11 | 0.24% |
| Floor Coverings | 19 | 0.42% |
| Food Products | 62 | 1.38% |
| Franchise Sales | 0 | 0.00% |
| Fund Raising (charities, etc.) | 21 | 0.47% |
| Funeral Homes | 4 | 0.09% |
| Furniture | 39 | 0.87% |

| | <u>Complaints</u> <u>Received</u> | <u>Percent</u> <u>of Total</u> |
|--|--|---|
| Gasoline Pricing | 4 | 0.09% |
| Gasoline Content | 2 | 0.04% |
| Government Agencies | 0 | 0.00% |
| Health Services (doctors, dentists, hospitals, etc.) | 79 | 1.75% |
| Health Spas and Weight Salons | 26 | 0.58% |
| Hearing Aids | 19 | 0.42% |
| Heating and Air Conditioning | 21 | 0.47% |
| Home Improvements | 210 | 4.66% |
| Home Construction | 9 | 0.20% |
| Hypnosis (smoking, weight loss, etc.) | 0 | 0.00% |
| Invoice and Billing Schemes (noncredit code) | 10 | 0.22% |
| Interest Rates & Lending Companies (noncredit code) | 0 | 0.00% |
| Jewelry | 18 | 0.40% |
| Kitchenware | 2 | 0.04% |
| Land Sales (subdivided out-of-state) | 6 | 0.13% |
| Land Sales (subdivided Kansas) | 88 | 1.95% |
| Land Resale Companies | 3 | 0.07% |
| Landlord/Tenant | 2 | 0.04% |
| Loan Finders | 24 | 0.53% |
| Lotteries | 4 | 0.09% |
| Magazines | 163 | 3.62% |
| Mail Order Companies | 470 | 10.43% |
| Mobile Homes and Campers (sales/service) | 32 | 0.71% |
| Mobile Home Parks | 1 | 0.02% |
| Mortgages | 70 | 1.55% |
| Mortgage Escrow Problems | 8 | 0.18% |
| Motorcycles and Bicycles | 6 | 0.13% |
| Moving and Storage | 16 | 0.35% |
| Multilevel and Pyramid Distributorship Companies | 13 | 0.29% |
| Musical Instruments, Lessons, etc. | 4 | 0.09% |
| Negative Selection | 17 | 0.38% |
| Nurseries, Gardening Equipment, etc. | 6 | 0.13% |
| Nursing Homes | 3 | 0.07% |
| Office Equipment and Supplies | 8 | 0.18% |
| Pest Control | 10 | 0.22% |
| Pets/Animals | 13 | 0.29% |
| Product Safety | 1 | 0.02% |
| Photo Equipment and Services | 9 | 0.20% |
| Photo Studios and Companies | 23 | 0.51% |
| Referral Selling | 1 | 0.02% |

| | Complaints <u>Received</u> | Percent <u>of Total</u> |
|---|---------------------------------------|------------------------------------|
| Rebates | 13 | 0.29% |
| Real Estate (houses) | 25 | 0.55% |
| Real Estate (other than houses) | 1 | 0.02% |
| Satellite Dishes | 19 | 0.42% |
| Securities and Investments (not stocks and bonds) | 11 | 0.24% |
| Services (general) | 156 | 3.46% |
| Services (professional) | 18 | 0.40% |
| Sewing Machines | 11 | 0.24% |
| Sporting Goods | 3 | 0.07% |
| Steel Buildings | 6 | 0.13% |
| Stereos and Record Players | 7 | 0.16% |
| Stocks and Bonds | 0 | 0.00% |
| Sundries | 0 | 0.00% |
| Televisions and Radios | 21 | 0.47% |
| Timeshare Sales | 4 | 0.09% |
| Toys | 1 | 0.02% |
| Trade and Correspondence Schools | 0 | 0.00% |
| Travel Agencies | 57 | 1.26% |
| Travel and Transportation | 57 | 1.26% |
| Utilities | 0 | 0.00% |
| Vending Machines | 8 | 0.18% |
| Warranty Problems | 58 | 1.29% |
| Water Softeners, Conditioners, Purifiers, etc. | 17 | 0.38% |
| Work-at-Home Schemes | <u>4</u> | <u>0.09%</u> |
| TOTAL CASES OPENED | 4,508 | 100.00% |

DISPOSITION OF CLOSED COMPLAINTS

| | Complaints Closed | Percent of Total |
|---|------------------------------|-----------------------------|
| Inquiry or Information Only | 38 | 0.89% |
| Referred to Private Attorney | 171 | 4.01% |
| Referred to County/District Attorney | 17 | 0.40% |
| Referred to Other Attorney General | 319 | 7.47% |
| Referred to Other Kansas Agency | 65 | 1.52% |
| Referred to Small Claims Court | 281 | 6.58% |
| Referred to Federal Agency (FTC, Post Office, etc.) | 48 | 1.12% |
| Money Refunded/Contract Cancelled | 1,348 | 31.58% |
| Merchandise Delivered | 169 | 3.96% |
| Repaired/Replaced | 93 | 2.18% |
| Mediation Only -- No Savings | 463 | 10.85% |
| No Reply From Complainant | 164 | 3.84% |
| Unable to Locate Respondent | 407 | 9.53% |
| Practice Discontinued | 12 | 0.28% |
| Respondent Out of Business | 54 | 1.26% |
| No Basis | 61 | 1.43% |
| No Jurisdiction | 170 | 3.98% |
| Insufficient Evidence | 178 | 4.17% |
| Withdrawn | 65 | 1.52% |
| Unable to Satisfy Complainant -- no further action | 35 | 0.82% |
| Other | 19 | 0.45% |
| Lawsuit Complaint Files: | | |
| Respondent Enjoined | 1 | 0.02% |
| Consent Judgment | 36 | 0.84% |
| Voluntary Compliance Agreement | 4 | 0.09% |
| Default Judgment | 49 | 1.15% |
| Respondent Filed Bankruptcy | 1 | 0.02% |
| Cemetery Abandoned | 0 | 0.00% |
| Other | <u>1</u> | <u>0.02%</u> |
| TOTAL CASES CLOSED | 4,269 | 100.00% |

**SUMMARY OF 1993 LAWSUITS
AND ASSURANCES OF VOLUNTARY COMPLIANCE**

STATE, ex rel. v. NETWORK BILLING CENTERS, INC.;
MED-NET TECHNOLOGIES, INC.; and THOMAS L.
BRIDGES

The Attorney General filed a multi-count petition in connection with this computer billing service business opportunity. The defendant was selling software which would enable consumers to process medical insurance claims. The Attorney General alleged the software was distributed without authority and did not work. The court approved asset seizure of up to \$1.5 million. Defendant has counter-claimed for wrongful attachment. Trial is set for March 28, 1994.

STATE, ex rel. v. PINPOINT DIRECT, INC.
d/b/a CASH & MERCHANDISE CLAIM DEPARTMENT

The defendant is a Las Vegas company which conducts contests of skill by mailing various kinds of puzzles to consumers. Each contest consists of several levels, lasts more than one year and requires consumers to spend money in order to advance. On August 16, 1993 the states of Kansas, Iowa and Minnesota filed separate lawsuits against the defendant. The Kansas suit alleges that defendant has engaged in deceptive and unconscionable acts in the promotion of the contests. Through discovery, we have learned that 656 Kansans have participated in the contests by spending approximately \$100,000 over the last two years. Company representatives have been working with us to address our concerns.

STATE ex rel. v. OPPORTUNITIES UNLIMITED
PUBLICATIONS, INC. and CONTEST AMERICA
PUBLISHERS, INC.

Defendants are Kansas City, Missouri companies which conduct contests of skill by mailing various kinds of puzzles to consumers. On August 16, 1993, the states of Kansas and Iowa filed separate lawsuits against the defendants. The Kansas suit alleges that defendants have engaged in deceptive and unconscionable acts. We have met with representatives of the companies and are attempting to

discover more about their operations. We have learned that several thousand Kansans have been participating in defendants' contests.

STATE, ex rel. v. TRUDY ANDES
d/b/a TRUDY ANDES MODELING AGENCY

The defendant operated a modeling agency in Winfield, Kansas. A lawsuit was filed in Shawnee County alleging three separate violations of the Kansas Consumer Protection Act. The defendant did not disclose that all applicants must pay a \$65 "test shoot" fee at the time of application with the agency. The defendant placed advertisements in the "help wanted" section of newspapers, when, in fact, defendant was not seeking to employ applicants. Also, the defendant charged an excessive fee for preparing a video promotion of prospective models. The defendant entered into a consent judgment and agreed to refund money to consumers and to refrain from further violations of the consumer protection act.

STATE, ex rel. v. ASSURED HERITAGE FAMILY TRUST;
ED HARDGRAVES; and MARVIN ASHWELL

Defendants, who are not attorneys, sold living trusts to Kansas consumers. Their sales presentations and materials contained deceptive statements, in violation of the Kansas Consumer Protection Act. Additionally, defendants were not authorized to give legal advice. Our office accepted a consent judgment in March 1993 whereby defendants issued \$1,500 in refunds to consumers and paid \$1,000 in investigative fees.

STATE, ex rel. v. GARY WILLIAM DEAN BUTLER
and HEATHER R. BUTLER

Defendants operate a business which sells imprinted t-shirts and sweatshirts. During the 1992 - 1993 school year, defendants solicited nearly 100 schools in the Wichita area and asked them to purchase shirts as a school fundraiser. Many schools received no share of the proceeds. Additionally, defendants claimed an affiliation with Students Against Driving Drunk (SADD). National, state and local SADD officials deny endorsement of defendants' activities. The Attorney General filed a lawsuit on December 21, 1993 alleging that

the defendants violated the Kansas Consumer Protection Act and the Charitable Organizations and Solicitations Act. We are currently seeking to identify which schools made purchases. Defendants have responded to the lawsuit and indicated that they will cooperate.

STATE, ex rel. v. DOUGLAS R. PORTER

A lawsuit was filed under the Kansas Consumer Protection Act alleging various violations by defendant who was passing himself off as an attorney in the Wichita area. His business cards present him as "Porter and Associates: Counselors at Law" and contain the scales of justice graphic. On the date after two local television stations aired stories about the defendant, we received over 70 telephone calls from consumers. On November 17, 1993 the state received a default judgment which granted \$268 in consumer restitution, \$60,000 in civil penalties and \$550 in investigative fees. We believe the defendant has left the area and we have not yet located any assets.

STATE, ex rel. v. LOWELL CLAYTON JEFFERSON, et al.
d/b/a AMERICAN SHIPPING SYSTEMS
and/or AMERICAN SHIPPING SERVICES

On June 24, 1993 the Attorney General began receiving calls from out-of-state consumers who had been called by American Shipping Services. The telemarketer promised the consumers they had won a Ford Explorer and directed them to send a cashier's check (preferably through Federal Express) to a private mail drop box in Kansas City, Kansas. The box was rented the week before. The amounts requested from consumers varied from \$700 - \$900.

A lawsuit was filed on June 31, 1993. The district court issued a temporary restraining order against the person picking up the mail and an order sequestering the contents of the mail box. We have not been able to locate the telemarketers, nor have they had further contact with the mail drop business or the contents of the box. To our knowledge, the defendants were only able to pick up money from one consumer from the private mail box. The rest of the money sent to the box was seized and ultimately returned to the consumers who sent it.

STATE, ex rel. v. THOUSAND ADVENTURES
OF KANSAS, INC.

The defendant engaged in deceptive acts and practices while selling memberships to its various resorts located in Kansas. In a consent judgment filed in January 1990, the defendant agreed to resolve all valid consumer complaints to the satisfaction of the Attorney General. Additionally, the defendant paid \$5,000 in investigative fees; \$7,500 in civil penalties; and \$6,500 in charitable donations. However, complaints continue to be filed by consumers who want out of their membership.

The defendant has made refunds in the amount of approximately \$135,000 to 35 consumers who purchased a membership from Thousand Adventures, Inc. As of December, 1993 Thousand Adventures has satisfied its obligation to make refunds to consumers pursuant to the court's order.

STATE, ex rel. v. ANDREW AGUIRRE
d/b/a A & A FIRE & SAFETY

The defendant serviced portable fire extinguishers from 1987 to May 1991 without certification from the Kansas State Fire Marshall in violation of K.S.A. 31-133a(c) and the Kansas Consumer Protection Act.

In April 1993 the Attorney General obtained a Journal Entry of Consent Judgment wherein the defendant agreed to refrain from the alleged acts and to pay \$750 in investigative fees and \$2,400 in civil penalties. The defendant is currently making payments on this judgment.

STATE, ex rel. v. VITA INDUSTRIES, INC.

In October 1991, a 28 count petition was filed alleging numerous violations involving deception and unconscionability in advertisements for health related products. Pursuant to a consent judgment, defendant agreed to discontinue complained-of activities, make refunds, to pay \$15,000 in civil penalties, \$20,000 in investigative costs, and to make 15 charitable donations in the amount of \$1,000 each.

In 1993, a motion for an order to show cause was filed against the defendant for refusal to make refunds as agreed. The court found Vita to be in contempt of the court's previous order to furnish refund checks. Pursuant to the settlement negotiations, Vita agreed to and has paid \$20,000 in refunds. The judgment is therefore satisfied and Vita has purged itself of the contempt finding.

STATE, ex rel. v. CREDIT COLLECTION CENTER, INC.

This Florida company attempted to collect past due debts for 900 number companies on charges that had already been removed from consumers' phone bills. A National Association of Attorneys General group attempted to settle with Credit Collection Center, although only the state of Tennessee was successful. While defendant has ceased operations in this state, it appears that they may now be operating under another name. Investigation on the new company continues. Meanwhile, Credit Collection Center is temporarily enjoined from doing business in Kansas for failing to answer a subpoena.

STATE, ex rel. v. WESTERN EXPRESS SERVICE
COMPANY, INC.

This is a Las Vegas mail order company that calls consumers and tells them they have won an award, which they can receive if they participate in defendant's promotion. The promotion is to buy personalized pen and pencil sets or gold-plated letter openers, or some other such promotional item at a highly inflated cost. The victims are often elderly, and are talked into purchasing goods they don't want or need with promises of wonderful prizes.

The respondent entered into an Assurance of Voluntary Compliance in April 1993 wherein it agreed to pay restitution of \$6,362 to all of the Kansas consumers that were identified during the time period immediately after the telemarketing fraud law went into effect. It also agreed to pay \$2,000 in investigative fees and \$5,000 to various charitable organizations.

STATE ex rel. v. BUD MARTIN ENTERPRISES, INC.
d/b/a BAXTER DISCOUNT

The Attorney General filed suit against defendant who sold gasoline in Baxter Springs, Kansas. In a test initiated by the Board of Agriculture, it was discovered that the octane of defendant's premium unleaded was more than 3 points lower than that posted. A subsequent examination of its records showed that significantly less premium unleaded fuel had been delivered than was sold. Also, only 200 gallons of regular leaded fuel was delivered, when over 5,000 gallons were sold. The defendant claimed to be unaware of the deliveries and did not control them.

Defendant discontinued selling fuel and appeared to be on the verge of bankruptcy. In September 1993, the Attorney General accepted a consent judgment from defendant, along with a \$500 charitable donation.

STATE, ex rel. v. SONNY HILL JEEP-EAGLE, INC.
AND SONNY HILL CHEVROLET

A lawsuit was filed on November 24, 1992 alleging that defendant's advertising was deceptive in violation of the Kansas Consumer Protection Act. For example, one advertisement featured several vehicles with a price in large type. At the bottom of the ad, in small type, it stated that the price mentioned was after 20% of MSRP down. There is no way to figure the MSRP or the 20% amount. Of the eight vehicles advertised, three were sold before the ad ran. Another advertisement was placed in two different newspapers showed a vehicle with specific monthly payments times 23 months at 5% A.P.R. When a consumer inquired about this vehicle at this price, he was told that that price was available if he put 15% of the MSRP down and paid a balloon payment of over \$10,000 on the 24th month. None of these additional terms were disclosed in the advertisement.

This case went to trial in October, 1993. A Shawnee District Court Judge awarded plaintiff judgment on four counts of deception and assessed the full \$5,000 penalty for each count for a total of \$20,000 civil penalty. No consumer restitution was awarded. Investigation fees were set at \$800.

IN THE MATTER OF MEL HAMBELTON FORD, INC.

This Wichita automobile dealership made a mistake in transferring odometer figures. Once the odometer discrepancy was discovered, the dealership attempted to cover it up. Mel Hambelton Ford signed an Assurance of Voluntary Compliance in July 1993 and agreed to clear up the odometer discrepancy with the Department of Revenue, so that the title would be clear. The dealership paid \$250 in investigative fees.

STATE, ex rel. v. HOLM AUTOMOTIVE CENTER, INC.

On February 10, 1993 the Abilene automobile dealership agreed to an Assurance of Voluntary Compliance for deceptive advertising. The advertisement in question compared the price of program cars with an MSRP price. This implied that the program cars were new when program cars have been used as rental vehicles. MSRP or manufacturer's suggested retail price is only appropriate with new vehicles. Holm Automotive Center agreed to pay \$750 in investigative fees.

STATE, ex rel. v. SHAWNEE MISSION FORD, INC.

On January 15, 1993 the respondent entered into an Assurance of Voluntary Compliance for deceptive advertising. The advertisement showed a vehicle and an "RCL" price. It was not disclosed in the advertisement that RCL represents red carpet lease and that the advertised price was the lease price. Shawnee Mission Ford agreed to pay \$2,000 in investigative fees and \$3,000 in charitable donations.

STATE, ex rel. v. COUNTRY FED MEAT COMPANY, INC.

Defendant is a door-to-door meat sales company located in Overland Park, Kansas. The company fails to give a three-day cancellation, uses a false reference price to make the consumer believe they are getting the meat at a discount, and uses various words to make the consumers believe that the quality of meat is better than it actually is. In a consent judgment signed June 17, 1993, the company agreed

to comply with Kansas law and paid \$2,000 in investigative fees and a \$1,000 civil penalty.

IN THE MATTER OF REYNOLDS SHORT STOP

In June 1993 Mike Reynolds d/b/a Reynolds Short Stop entered into an Assurance of Voluntary Compliance for mislabeling the octane of its premium unleaded fuel. Regular unleaded fuel was being combined with the premium unleaded fuel, which lowered the octane. This blending was known to Mr. Reynolds, who failed to properly label the pumps accordingly. The respondent paid \$500 in investigative fees and agreed to properly label his pumps.

STATE, ex rel. v. NOLLER LINCOLN-MERCURY, INC.

On November 8, 1993 a consent judgment was signed by Noller Lincoln-Mercury, Inc. The dealership advertised its lease program as a "pre-trade plan", and on at least two occasions failed to disclose that pre-trade plan actually meant lease. The defendant agreed to clearly disclose when an advertised price concerns a lease and paid \$500 in investigative fees and \$2,000 in charitable donations.

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

On November 16, 1993 this office filed suit against John Chezik Homerun, Inc., a Missouri automobile dealership. The dealership advertised in the Kansas City Star that for a two-day period all in-stock Hondas were 20% off. A very small disclosure at the bottom of the advertisement, without asterisk, stated "20% off options". It was determined that at least the two Kansas consumers who purchased vehicles during the sale did not actually receive the 20% off such price. The dealership is contesting Kansas jurisdiction in this matter and the case is still pending.

STATE, ex rel., v. ISABEL MANDELKERN
d/b/a FLEX PADS INTERNATIONAL and
ISABEL MANDELKERN d/b/a FLEX PADS INTERNATIONAL, INC.

This case involves the manufacturer of breast prosthesis devices who sold the product largely by multi-state mail order. Our petition filed in Johnson County District Court on October 14, 1992 alleges deceptive claims concerning the "custom made" fit and price unconscionability for the \$1,800 per device price. An agreed to temporary injunction provides that the defendant will reduce the price to no more than \$500 and will not make any claims of custom made fit. This injunction will remain in place until further ordered by the court or final disposition of the civil case. There are currently criminal charges pending against the defendant. These charges have caused some delay in the civil matter. However, we continue to work towards obtaining a judgment and consumer restitution.

STATE, ex rel. v. TERRA QUEST FINANCIAL SERVICES,
INC. d/b/a AMERICAN FINANCIAL ACCEPTANCE CENTER

This five count petition filed January 17, 1992 in Wabaunsee County District Court resulted in a default judgment against an Arizona business. The 1993 judgment granted a permanent injunction, over \$60,000.00 in civil fines, approximately \$545.00 in investigative fees, and an unspecified amount awarded as actual damages to injured consumers. The allegations involved the defendant's promises to secure loans, failure to file with appropriate state credit regulators, and failure to disclose material eligibility requirements connected with obtaining credit. We are now trying to locate the out of state defendants (or their assets) and collect on the judgment.

STATE, ex rel. v. KENNETH R. & TRUDY C. DAMON
d/b/a DAMON'S CAR CENTER, AND
DOUG J. LINEBACK d/b/a LINEBACK AUTOMOTIVE

Two automobile dealers, one a rebuilder, were involved in selling a car that was really two cars (or more). A four count petition was filed in Barton County District Court on October 7, 1992 alleging deception on the part of both dealers. In 1993 the court granted our motion for summary judgment as to two counts. A hearing on costs resulted in the award of \$14,945.70 as consumer restitution and

\$748.94 in investigative fees and expenses. The issue of civil penalties was reserved until the cross claim between the defendants is resolved.

STATE, ex rel. v. FREELAND MARKETING, INC.
and RICHARD HUNDLEY

This Nevada corporation solicited Kansas consumers by mail and asked that they call a 900 number to find out the size of the large prize they had "won". However, none of the consumers ever won a prize. Rather, the promoters made their money off of the phone calls. In July 1993 a consent judgment was entered whereby the defendants agreed to be enjoined from deceptive practices, agreed to change their promotional language and agreed to refrain from using a Kansas address when they were not in fact located within the state. They also agreed to pay a total of \$15,000 in civil penalties.

IN THE MATTER OF KENT LINDEMUTH
d/b/a LINDY'S AUTO SALES

The Attorney General received numerous complaints concerning this Topeka automobile dealership. Our office discovered that the purchase agreement used by the dealership did not disclose certain material terms and failed to comply with state and federal truth in lending laws. The dealership had on occasion failed to provide title to a purchased vehicle within the thirty days required by law. The dealership also did not establish or follow any specific guidelines concerning the credit worthiness of its customers, and thus, there was a very high rate of default among its customers. The dealership voluntarily took actions to remedy these problems and entered into an agreement with the office of Attorney General and the office of Consumer Credit Commission which addressed these problems. The agreement provides that any breach will be treated as a breach of consent judgment.

STATE ex rel. v. DAVID KRIEDLER
d/b/a CAROLINA FURNITURE EXPRESS

Defendant is a door-to-door furniture sales company located in North Carolina. A petition was filed in Shawnee County District Court

alleging several counts of deceptiveness, including failure to give proper notice of right to cancel and falsely telling people that the furniture was manufactured by name brand furniture dealers and that the furniture was supposed to have been delivered to a local furniture store. We have been thus far unable to get service, but continue to pursue the matter.

STATE, ex rel. v. MICKEY M. MEERS
STATE, ex rel. v. JAMES LEE LANHAM
STATE, ex rel. v. BILLY WAYNE NORTON

The defendants deceived three senior citizens into spending up to \$85,000 each for overpriced and possibly unnecessary repairs to their basements. A separate petition was filed by the Attorney General against each defendant in Doniphan County District Court on December 11, 1992. The defendants have individually agreed to sign consent judgments that order reimbursement to the three consumers totalling \$158,267.50.

STATE, ex rel. v. GREGORY L. SAMS
d/b/a/ SENIOR LIVING TRUST

The Attorney General has two lawsuits presently pending against Gregory Sams. A lawsuit filed in Leavenworth County seeking restitution and penalties alleges that Mr. Sams took approximately \$198,000 from a local senior citizen. A 1992 Dickinson County case in which the court ordered the defendant not to engage in consumer transactions in Kansas was reopened. We allege that the transactions in Leavenworth place Mr. Sams in contempt of the Dickinson order. We expect Mr. Sams to agree to a consent judgment which will dispose of both cases.

Criminal charges have also been filed against the defendant by the Leavenworth County Attorney.

STATE, ex rel. v. RICK FREEMAN

The defendant conducted a mail order auto parts company from Mankato, Kansas. On November 23, 1993 the Attorney General filed a lawsuit in Jewell County District Court alleging that defendant

engaged in a great many deceptive and unconscionable acts in relation to this business, including habitual late delivery, nondelivery, unconscionable charges, and other problems. The lawsuit seeks restitution for consumers and an order enjoining Mr. Freeman from ever conducting a mail order business again.

STATE, ex rel. v. BARRISTER INVESTMENTS, INC.

Barrister Investments, a Florida pay phone company, solicited vendors in Kansas. The business sold the phones, telling the buyer they were approved by all necessary Kansas regulatory agencies when they were not so approved. Although the defendant corporation entered an appearance, an effective answer to the petition was never made. Consequently, a default judgment has been rendered against the company ordering them to pay \$17,000.00 in restitution, \$15,000 in civil penalties, and \$177.50 in investigative fees.

STATE, ex rel. v. DANIEL M. LANDERS

The Attorney General filed a petition in Sedgwick County District Court on November 2, 1993 alleging deceptive and unconscionable acts by the defendant in connection with his preparing and selling living trusts. The defendant is not an attorney and was previously licensed to sell insurance, however, that license has been revoked. The case is scheduled for trial in late spring.

STATE, ex rel. v. JACK P. COOK
d/b/a AARON'S PROFESSIONAL ROOFING

In the summer of 1992, Mr. Jack Cook, doing business as Aaron's Professional Roofing, took deposits from several consumers but did not perform any work. Mr. Cook has entered a consent judgment with this office agreeing to a schedule of payments to refund the consumers.

STATE, ex rel. v. BERLYN R. WILLIAMS

We allege that the defendant, a Baptist preacher, induced parishioners to enter a pyramid scheme including sale of gold and silver coins. We further allege that in most cases the defendant did not include consumers in the pyramid, but kept their money. A lawsuit was filed by the Wyandotte County District Attorney's office on August 30, 1993. Our assistance was requested to prosecute this case and the county is continuing to provide assistance. The case is scheduled to come to trial in early fall.

OFFICE OF THE ATTORNEY GENERAL
STATE OF KANSAS

ROBERT T. STEPHAN
ATTORNEY GENERAL

CONSUMER PROTECTION STAFF

| | | |
|---|---|----------------------------|
| | Theresa Marcel Nuckolls | Deputy Attorney General |
| | Shelly Gasper | Assistant Attorney General |
| | Kathy J. Greenlee | Assistant Attorney General |
| | Kristy L. Hiebert | Assistant Attorney General |
| | Martin J. Peck | Assistant Attorney General |
| * | Mark W. Stafford | Assistant Attorney General |
| * | David C. Wetzler | Assistant Attorney General |
| | | |
| | Carole A. Harvey | Special Agent |
| | Teresa A. Salts | Special Agent |
| | Rodney L. Allen | Special Agent |
| | Eugene C. Stone | Special Agent |
| | Amy E. Elliott | Special Agent |
| * | Randy L. Evans | Special Agent |
| | | |
| | Terri Kirby | Secretary |
| | Karen Mellenbruch | Secretary |
| | Cherryl Smith | Secretary |
| | Larry Feathers | Receptionist |
| * | Jo Strimple | Secretary |
| | | |
| * | Served a portion of 1993. No longer with Consumer Protection. | |

THE ATTORNEY GENERAL'S
CONSUMER PROTECTION ADVISORY COUNCIL

| | |
|-------------------------|---------------|
| Stan Cramer | Fairway |
| Maleta Forsberg | Lindsborg |
| George Gardner | Wichita |
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| Carl Gump | Paola |
| William Kerby | Lucas |
| Robert Liem | Overland Park |
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| Toni Pflughoeft | Ellsworth |
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