

**CONSUMER PROTECTION
IN
KANSAS**

1998 ANNUAL REPORT

of the

**Consumer Protection
Division**

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

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



CARLA J. STOVALL
ATTORNEY GENERAL

State of Kansas

Office of the Attorney General
CONSUMER PROTECTION/ANTITRUST DIVISION

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March 15, 1999

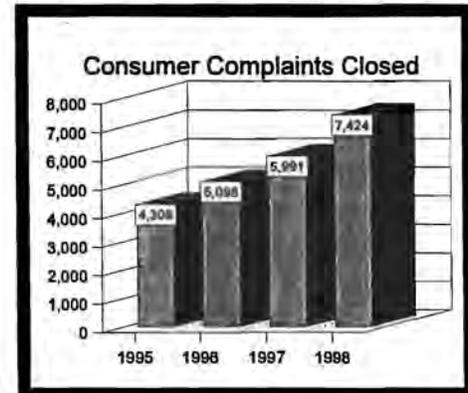
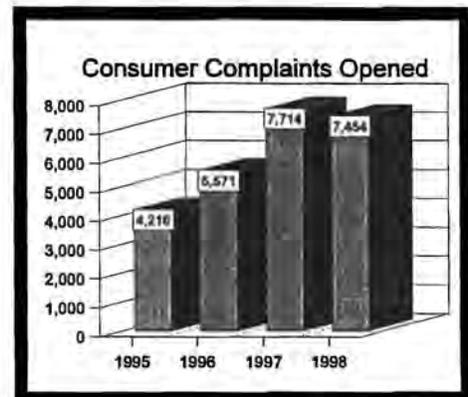
CONSUMER HOTLINE
1-800-432-2310

TO: The Honorable Bill Graves, Governor
and Members of the Kansas Legislature

I am pleased to provide to you the report of the Consumer Protection Division of the Office of Attorney General. In 1998, the Consumer Protection Division received and investigated 7,454 written complaints and 1,863 inquiries, resulting in consumer savings of more than **\$2,500,000**. Our enforcement efforts in 1998, in addition to obtaining judgments and settlements for civil penalties and investigative fees, also obtained invaluable injunctive orders against businesses found in violation of the Kansas Consumer Protection Act (KCPA). On behalf of Attorneys General across the nation, we filed a lawsuit in Johnson County in 1997 against toy and cigar business opportunity companies in *State ex rel. Stovall v. Parade of Toys, et al.* In August 1998 we obtained a jury verdict for more than **\$12,000,000** in consumer losses. Although a portion of this and other judgments may prove uncollectible because the defendants are insolvent, judgment-proof, or cannot be located, the injunctive relief alone will prevent many of these businesses from preying on Kansas consumers in the future.

The first chart to the right demonstrates the increase in written complaints received by my Consumer Protection Division over the four years of my first term of office. Consumer complaints increased 76.8% from 4,216 in 1995 to 7,454 in 1998. Fortunately, the chart also demonstrates that the increase in consumer complaints received leveled off in 1998 at 7,454, down just slightly (-3.4%) from 7,714 in 1997.

The second chart to the right illustrates the increase in consumer complaints closed from 1995 through 1998. Of particular significance is the 23.9% increase in files closed in 1998 (7,424) from 1997 (5,991). This significant increase in files closed was made possible by adding additional staff, paid for with funds recovered from violators of the KCPA. I am very pleased that we were able to use these additional resources to meet and serve the needs of the people of the State of Kansas.



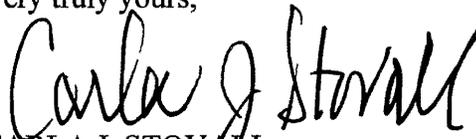
Members of my Consumer Protection Division continue to travel throughout Kansas to give educational presentations on consumer issues to schools, civic groups, community organizations and industry associations. In 1998, we made 120 of these educational presentations. Approximately 7,216 consumers and business persons attended these presentations, not counting the hundreds of people who visited our Consumer Protection booth at the Kansas State Fair. In conjunction with our educational efforts, we continue to publish and distribute brochures on a wide variety of consumer topics. We also maintain a Consumer Protection website to provide online assistance to consumers. As a result of these educational efforts, I believe more consumers are less likely to fall victim to unscrupulous business practices and more businesses have been made aware of the requirements of the KCPA so they can avoid unintentionally violating the Act.

In addition to the above, we participate in consumer protection efforts on a national level through active cooperation with the National Association of Attorneys General (NAAG) and the National Association of Consumer Protection Investigators. Such cooperation is particularly beneficial in combating deceptive and unconscionable business practices by out-of-state businesses. In 1998, we recovered \$447,602 in penalties and fees as a direct result of NAAG multi-state working group enforcement efforts. In addition, by participating in the multi-state enforcement action against Sears for bankruptcy reaffirmation fraud, we were able to obtain more than **\$1,000,000** in refunds for Kansas consumers.

It is a top priority of my office to protect Kansas consumers from deceptive and unconscionable business practices through a combination of firm, yet fair, enforcement of consumer laws and effective consumer education efforts. I continue to propose legislation to strengthen the KCPA in order to better protect our citizens and to more effectively penalize those who prey on consumers.

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

Very truly yours,



CARLA J. STOVALL
Attorney General

CJS:CSR:lg

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

**CARLA J. STOVALL
ATTORNEY GENERAL**

1998 CONSUMER PROTECTION STAFF

	C. Steven Rarrick	Deputy Attorney General
	Kristy L. Hiebert	Assistant Attorney General
	James J. Welch	Assistant Attorney General
	Gail E. Bright	Assistant Attorney General
	Terry A. Iles	Assistant Attorney General
	Kelli J. Benintendi	Assistant Attorney General
*	Michelle V. Hostetler	Assistant Attorney General
	Teresa A. Salts	Special Agent Supervisor
	Carole A. Walton	Special Agent
	Amy E. Elliott	Special Agent
	Michele R. Welch	Special Agent
	Lori J. Denk	Special Agent
	Joseph E. Trawicki	Special Agent
	Tiffanie Frisby	Special Agent
	Angelia Crawford	Special Agent
	J. Michael Enzbrenner	Special Agent
*	Branden M. Arnold	Special Agent
	Donna Wells	Secretary II
	Linda Gifford	Secretary III
	Judy Jenkins	Secretary II
	Doris Scott	Clerical (part-time)
*	Terri Kirby	Secretary III
	Kristi Simmons	Law Clerk
*	Laura Proehl	Law Clerk
*	Served a portion of 1998. No longer with the Consumer Protection Division.	

CATEGORIES OF NEW COMPLAINTS

Complaints Filed:	7454
Complaints Closed:	7424
Written Inquiries:	1863
Total Annual Savings:	\$2,559,889

<u>Category</u>	<u>Complaints Received</u>	<u>Percent of Total</u>
Advertising (general)	110	1.48%
Appliances	43	0.58%
Assistive Device Lemon Law	8	0.11%
Auto	960	12.88%
Boats, Boating Equipment, Repairs, etc.	15	0.20%
Book, Record & Tape Clubs	32	0.43%
Business Opportunity Services	236	3.17%
Cable Television	16	0.21%
Campgrounds	33	0.44%
Cemeteries	15	0.20%
Charitable Organizations	103	1.38%
Clothing	25	0.34%
Collectibles/Antiques	4	0.05%
Collection	171	2.29%
Computer - Internet Sales	42	0.56%
Computer Online Services	60	0.80%
Computers	103	1.38%
Contests/Sweepstakes	299	4.01%
Credit	504	6.76%
Credit Reporting Agencies	44	0.59%
Discount Buying Clubs	28	0.38%
Door-To-Door Sales	40	0.54%
Education	5	0.07%
Employment Services	18	0.24%
Energy Savings Devices	3	0.04%
Failure to Furnish Merchandise (other than mail order)	12	0.16%
Farm Implements/Equipment	26	0.35%
Fire, Heat & Smoke Alarms	0	0.00%
Floor Coverings (carpet, etc.)	24	0.32%
Food Products	22	0.30%

<u>Category</u>	<u>Complaints Received</u>	<u>Percent of Total</u>
Funeral Homes and Plans	7	0.09%
Furniture	69	0.93%
Gasohol & Stills	0	0.00%
Gasoline Pricing and Contents	5	0.07%
Health Services (Doctors, Dentists, Hospitals, etc.)	76	1.02%
Health Spas & Weight Salons	27	0.36%
Hearing Aids	12	0.16%
Heating & Air Conditioning	28	0.38%
Home Construction	32	0.43%
Home Improvement	299	4.01%
Invoice & Billing Schemes (Noncredit code)	19	0.25%
Jewelry	27	0.36%
Land Resale Companies	1	0.01%
Loan Finders	77	1.03%
Magazine Subscriptions	147	1.97%
Mail Order	429	5.76%
Miscellaneous	2	0.03%
Mobile Home Parks	0	0.00%
Mobile Homes & Manufactured Homes	67	0.90%
Mortgage Escrow Problems	5	0.07%
Mortgages	47	0.63%
Motorcycles & Bicycles	8	0.11%
Moving & Storage	27	0.36%
Multi-level & Pyramid Distributorship Co.	289	3.88%
Musical Instruments, Lessons, etc.	1	0.01%
Negative Selection	1	0.01%
Nurseries, Lawn, Gardening and Landscape Service & Supplies	20	0.27%
Nursing Homes	1	0.01%
Office Equipment & Supplies	3	0.04%
Pest Control	17	0.23%
Pets/Animals	16	0.21%
Photo Studios, Equipment & Services	9	0.12%
Real Estate (Houses)	19	0.25%
Real Estate (Other Than Houses)	7	0.09%
Rebates	28	0.38%
Recovery Companies	0	0.00%
Referral Selling	0	0.00%

<u>Category</u>	<u>Complaints Received</u>	<u>Percent of Total</u>
Satellite Systems	556	7.46%
Scanning Equipment	9	0.12%
Securities & Investments (other than stocks & bonds)	24	0.32%
Security Systems and Services	50	0.67%
Services (General)	278	3.73%
Services (Professional)	16	0.21%
Sewing Machines	3	0.04%
Sporting Goods	19	0.25%
Steel Buildings	7	0.09%
Stereo Equipment	10	0.13%
Telephone - 800#s, 900#s and International Calls	116	1.56%
Telephone - Cellular Phones and Pager Services	82	1.10%
Telephone - Cramming*	121	1.62%
Telephone - Slamming	500	6.71%
Telephone Service and Long Distance Carriers	295	3.96%
Telephone Solicitations	179	2.40%
Televisions and VCR's	26	0.35%
Timeshare Sales	11	0.15%
Tobacco Sales	0	0.00%
Toys	4	0.05%
Trade & Correspondence Schools	13	0.17%
Travel	166	2.23%
Unauthorized Practice of Law	22	0.30%
Vending Machines	5	0.07%
Warranty Problems (other than automobiles)	40	0.54%
Water Softeners, Conditions, Purifiers, etc.	28	0.38%
Work-at-Home Schemes	51	0.68%
TOTAL CASES OPENED	7454	100.00%

*Statistics from 4/1/98 through 12/31/98 - before 4/1/98, this category was included in Slamming.

DISPOSITION OF CLOSED COMPLAINTS

	<u>Complaints Closed</u>	<u>Percent of Total</u>
Inquiry or Information Only	348	4.69%
Referred to Private Attorney	339	4.57%
Referred to County/District Attorney	26	0.35%
Referred to Other Attorney General	311	4.19%
Referred to Other Kansas Agency	40	0.54%
Referred to Small Claims Court	89	1.20%
Referred to Federal Agency (FTC, Post Office, etc.)	218	2.94%
Money Refunded/Contract Cancelled	2249	30.29%
Merchandise Delivered to Consumer	107	1.44%
Repaired/Replaced Product	156	2.10%
Mediation Only - No Savings	675	9.09%
No Reply from Complainant	598	8.05%
Unable to Locate Respondent	141	1.90%
Practice Complained of Discontinued	127	1.71%
Respondent Out of Business	110	1.48%
No Basis for Complaint	207	2.79%
Insufficient Evidence to Prove Violation	134	1.80%
Complaint Withdrawn	111	1.50%
Unable to Satisfy Complainant - No Further Action	59	0.79%
Other	112	1.51%
No Jurisdiction under KCPA	337	4.54%
No Jurisdiction - Supplier Declined Mediation	11	0.15%
No Jurisdiction - Consumer Declined Mediation	8	0.11%
No Jurisdiction - Consumer and Supplier Decline Mediation	16	0.22%
Lawsuit Complaint Files		
Respondent Enjoined	196	2.64%
Respondent Enjoined/Violations Found	66	0.89%
Consent Judgment	44	0.59%
Voluntary Compliance Agreement	517	6.96%
Default Judgment	57	0.77%
Defendant Filed Bankruptcy	14	0.19%
Other	1	0.01%
TOTAL CASES CLOSED	7424	100.00%

SUMMARY OF 1998 ENFORCEMENT ACTION

IN THE MATTER OF AMERICAN FAMILY PUBLISHERS

The Attorney General participated in a multi-state group which negotiated an Assurance of Voluntary Compliance with American Family Publishers on March 6, 1998. Sweepstakes solicitations mailed by American Family Publishers deceptively implied the consumer had "won" and the consumer had a greater chance of winning if a magazine was ordered. The Respondent agreed to refrain from further violations and pay \$50,000 in investigative fees and expenses.

IN THE MATTER OF AMERICA ONLINE, INC.

The Attorney General joined with 43 other states in executing an Assurance of Voluntary Compliance binding America Online, Inc., to cease certain deceptive marketing practices that violate the KCPA. The violations included: advertising a "free trial offer" when in fact consumers incurred costs for accepting the offer; failing to promptly cancel accounts at a customer's request; increasing the cost and changing the terms of a service plan without the customer's consent; and failing to disclose certain additional costs associated with its service. America Online agreed to pay a total of \$34 million in restitution to consumers as well as \$2.6 million in legal costs and consumer education costs incurred by the states. Kansas received \$38,181 in investigative fees and expenses.

STATE ex rel. v. AMERICA'S CHOICE STEAK, INC., d/b/a AMERICA'S CHOICE STEAK & SEAFOOD COMPANY, RODNEY Y. CREIGHTON, and CHRISTOPHER L. MASELKA

The Attorney General filed a lawsuit on March 23, 1998, against this Iowa-based company for violations of the Kansas Food Sales Act and the KCPA (committed via its transient-merchant employees.) The company failed to comply with the door-to-door sales requirements, did not disclose price-per-pound, and misrepresented the weight and usual price of meat. The company and its principals agreed to enter into a Consent Judgment on October 22, 1998, and pay \$8,750 in investigative fees to the Attorney General's Office, \$2,000 in investigative fees to the Sedgwick County District Attorney's Office, and \$6,750 in civil penalties

STATE ex rel. v. AMERICAN BALLOON SAFARIS, INC., a/k/a AMERICAN HOT AIRLINE, a/k/a BALLOON SAFARIS, and ROGER STADTMUELLER, Individually

The Attorney General filed a lawsuit on December 17, 1998, against Defendants for violations of the KCPA. The company used a Kansas mail drop and telephone number to falsely represent to consumers it was a Kansas company. The company also over-booked the flights and then advised consumers the flights were canceled and denied refund requests. We currently have 39 complaints from consumers who paid for, but were not provided a balloon ride.

STATE ex rel. v. C. C. L., INC., d/b/a BLUE MAX

C. C. L., Inc. d/b/a Blue Max, a vacuum cleaner manufacturer/distributor based in Colorado Springs, Colorado, entered into a Consent Judgment on November 13, 1998, for failing to comply with the prize notification statute and door-to-door sales act requirements of the KCPA. In the Consent Judgment, the Defendant agreed to refrain from future violations and pay \$2,500 in investigative fees and expenses and \$2,500 in civil penalties.

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

The Attorney General filed a Motion to Appear and Show Cause (as to why the Defendant should not be held in contempt of court) for violations of a 1993 Consent Judgment against this Riverdale, Georgia, company. Despite the 1993 Consent Judgment and two subsequent Consent Judgments in Sedgwick County, this company continued to violate the Kansas Food Sales Act and the KCPA. The company failed to comply with the door-to-door sales requirements, did not disclose price-per-pound, and misrepresented the weight, price, and reasons for price reductions of meat. The company agreed to be permanently enjoined from transacting any business in the future in the State of Kansas and agreed to pay \$25,000 in investigative fees to the Attorney General's Office and \$25,000 in civil penalties.

STATE ex rel. v. WILLIAM H. CUMMINGS

The Attorney General filed a lawsuit on January 13, 1998, against William H. Cummings, a resident of Odessa, Missouri, for violations of the KCPA stemming from his solicitation and sale of tree-trimming services. The Defendant charged a Woodson County resident \$14,200 for services with a value of less than \$500, failed to comply with the door-to-door sales requirements, and charged sales tax but did not remit the same to the Kansas Department of Revenue. The Attorney General took Default Judgment and the Defendant was ordered to pay \$30,000 in civil penalties, \$30,000 in enhanced civil penalties (for violations in a transaction with an elderly consumer), \$5,700 in investigative fees, and restitution of \$14,200 to the consumer.

***STATE ex rel. v. DESTINY TELECOMM
INTERNATIONAL, INC. AND RANDALL D. JEFFERS***

The Attorney General took Default Judgment on January 23, 1998, against this multi-level marketing company based in Oakland, California, for violations of the KCPA. These violations included misrepresentation of earnings capacity for independent representatives, failure to comply with the referral sales statute and door-to-door sales requirements, failure to disclose to consumers the existence of Cease and Desist Orders issued by the Kansas Securities Commissioner and the Kansas Corporation Commission and selling nonfunctional merchandise. The Default Judgment exceeds \$2,000,000, in addition to refunds to Kansas consumers of nearly \$35,000, and has been registered in California in the event that execution on that judgment would become possible.

IN THE MATTER OF DIRECTV

The Attorney General participated in a multi-state group which negotiated an Assurance of Voluntary Compliance with DirecTV in January 1998. DirecTV represented specific programming was provided with an annual subscription relating to a "\$200 cash-back offer," then later revoked specified programming and re-offered such programming at a higher rate. In the Assurance, DirecTV

agreed to refrain from further violations and pay \$28,000 in investigative fees and expenses and pay \$13,505 in consumer restitution.

***STATE ex rel. v. EDWARD JOSEPH FINK, JR.,
d/b/a E & D SYSTEMS, d/b/a TRI-STAR***

The Attorney General filed a lawsuit October 6, 1998, against this vacuum-cleaner sales company based in Olathe, Kansas, for violations of the KCPA. Specifically, the Defendant failed to comply with the prize notification statute, the door-to-door sales requirements, and the telephone solicitation provisions of the KCPA. The lawsuit is pending.

STATE ex rel. v. FIRST NORTH AMERICAN NATIONAL BANK

First North American National Bank (FNANB), a wholly-owned subsidiary of Circuit City Stores, Inc., entered into a Consent Judgment on November 30, 1998. The Consent Judgment followed a multi-state investigation of FNANB's deceptive and unconscionable practice of obtaining reaffirmation agreements in violation of federal bankruptcy rules. In the Consent Judgment, FNANB agreed to refrain from further violations of the KCPA, refund Kansas consumers, and pay \$2,300 to the State.

STATE ex rel. v. THE FURST GROUP, INC.

The Furst Group entered into a Consent Judgment on July 8, 1998, for violations of the KCPA stemming from the switching of consumers' long distance service without their authority or consent. The Furst Group "slammed" consumers through their telemarketing efforts which deceptively implied that the consumers were remaining with AT&T as their long distance company. The Defendant agreed to comply with Federal Communications Commission (FCC) procedures for verifying telemarketing orders for switching service and to send a confirmation letter to the consumer within three days of the consumer's request for The Furst Group's service. The Defendant also agreed to affirmatively state in its telemarketing calls that the purpose of the call is to solicit the switch of the consumer's long distance service. The Furst Group agreed to pay \$50,000 in investigative fees and expenses to the Office of the Attorney General.

***STATE ex rel. v. PAUL HANEY and LUELLA M. HOLLAND,
d/b/a CONCERNED PEOPLE OF AMERICA and d/b/a C. P. A.***

The Attorney General filed a lawsuit October 14, 1998, against this multi-level marketing company based in Spencer, New York, for violations of the KCPA. These violations included misrepresentation of earnings capacity for independent representatives and failure to comply with the referral sales statute and door-to-door sales requirements. The lawsuit is pending and the Attorney General is currently seeking Default Judgment.

**STATE ex rel. v. BRUCE J. HARRIS, NAILOR L. HARRISON, JR.,
AND WALTER R. HOLMES, d/b/a ROCKY'S BLACKTOP SERVICE;
d/b/a H & H CONSTRUCTION; d/b/a HOLMES BROTHERS
AND d/b/a B & H ASPHALT PAVING & MAINTENANCE**

Bruce J. Harris (from Slidell, Louisiana) and Nailor L. Harrison and Walter R. Holmes (both from Carthage, Missouri) entered into a Consent Judgment on August 12, 1998, for violations of the KCPA stemming from their solicitations and sales of asphalt paving services. During such solicitations and sales, the Defendants failed to comply with the door-to-door sales requirements and misrepresented the quality, suggested retail price, and value of such services. In the Consent Judgment, the Defendants agreed to refrain from future violations and pay \$2,500 in investigative fees and expenses and \$2,500 in civil penalties.

**STATE ex rel. v. HOME CABLE INCORPORATED
d/b/a HOME CABLE CONCEPTS**

The Attorney General filed a lawsuit against this unauthorized foreign corporation in Shawnee County District Court on May 14, 1997, for deceptive and unconscionable acts and practices relating to its sale of home satellite systems. The Attorney General alleged the Defendant, through its sales representatives, made numerous misrepresentations during the sales presentation. In addition, the Defendant violated the three-day right-to-cancel provisions and telephone solicitation provisions of the KCPA. The case was removed by the Defendant to Federal District Court, was remanded on Plaintiff's Motion to Remand to State Court, and is presently in discovery.

IN THE MATTER OF HUNTINGTON DOG CLUB d/b/a THE LITTLE SHELTER

On February 27, 1998, Huntington Dog Club entered into an Assurance of Voluntary Compliance for \$5,000 for violations of the Kansas prize notification law and misrepresentations that the shelter was a local shelter (drop-box located in Topeka) when, in fact, all donations went to a dog club in New York.

STATE ex rel. v. K-MART CORPORATION

K-Mart entered into a Consent Judgment on July 29, 1998, for violations of the price-referencing section of the KCPA. Defendant agreed to refrain from representing that any prices for jewelry were regular prices unless a substantial number of sales were made at that price, and pay \$15,000 in investigative fees and expenses, \$7,500 in civil penalties, and make a \$7,500 charitable contribution.

**STATE ex rel. v. KANSAS EXPORT BEEF, INC.,
EDGAR R. MCGINNES, JR. and KENNETH D. GRIFFIN**

The Attorney General filed a lawsuit and obtained a Temporary Restraining Order on May 9, 1997, prohibiting this Junction City company from conducting business, for violations of the Kansas Food Sales Act and the KCPA. The Defendants misrepresented quality, weight, composition, and price of meat, and failed to disclose to consumers the Defendants' usual practices which, according to the Kansas and United States Departments of Agriculture, were certain to result in adulterated, misbranded or mislabeled products which were certain to reach consumers and certain

to have a detrimental effect on those consumers. The lawsuit is pending but Default Judgment for injunctive relief is anticipated because the business and its principals are now in bankruptcy.

***STATE ex rel. v. "MIKE" NAIEJ HUSEIN KHALIL, Individually,
and NATIONWIDE LIQUIDATORS, INC.***

The Attorney General filed a lawsuit against this California company and its president on June 29, 1998, for violations of the KCPA committed during "The Big Sale" the company held at the Kansas Expocentre. Defendants advertised that they had specified electronic merchandise and designer label clothing for sale at extremely low prices. Many of the specified items were not actually available for sale, were in negligible quantities or offered at higher prices than advertised. Additionally, Defendants failed to disclose that many of the items were "factory renewal" merchandise, and committed numerous violations of the door-to-door sales provision of the KCPA. Default Judgment was obtained on October 8, 1998, granting injunctive relief and \$65,000 in civil penalties.

***STATE ex rel. v. MAIL GROUP ASSOCIATES, INC.,
d/b/a UNCLAIMED ASSETS, et al.***

The Attorney General filed a lawsuit against this New York corporation in March 1998 as a result of its mail order solicitations in violation of the KCPA. This company solicited consumers with a postcard informing them that they may have \$50 to \$3,500 in unclaimed property with the State of Kansas, with no basis for making such representations. Consumers sent \$10 to the company, but only received a list of addresses for unclaimed property divisions in the 50 states for their money. After the case was filed, the company's attorney wrote a letter claiming Mail Group Associates was no longer in business. When a complaint against the successor company, Smart Marketing, Inc., d/b/a Unclaimed Assets was received, an amended petition was filed to include Smart Marketing, Inc., and its principals, Peter Norberto and Lance Geller. The case is presently in discovery.

***STATE ex rel. v. DAN MARTINEZ
d/b/a INSURANCE CLAIMS CONSULTANTS, INC.***

The Attorney General filed a lawsuit against Dan Martinez d/b/a Insurance Claims Consultants, Inc., a Wichita individual, on January 3, 1997, alleging the unauthorized practice of law and deceptive and unconscionable business practices. The Defendant had no legal training and was not licensed to practice law, but provided legal advice to individuals in the areas of workers' compensation, personal injury and bankruptcy. The Defendant admitted providing advice and writing demand letters for more than two hundred (200) clients. A jury trial was conducted in September 1997 and the jury returned a verdict for the State on two of four counts of violations of the deceptive acts and practices section of the KCPA. In December 1997 the Court returned a verdict for the State on the remaining issues of the unauthorized practice of law and unconscionable acts and practices. As part of the verdict, the Court found the Defendant to be practicing law without a license, enjoined the Defendant from that activity in the future, and assessed civil penalties in the amount of \$115,500. The case is currently on appeal to the Kansas Court of Appeals.

***STATE ex rel. v. GRANT MATLOCK and STEVE SIMPSON,
d/b/a DISABLED FIREFIGHTERS ASSOCIATION; d/b/a
DEPUTY SHERIFFS ASSOCIATION; d/b/a FIRE PREVENTION
PUBLICATIONS; d/b/a MIDWEST PRODUCTIONS***

The Attorney General took Default Judgment on April 16, 1998, against this fundraiser based in Idaho Falls, Idaho, for violations of both the KCPA in solicitations for advertising and the Charitable Organizations and Solicitations Act in solicitations for charitable donations. These violations included misrepresentation of beneficiaries and uses of funds raised, Defendants' purported affiliation with various law enforcement and public service agencies, and failure to comply with the registration requirements of the Charitable Organizations and Solicitations Act. The Default Judgment included injunctive relief and \$142,000 in civil penalties and \$1,500 in investigative fees.

***STATE ex rel. v. JAMES CURTIS McCOY
d/b/a SPEAKERS INTERNATIONAL d/b/a DBPA ENTERPRISES
and d/b/a THE JCM GROUP OF INDEPENDENT BROKERS***

The Attorney General filed a lawsuit on March 21, 1997, against James Curtis McCoy for violations of the KCPA from 1991 to the present. This Overland Park-based trainer/speaker gave free presentations in approximately 20 states, during which he sold admission tickets to subsequent seminars and training materials. The Defendant consistently failed to return to make the second presentations and failed to deliver the promised materials. Additionally, the Defendant made several misrepresentations concerning his status and accomplishments and did not comply with the door-to-door sales requirements. Judgment was obtained in August 1998 enjoining the Defendant from engaging in any business within the state and ordering him to pay civil penalties of \$2,500, investigative fees of \$2,500, and restitution of \$3,877 to consumers in several states.

IN THE MATTER OF MID-CONTINENT THERMAL-GUARD, INC.

On June 18, 1998, Mid-Continent Thermal-Guard, Inc., entered into an Assurance of Voluntary Compliance for violations of the telephone solicitations section of the KCPA. Telemarketing representatives, in making calls to consumers, failed to terminate the call when a consumer would give a negative response. Mid-Continent paid \$3,250 in civil penalties and \$3,250 in investigative fees and expenses.

STATE ex rel. v. MINIMUM RATE PRICING, INC.

Minimum Rate Pricing entered into a Consent Judgment on October 27, 1998, for violations of the KCPA stemming from the switching of consumers' long distance services without their authority or consent. The Attorney General alleged, among other things, that Minimum Rate Pricing "slammed" consumers through their telemarketing efforts by misrepresenting or omitting material facts and that they "reslammed" consumers once they switched away from Minimum Rate Pricing. The Defendant agreed to send letters to its entire customer base explaining that they may have switched consumers without their consent and that they were offering credits or refunds for the difference charged between Minimum Rate Pricing rates and the rates of the consumers' prior long distance company. Minimum Rate Pricing also agreed to pay \$52,631 to the Office of the Attorney General for investigative fees, expenses and civil penalties.

***STATE ex rel. v. MONTGOMERY WARD CREDIT CORPORATION
AND GENERAL ELECTRIC CAPITAL CORPORATION***

Montgomery Ward Credit Corporation and GECC entered into a Consent Judgment on August 7, 1998, following a multi-state investigation of GECC's deceptive and unconscionable practice of obtaining reaffirmation agreements in violation of federal bankruptcy rules. In the Consent Judgment, GECC and Wards agreed to refrain from further violations of the KCPA, refund Kansas consumers and pay \$138,244 in investigative fees and expenses and \$138,244 in civil penalties. Consumer restitution is expected to be comparable to the one million dollars recovered in the Sears bankruptcy reaffirmation fraud case.

***STATE ex rel. v. NATIONAL CREDIT CARD PROTECTION, LIMITED,
d/b/a NATIONAL CREDIT CARD PROTECTION and d/b/a NCCP, LTD.***

National Credit Card Protection, Limited, a credit card protection service company based in Batavia, New York, entered into a Consent Judgment on December 28, 1998, for violations of the KCPA. Specifically, the Defendant violated several provisions of the telephone solicitation portion of the KCPA and failed to disclose to consumers the limitations upon liability for fraudulently-used credit cards afforded by federal law. In the Consent Judgment, the Defendant agreed to pay \$2,500 in civil penalties, \$2,500 in investigative fees, and refund all Kansas consumers.

STATE ex rel. v. NATIONAL QUICK WEIGHT LOSS CENTERS, INC.

The Attorney General filed a lawsuit against this foreign corporation in Johnson County District Court on May 21, 1997, for deceptive and unconscionable acts and practices relating to its nutritional counseling for weight control and involvement with Fen-Phen. The Attorney General alleged the Defendant made numerous misrepresentations in its advertisements and sales presentations. In addition, the Defendant advertised Fen-Phen weight loss medications without the approval of the Board of Healing Arts or the Board of Pharmacy. Default Judgment was obtained on February 18, 1998, in the amount of \$315,000 in civil penalties, \$5,042 in investigative fees and expenses, and \$2,379 in consumer restitution.

STATE ex rel. v. NW LAD CO. d/b/a VALUE VISION, et al.

The Attorney General filed a lawsuit against this Kansas corporation in Shawnee County District Court on May 14, 1997, for deceptive and unconscionable acts and practices relating to the sale of home satellite systems. The Attorney General alleged the Defendant, through its sales representatives, made numerous misrepresentations during the sales presentation. In addition, the Defendant violated the three-day right-to-cancel provisions of the KCPA. The lawsuit is in the discovery stage.

***STATE ex rel. v. PARADE OF TOYS, INC., WONDERFUL WORLD
OF TOYS, INC.; BANDERO CIGAR COMPANY; SOMERSET
INVESTMENT, CORPORATION; ALHAMBRA INVESTMENT
CORPORATION; ROBERT BOUCKHOUT, et al.***

On April 17, 1997, the Attorney General filed a lawsuit, a temporary restraining order and an order of sequestration which was granted by the Johnson County District Court. Defendant

Robert Bouckhout's companies advertised and sold toy and cigar distributorships to consumers throughout the United States, deceptively representing an average annual income of \$100,000 could be earned. The toys were to be current release Disney-licensed merchandise and the cigars were to be first quality. In addition, consumers were promised a variety of services which were never provided. The investigation of this matter failed to find one consumer who recouped their initial investment despite the promises of high earnings. These business opportunities sold for \$14,900 to \$75,000. The trial was held August 17 through August 28, 1998, and the jury returned a verdict for over \$12,000,000 in consumer restitution. Motions for injunctive relief and civil penalties are pending.

STATE ex rel. v. RANCHOUSE FOODS, INC.

The Attorney General filed a lawsuit on June 2, 1997, against this Texas company for violations of the Kansas Food Sales Act and the KCPA (committed via its transient-merchant employees.) The company failed to comply with the door-to-door sales requirements, charged consumers sales tax which was not remitted to the Department of Revenue, and misrepresented the weight and usual price of meat. The lawsuit is pending.

STATE ex rel. v. RESOURCE CONSOLIDATION CORPORATION and SUSAN R. BROWNLEE

Resource Consolidation Corporation, a debt-consolidation business based in Lenexa, Kansas, and its president, Susan R. Brownlee, entered into a Consent Judgment on September 25, 1998, for violations of the KCPA. The Defendants made misrepresentations about their services and failed to comply with provisions of the KCPA applicable to credit services organizations. In the Consent Judgment, the Defendants agreed to refrain from future violations and to pay \$1,500 in investigative fees and expenses and \$1,500 in civil penalties.

STATE ex rel. v. REGINALD SCARBROUGH and AMERICAN CHAMBER FOR THE PEOPLE, INC.

The Attorney General filed a lawsuit on October 14, 1998, against Defendants for violations of the KCPA in solicitation of memberships and for violations of the Charitable Solicitations and Organizations Act in solicitation of donations. Defendants made misrepresentations to consumers and donors about the beneficiaries and uses of Defendants' receipts, failed to comply with the door-to-door sales provisions, and failed to register and comply with the Charitable Solicitations and Organizations Act. The lawsuit is pending.

STATE ex rel. v. CHRIS A. SCHINKER, d/b/a BANKCARD MANAGEMENT SERVICES

Chris A. Schinker, d/b/a Bankcard Management Services, a credit card protection service company based in Tempe, Arizona, entered into a Consent Judgment on September 25, 1998, for violations of the KCPA. Specifically, the Defendant violated several provisions of the telephone solicitation portion of the KCPA, misrepresented its services as insurance, and failed to disclose to consumers the limitations upon liability for fraudulently-used credit cards afforded by federal law.

In the Consent Judgment, the Defendant agreed to pay \$10,000 in civil penalties and \$10,000 in investigative fees, and to refund all complaining Kansas consumers.

STATE ex rel. v. SEALY COMMUNICATIONS, INC., d/b/a POWER 2001

The Attorney General filed a lawsuit in October 1998 against this multi-level marketing company based in Dallas, Texas, for violations of the KCPA. These violations included misrepresentation of earnings capacity for independent representatives, failure to comply with the referral sales statute, door-to-door sales requirements, and charging (but failing to remit) sales tax. The lawsuit is pending and the Attorney General is currently seeking Default Judgment.

STATE ex rel. v. SHOWS INTERNATIONAL, INC.

Shows International, Inc. entered into a Consent Judgment on June 24, 1998, for violations of the KCPA stemming from its deceptive practices and failure to comply with the door-to-door sales requirements. In the Consent Judgment, the Defendant agreed to refrain from future violations and pay \$6,250 in investigative fees and expenses and \$6,250 in civil penalties.

IN THE MATTER OF SPRINT COMMUNICATIONS COMPANY, L.P.

On July 28, 1998, Sprint Communications Company, L.P., entered into an Assurance of Voluntary Compliance stemming from its violations of the telephone solicitations section of the KCPA. Sprint agreed to refrain from engaging in those practices in the future and paid \$50,625 in civil penalties and \$61,875 in investigative fees and expenses.

IN THE MATTER OF PATRICIA STETLER d/b/a DIET CENTER

As the result of a three-agency investigation conducted by the Office of the Attorney General, the Board of Healing Arts and the Board of Pharmacy, Patricia Stetler d/b/a Diet Center entered into an Assurance of Voluntary Compliance on August 11, 1998, for violations of the KCPA, the Kansas Healing Arts Act and the Kansas Pharmacy Practice Act relative to its involvement with prescription medications for weight control. Respondent made numerous misrepresentations through its advertisements and sales presentations relating to its involvement with the prescription weight loss medications Fen-Phen and Redux. Respondent did not have any authority with the Board of Healing Arts to practice medicine or with the Board of Pharmacy to advertise or dispense prescription medications. After filing for bankruptcy, the Respondent agreed to refrain from further violations of the Act, and to pay \$100 in investigative fees and expenses and \$100 in civil penalties.

STATE ex rel. v. THOUSAND ADVENTURES, INC., et al.

The Attorney General filed a lawsuit in Shawnee County District Court on January 16, 1996, for deceptive and unconscionable acts and practices by the Defendants in the sales of campground memberships. The Defendants enticed consumers to visit their facilities by offering prizes and then used deceptive and unconscionable tactics to persuade consumers to purchase a membership. The campgrounds are not the quality represented by the Defendants and the memberships are non-cancelable, even if consumers choose to discontinue their use of the campgrounds. There were also material misrepresentations made about the company's resale program, wherein the company promised to resell a consumer's membership after a certain period of time. In April 1997 Defendant

Thousand Adventures of Kansas, Inc., filed a petition for bankruptcy under Chapter 11 in the United States Bankruptcy Court for the District of Kansas. In September 1997 it was converted to a Chapter 7 bankruptcy. The estate is being liquidated at this time, although it is unlikely there will be enough assets to satisfy most creditors, including the State and the consumers. The state court lawsuit is presently stayed by the pending bankruptcy. Defendant Thousand Adventures, Inc. also filed a petition for bankruptcy under Chapter 11 in the United States Bankruptcy Court for the Southern District of Texas which was converted to a Chapter 7 Bankruptcy and transferred to the United States Bankruptcy Court for the Southern District of Iowa.

***IN THE MATTER OF THE GUARDIANSHIP and
CONSERVATORSHIP OF WILLIAM S. TROTTER***

The Attorney General assisted in the investigation and ultimate removal of Thomas J. Leising as Guardian and Conservator of William S. Trotter, after an investigation revealed that Leising had misused and misreported funds of the trust which he converted to his own use. Leising was removed as Guardian and Conservator and ordered to reimburse \$68,000 to the trust and pay \$5,885 in investigative fees and expenses.

***IN THE MATTER OF UNIVERSITY STUDENT SERVICES;
UNIVERSITY STUDENT SERVICES, L.L.C., d/b/a NATIONAL
COLLEGE REGISTRATION BOARD; MATTHEW LEVENSON;
CHRIS CONONICO; and MICHAEL VAUGHN***

The Attorney General participated in a multi-state group which negotiated an Assurance of Voluntary Compliance on July 6, 1998, with University Student Services. This company was conceived and operated by three college students and was headquartered in New Jersey. It mailed solicitations for a "campus card" to prospective college students implying the card was a type of debit card and was required by colleges. The solicitation indicated college students could obtain special privileges or discounts when, in fact, the card was not required and a financial institution had not been found to handle the accounts. The Respondents agreed to shut down their business and refund all of the \$25 processing fees received. Refunds and/or uncashed checks were returned to thirty (30) Kansas consumers.

***STATE ex rel. v. VACATIONS OUTLET, L.L.C., VACATIONS OUTLET OF
KANSAS CITY, L.L.C. AND ALL PRINCIPALS, AGENTS AND EMPLOYEES***

Vacations Outlet entered into a Consent Judgment on June 3, 1998, for violations of the KCPA stemming from the sales of travel club memberships. The complaints referenced various misrepresentations being made at sales presentations at the company's place of business in Overland Park, Kansas. Defendants agreed to refrain from future violations of the KCPA, make consumer restitution in the amount of \$172,869 and pay \$25,000 in civil penalties and \$25,000 in investigative fees and expenses.

STATE ex rel. v. WAL-MART STORES, INC.

Wal-Mart Stores, Inc., entered into a Consent Judgment on June 30, 1998, for violations of the KCPA and Weights & Measures standards at two (2) stores in the Topeka area. Defendant

agreed to refrain from further violations of the KCPA and pay \$7,500 in civil penalties and \$7,500 in investigative fees and expenses.

STATE ex rel. v. WES-STATE MORTGAGE, INC.

The Attorney General filed a lawsuit on April 16, 1998, against this Eugene, Oregon-based company for violations of the KCPA. Specifically, the company failed to comply with the credit services organization provisions of the KCPA and misrepresented the business opportunity it was selling complied with Kansas law. The lawsuit is pending.

***STATE ex rel. v. WILLARD ENTERPRISES, INC.,
d/b/a COLORADO CHOICE MEAT COMPANY***

The Attorney General filed a lawsuit in October 1998 against this Texas-based company for violations of the Kansas Food Sales Act and the KCPA. The company failed to comply with the door-to-door sales requirements, did not disclose price-per-pound, and misrepresented the weight and price of meat and the company's size and establishment in several major cities, and charged sales tax but did not remit the same to the Kansas Department of Revenue. A Motion for Default Judgment is pending.

STATE ex rel. v. YOUR NEIGHBORHOOD BUTCHER, INC.

Your Neighborhood Butcher, Inc., a meat distribution company based in St. Petersburg, Florida, entered into a Consent Judgment on March 5, 1998, for violations of the Kansas Food Sales Act and the KCPA. The company failed to comply with the door-to-door sales requirements, did not disclose price-per-pound, and misrepresented the weight and price of meat. In the Consent Judgment, the company agreed to pay \$7,500 in investigative fees to the Attorney General's Office and \$7,500 in civil penalties.

***STATE ex rel. v. WALTER ZITLOW, COMPLETE HOME SECURITY, INC.,
and GARY RICHARDSON d/b/a ALARM PROFESSIONAL SERVICES***

The Attorney General filed a lawsuit against these two businesses and sales representative in Sedgwick County District Court on April 1, 1997, for deceptive and unconscionable acts and practices relating to the sale of home security systems. The Attorney General alleged Defendants made numerous misrepresentations through their sales representative Walter Zitlow. In addition, Defendants violated the three-day right-to-cancel provisions and telephone solicitation provisions of the KCPA. The Attorney General is seeking enhanced penalties against Defendants for targeting the elderly. The average age of the consumer which made a complaint to this office against Defendants is 74 years old. On April 14, 1997, the Attorney General obtained a Temporary Injunction against Defendant Walter Zitlow which prohibits him from making any contact with consumers over the age of 60, unless he provides to our office, within 24 hours, the consumers name, address and telephone number. The injunction also prohibits Defendant Walter Zitlow from making representations regarding tax deductions and insurance reductions. The case was tried for three weeks in September-October 1998. The Court's decision is expected later this year.

TOBACCO SALES TO MINORS LITIGATION

The Attorney General filed suit against each of the companies listed below as a result of the Attorney General's February 1996 investigation of tobacco sales to minors. The Attorney General

alleges the sale of tobacco products to minors is a deceptive and unconscionable act and practice under the KCPA.

State ex rel. v. Casey's General Stores, Inc., d/b/a Casey's
State ex rel. v. Dillon Companies, Inc., d/b/a Dillons
State ex rel. v. Four B Corp., d/b/a Ball's Price Chopper
State ex rel. v. Richard Haig d/b/a Westside 66
State ex rel. v. Intrust Capital Corporation, d/b/a Conoco EZ & Quick
State ex rel. v. Kwik Shop Inc., d/b/a Kwik Shop
State ex rel. v. William Murphy, d/b/a Quick Stop
State ex rel. v. Schnuck Markets, Inc., d/b/a Schnuck's #711 and Schnuck's #715
State ex rel. v. Thrift Drug, Inc., d/b/a Treasury Drug #7746

In addition, Assurances of Voluntary Compliance were reached with the companies listed below regarding tobacco sales to minors. The Assurance of Voluntary Compliance alleged the sale of tobacco products to minors is a deceptive and unconscionable act and practice under the KCPA.

In the Matter of Quiktrip Corporation d/b/a Quiktrip - \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Fleming Petroleum, Inc. d/b/a Conoco Shortstop d/b/a Clark Conoco - \$1500 in investigative fees, \$1500 in civil penalties.
In the Matter of Texaco Refining & Marketing, Inc. d/b/a Starmart Texaco No. 11 - \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Hy-Vee, Inc., f/k/a Hy-Vee Food Stores, Inc. d/b/a Hy-Vee #1508 - \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Phillips Petroleum Company d/b/a Phillips 66 - \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Hallauer Oil Company - \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Total Petroleum, Inc. d/b/a Total #1857 - \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Baldwin Junction Enterprises, LLC d/b/a Total- \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Klepper Oil Company, Inc. - \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Wal-Mart Stores, Inc. d/b/a Wal-Mart #0577 - \$750 in investigative fees, \$750 in civil penalties.
In the Matter of Mike Rebstock d/b/a Price Sav'r Foods- \$100 in investigative fees, \$100 in civil penalties.
In the Matter of John's Factory Fresh Cigarette Outlet - \$750 in investigative fees, \$750 in civil penalties.

CIVIL ENFORCEMENT OF AGENCY ACTIONS

The Consumer Protection Division filed 16 civil enforcement of agency actions to compel compliance with subpoenas issued to suppliers.

CONCLUSION

In conclusion, the above enforcement actions taken by the Consumer Protection Division reflect the priority that the office of the Attorney General has in protecting Kansas consumers from deceptive and unconscionable business practices. We believe a strong, yet fair enforcement of consumer laws, combined with effective consumer education efforts, provide the level of protection to Kansas consumers mandated by the Kansas legislature under the KCPA.

