

2007 ANNUAL REPORT

Consumer Protection & Antitrust Division



Office of Attorney General
STEVE SIX

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



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

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STEVE SIX
ATTORNEY GENERAL

December 22, 2008

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

I am pleased to provide to you the 2007 Annual Report of the Consumer Protection/Antitrust Division of the Office of Attorney General. In 2007, the Consumer Protection/Antitrust Division received 5,441 written complaints and 590 inquiries, resulting in consumer savings of \$920,077.74. The Division's enforcement efforts in 2007, in addition to obtaining judgments and settlements for restitution, civil penalties and investigative fees, also obtained injunctive orders against businesses found in violation of the Kansas Consumer Protection Act.

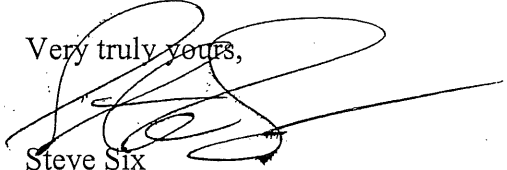
Staff members of the Consumer Protection/Antitrust Division travelled throughout Kansas to educate about consumer issues in high schools, colleges, civic groups, community organizations and industry associations. Thousands of consumers and business professionals attended these presentations and visited our Consumer Protection booth at the Kansas State Fair. In conjunction with the educational efforts, we continued to publish and distribute brochures on a wide range of consumer topics. We also maintained our website to provide online assistance to consumers. As a result of these educational efforts, many Kansas consumers have been made aware of the common scams and frauds, and are less likely to fall victim to unscrupulous business practices.

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). Such cooperation is particularly beneficial in combating deceptive and unconscionable business practices by out-of-state businesses.

It is a top priority of my office to protect Kansas consumers from deceptive and unconscionable business practices. We continue to propose legislation to strengthen the KCPA in order to better protect our citizens.

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

Very truly yours,


Steve Six
Attorney General

OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS

PAUL MORRISON
ATTORNEY GENERAL

CONSUMER PROTECTION/ANTITRUST DIVISION STAFF
DURING THE PERIOD COVERED BY THIS REPORT
JANUARY 1, 2007 THROUGH DECEMBER 31, 2007

Linda Sheppard	Deputy Attorney General
Michael Allen	Assistant Attorney General
Lynette Bakker	Assistant Attorney General
Patrick Broxterman	Assistant Attorney General
Joseph N. Molina	Assistant Attorney General
Emilie Burdette Rush	Assistant Attorney General
Jackson Lindsey	Legal Intern
Ryan Ludwig	Legal Intern
Barbara Sackey	Legal Intern
Ralf Mondenedo	Paralegal
Jerry W. Howland	Special Agent Supervisor
Amber Capoun	Special Agent
Natalie Hogan	Special Agent
Erin Land	Special Agent
Larry Larsen	Special Agent
Tshlaine Webster	Special Agent
Carol Donavon	Administrative Assistant
Marcia Shuart	Administrative Assistant
Sonya O'Connell	Receptionist
Jillian Erickson	Receptionist
Paula Lunon	Receptionist

OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS

STEVE SIX
ATTORNEY GENERAL

CONSUMER PROTECTION/ANTITRUST DIVISION STAFF
AT THE TIME OF THIS REPORT

Angela Wilson	Deputy Attorney General
Emilie Burdette	Assistant Attorney General
Lynette Bakker	Assistant Attorney General
Meghan Barnds	Assistant Attorney General
Lee Urban	Assistant Attorney General
Tai Vokins	Assistant Attorney General
Becky Schwant	Paralegal
Angela Carlon	Legal Intern
Sonya Johnson	Outreach Coordinator
Jerry W. Howland	Special Agent Supervisor
Amber Capoun	Special Agent
Natalie Hogan	Special Agent
Sheila Krohe	Special Agent
Erin Land	Special Agent/Constituent Services
John Lewis	Special Agent
Samuel Jake Owen	Special Agent
Carrie Fink	Administrative Assistant
Marcia Shuart	Administrative Assistant
Amber Toy	Administrative Assistant
Kaitlyn Beech	Constituent Services
Shawn Bryant	Constituent Services
Will Lawrence	Constituent Services
Caitlin Shanks	Constituent Services
Kilie West	Constituent Services

CATEGORIES OF COMPLAINTS RECEIVED

Complaints Filed:	5441
Complaints Closed:	5350
Written Inquiries:	590
Total Annual Savings:	\$920,077.64

<u>Category</u>	<u>Complaints Received</u>	<u>Percentage of Total</u>
Account Access Ruse	14	0.26%
Advance Fee	17	0.31%
Advertising	57	1.05%
Appliances	29	0.53%
Assistive Device Lemon Law	23	0.42%
Auto	487	8.95%
Boats, Boating Equipment, Repairs, etc.	3	0.05%
Book, Record & Tape Clubs	12	0.22%
Business Opportunities Services	63	1.16%
Cable Television	45	0.83%
Cemeteries	22	0.40%
Charitable Organizations	19	0.35%
Clothing	5	0.09%
Collectibles/Antiques	5	0.09%
Collection	505	9.28%
Computer - Internet Gambling	2	0.04%
Computer - Internet Sales	161	2.96%
Computer - Online Services	79	1.45%
Computers	49	0.90%
Contests/Sweepstakes	112	2.06%
Credit	514	9.45%
Credit Reporting Agencies	36	0.66%
Discount Buying Clubs	7	0.13%
Door-To-Door Sales	33	0.61%
Education	26	0.48%
Employment Services	1	0.02%
Failure To Furnish Merchandise (other than mail order)	19	0.35%
Farm Implement/Equipment	19	0.35%
Faxes Unsolicited	35	0.64%

<u>Category</u>	<u>Complaints Received</u>	<u>Percentage of Total</u>
Floor Coverings	2	0.04%
Food Products	10	0.18%
Funeral Homes	4	0.07%
Furniture	29	0.53%
Gasoline Pricing and Contents	22	0.40%
Health Services (doctors, dentists, hospitals, etc.)	84	1.54%
Health Spas & Weight Salons	157	2.89%
Hearing Aids	1	0.02%
Heating & Air Conditioning	16	0.29%
Home Construction	32	0.59%
Home Improvement	239	4.39%
Identity Theft	85	1.56%
Invoice & Billing Schemes	18	0.33%
Jewelry	10	0.18%
Junk Mail	31	0.57%
Loan Finders	15	0.28%
Magazine Subscriptions	63	1.16%
Mail Order	104	1.91%
Medical Discount Cards	22	0.40%
Medical Equipment/Devices	15	0.28%
Miscellaneous	770	14.15%
Mobile Home Parks	2	0.04%
Mobile Homes & Manufactured Homes	3	0.06%
Mortgage Escrow Problems	2	0.04%
Mortgages	55	1.01%
Motorcycles & Bicycles	24	0.44%
Moving & Storage	22	0.40%
Multi-level & Pyramid Distributorship Co.	26	0.48%
Musical Instruments, Lessons, etc.	4	0.07%
Negative Selection	1	0.02%
Nigerian Style Letters	31	0.57%
No-Call	20	0.37%
Nurseries, Lawn, Gardening and Landscape Service	17	0.31%
Nursing Homes	3	0.06%
Office Equipment & Supplies	4	0.07%
Overpayment Scam	8	0.15%
Pest Control	5	0.09%

<u>Category</u>	<u>Complaints Received</u>	<u>Percentage of Total</u>
Pets/Animals	29	0.53%
Photo Studios, Equipment & Services	3	0.06%
Privacy Issues	8	0.15%
Real Estate (houses)	16	0.29%
Real Estate (other than houses)	7	0.13%
Rebates	43	0.79%
Recovery Complaints	1	0.02%
Referral Selling	1	0.02%
Satellite Systems	64	1.18%
Scanning Equipment	1	0.02%
Securities & Investment (other than stocks & bonds)	12	0.22%
Security Systems and Services	27	0.50%
Services (general)	258	4.74%
Services (professional)	26	0.48%
Sporting Goods	2	0.04%
Steel Buildings	2	0.04%
Stereo Equipment	2	0.04%
Telephone - 800#s, 900#s and International Calls	10	0.18%
Telephone - Cramming	36	0.66%
Telephone - Service, Cell Phones & Slamming	293	5.39%
Telephone - Prepaid Phone Cards	12	0.22%
Telephone Solicitations	51	0.94%
Televisions and VCRs	5	0.09%
Timeshare Sales	15	0.28%
Trade & Correspondence Schools	1	0.02%
Travel	50	0.92%
Unauthorized Practice of Law	16	0.29%
Unsolicited e-mail (spam)	9	0.17%
Warranty Problems (other than automobiles)	68	1.25%
Water Softeners, Conditioners, Purifiers, etc.	13	0.24%
Work-at-home Schemes	5	0.09%
TOTAL CASES OPENED	5441	

* Percentages are rounded and do not equal 100%

DISPOSITION OF CLOSED COMPLAINTS

<u>Disposition Description</u>	<u>Complaints Closed</u>	<u>Percentage of Total</u>
Inquiry or Information Only	718	13.42%
Referred to Private Attorney	302	5.64%
Referred to County/District Attorney	30	0.56%
Referred to Other State Attorney General	107	2.00%
Referred to Other Government Agency	336	6.28%
Referred to Small Claims Court	46	0.86%
Referred to Federal Agency (FTC, Post Office, etc.)	44	0.82%
Money Refunded/Contract Cancelled	863	16.13%
Merchandise Delivered to Consumer	11	0.21%
Repaired/Replaced Product	45	0.84%
Mediation Only - No Savings	377	7.05%
No Reply From Complainant	99	1.85%
Unable to Locate Respondent	84	1.57%
Practice Complained of Discontinued	7	0.13%
Respondent Out of Business	78	1.46%
No Jurisdiction Under KCPA	82	1.53%
No Violation	258	4.82%
Insufficient Evidence to Prove Violation	362	6.77%
Complaint Withdrawn	64	1.19%
Unable to Satisfy Complaint - No Further Action	23	0.43%
Other	300	5.61%
No Call - Collection Exemption	3	0.05%
Self Help	5	0.09%

Lawsuit Complaint Files:

<u>Disposition Description</u>	<u>Complaints Closed</u>	<u>Percentage of Total</u>
Consent Judgment	1049	9.61%
Voluntary Compliance Agreement	20	0.37%
Dismissed Without Prejudice	1	0.02%
Judgment For State - Civil Penalties Only	13	0.24%
Judgment For State - Penalties, Restitution and Injunction	18	0.34%
Judgment For Defendant	5	0.09%
TOTAL CASES CLOSED	5350	

* Percentages are rounded and do not equal 100%

SUMMARY OF 2007

CONSUMER PROTECTION ENFORCEMENT ACTION

State of Kansas ex rel. v. WAT Broadcasting, LLC., & MLE Marketing LLC

The Attorney General filed a lawsuit January 16, 2007 and entered into a Consent Judgment with the defendant for violations of the KCPA related to violations of the Kansas No-Call Act. Defendant agreed to pay \$10,000 in civil penalties and fees.

In the Matter of National Dealers Warranties

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA for implying a sponsorship, approval or affiliation with the manufacturer of the consumer's vehicle when, in truth and fact, supplier had no such relationship in violation of K.S.A. 50-626(b)(1)(B). Defendant agreed to pay \$15,000 in civil penalties and fees.

State of Kansas ex rel. v. Bayer Corporation-Baycol

The Attorney General entered into a multi-state Consent Judgment with the Defendant for violations of the KCPA related to the marketing and sale of Baycol, a medication marketed for the reduction of elevated total and LDL cholesterol levels. The defendant agreed to pay \$8,000,000 to the States, to be divided and distributed among the Signatory Attorneys General to pay for civil penalties, fees and the costs of investigation and litigation.

In the Matter of Partner's Equity Capital Company, LLC. d/b/a Commerce Commercial Leasing, LLC.

The Attorney General entered into a multi-state Assurance of Voluntary Compliance with the company for violations of the KCPA related to the rental of "Matrix Boxes" and the purchasing of Equipment Rental Agreements through NorVergence, Inc. NorVergence is a company that rented a "Matrix Box" that purported to integrate and provide local telephone, wireless and internet services at a reduced rate per month to small businesses. After securing contracts with businesses, NorVergence sold the rental agreements to Partner's Equity Capital Company (PECC) and 40 other different finance companies. NorVergence's creditors forced it into involuntary bankruptcy and the Judge authorized service providers to cease providing internet and telephone service as they were not receiving payment from NorVergence. PECC continued billing NorVergence customers maintaining that the contract was a non-cancellable rental agreement for the Matrix Box, not a contract for telephone and internet services. Defendant agreed to pay the states a lump sum of \$950,000 for the states to use to partially reimburse their consumers, to dismiss any and all pending lawsuits against NorVergence customers and that after the sale of business assets it would dissolve the company and cease to do business.

In the Matter of Gehl Company

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA for limiting or attempting to limit the implied warranty of merchantability as prohibited by K.S.A. 50-639. Defendant agreed to pay \$6000 in customer restitution and \$14,000 in civil penalties and investigative fees.

In the Matter of Country Hill Motors

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA for selling an automobile with mechanical problems of which the defendant knew or should have known existed prior to completion of the transaction. Defendant agreed to pay a total of \$950 to the consumer to constitute payment of the cost of repair to the vehicle. Defendant agreed to cease engaging in such acts or similar acts after the date of the AVC.

In the Matter of Web One USA

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violating the KCPA by placing unauthorized charges on Kansas small businesses local telephone bills. The company agreed to pay \$1,500 in civil penalties and fees and to cease engaging in such acts or similar acts after the date of the AVC.

State of Kansas ex rel. v. Xavier Valeri d/b/a Imperial Ware d/b/a Lifetime, IWC Finance Inc.

The Attorney General filed a lawsuit March 2, 2007 and entered into a Consent Judgment with the defendant for violations of the KCPA related to Defendant's door-to-door sales of cookware and failure to provide the required cancellation notices upon completion of the sales to consumers. Defendant agreed to cancel the contracts and to pay \$800 in restitution and \$1,500 in civil penalties and fees.

In the Matter of Prudent Choice, Inc.

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to Defendant's entering into consumer transactions for the sale of a medical discount card. Defendant failed to provide each prospective customer before purchase or at the time of the confirmation a written list for each type of service offered in conjunction with the discount card containing the name, address and phone number of the closest 25 health care providers in the prospective customer's service area that are contractually bound to honor the discount card, all in violation of K.S.A. 50-1,101(b)(4). Defendant agreed to fully refund any consumer who did not receive the list required by K.S.A. 50-1,101(b)(4).

State of Kansas ex rel. v. Parnell Crittendon, an individual; and Surety Financial Advisors, Inc. d/b/a Thebankruptcyalternative.com ("SFAI")

The Attorney General filed a lawsuit April 17, 2007 alleging violations of the KCPA because neither Defendant Crittendon nor SFAI are registered to offer credit services with the State of Kansas pursuant to K.S.A. 50-11118(a). At the urging and upon the representations of Defendant Crittendon consumers deposited the sum of \$21,898 into an account set up at the direction of SFAI, to be distributed to consumer's creditors. None of the monies the consumers deposited into the account were paid to any creditors. When the Defendant failed to respond to the State's petition the Court entered default judgment in favor of the State and Defendant was ordered to pay \$40,000 in fines and investigative fees and \$21,898 in customer restitution.

State of Kansas ex rel., v. Radical Persson Inc.

The Attorney General filed a lawsuit March 27, 2007 alleging violations of the KCPA by facilitating the unauthorized billing of internet services. ILD is a billing aggregator acting as a billing agent for numerous service providers of telecommunications services. ILD placed charges on Kansas consumers' telephone bills on behalf of Defendant Radical Persson Inc. and Lars G. Persson. The company agreed to pay the State of Kansas \$2500.00 in fines and investigative fees.

In the Matter of Electric Mobility Corporation

The Attorney General entered into an Assurance of Voluntary Compliance with the company for its failure to provide a full one year warranty of a device purchased by a consumer, a violation of K.S.A. 50-697(a). Additionally Defendant, through a sales representative, represented to the consumer at the time of the solicitation process that the device's batteries would hold a charge for a specified duration, when, in fact, said batteries would not perform as represented. Defendant agreed to offer a one year warranty to all Kansas consumers who purchase an assistive device a one year warranty. Additionally the company agreed to refund the consumer the full purchase price of the device, \$3869.50, and to pay the State of Kansas \$500.00 in fines and investigative fees.

State of Kansas ex rel., v. Shawnee Cemetery

The Attorney General filed a lawsuit March 22, 2007 alleging that the cemetery had been abandoned in that there were no employees or volunteers to care for graves, grave stones, driveways and to maintain records as required by law. When the Defendant failed to respond to the State's petition the Court entered default judgment in favor of the State. The cemetery was declared abandoned and the cemetery and any cemetery corporation holding title or any interest was dissolved. Title of all cemetery property was transferred to the municipality of the City of Shawnee, Kansas pursuant to K.S.A. 17-1367.

State of Kansas ex rel., v. Air Synergy Labs d/b/a Vortex Valve

The Attorney General filed a lawsuit March 22, 2007 alleging that defendant engaged in a deceptive act and practice by offering a 110% refund if the customer is unsatisfied with the product purchased as defined by K.S.A. 50-626(b)(2)(F). Consent Judgment was entered on July 27, 2007 wherein Defendant was ordered to pay \$1000.00 to the State in civil penalties and \$118.09 in consumer restitution.

In the Matter of East Side Homes, LLC.

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violating the KCPA by making false representations to consumers regarding contracts. Defendant and consumers executed a "Contract for Purchase" which purported to set forth negotiations for the sale of a manufactured home. Defendant then sold said manufactured home to a third party buyer. At no time did the Defendant advise the consumers that they would continue to offer the home for sale to other persons after consumers signed said contract. Defendant agreed to refrain from and be permanently enjoined from engaging in this conduct in any and all future consumer transactions. The defendant agreed to pay the sum of \$2500 to the State in fines and investigative fees and to continue negotiating with consumers for the sale of a different manufactured home.

In the Matter of Elephant Group, Inc. d/b/a Marketing Guru

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the Kansas No-Call Act. Defendant agreed to pay \$3,000 in civil penalties and fees and to refrain from such acts and practices in the future.

In the Matter of Chase Bank U.S.A., N.A.

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the Kansas No-Call Act. Defendant agreed to pay \$2,500 in civil penalties and fees and to refrain from such acts and practices in the future.

In the Matter of Christopher G. Thurber d/b/a Paint Majic, LLC.

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA by willful use of an exaggeration, falsehood, innuendo or ambiguity as to a material fact by representing to the consumer that Chris Thurber d/b/a Paint Majic, LLC could not provide the materials that were paid for because of hazardous materials regulations regarding the consumer transporting the materials, a violation of K.S.A. 50-626(b)(2). Under the terms of the AVC Mr. Thurber agreed to refund the consumer \$12,500 and civil and investigative penalties to the State in the amount of \$500.00.

State of Kansas ex rel., v. Robert Barnes d/b/a Septic System Solutions

The Attorney General filed a lawsuit July 20, 2007 alleging violations of the KCPA by receiving payment for services never provided. The Court entered default judgment in favor of the State and Defendant was ordered to pay \$3,500 in consumer restitution and \$20,000 in civil and investigative penalties and fees.

State of Kansas ex rel., v. Larry D. Cox, Individually, d/b/a High Plains Distributors

The Attorney General filed a lawsuit October 16, 2007 alleging violations of the KCPA by accepting payment for services never provided. Consent Judgment was entered on October 16, 2007 wherein Defendant was ordered to pay \$3769.14 in consumer restitution and all Court costs associated with this action.

In the Matter of National Health Care Discount, Inc.

The Attorney General entered into an Assurance of Voluntary Compliance with the Defendant for violations of the Kansas Discount Card Act for marketing and unregistered sale of discount cards to Kansas consumers without maintaining the required surety bond or designating a resident agent. Defendant agreed to make the required bond payments in five (5) payments of \$10,000 each, and to suspend the solicitation, sale, marketing and distribution of medical discount cards to Kansans, except that Defendant may continue to service those Kansans in pre-existing contractual agreements.

In the Matter of AOL

The Attorney General entered into a multi-state Consent Judgment with the Defendant for violations of the KCPA regarding cancellation issues, continued billing of customers after cancellation and numerous other complaints related to spin off accounts. The defendant agreed to pay \$3 Million to the States, to be divided and distributed amongst the Signatory Attorneys General to pay for civil penalties, fees and the costs of investigation and litigation. Kansas' share amounted to \$45,000.

State of Kansas ex rel., v. Road Maintenance Paving & Sealing, Bill Boswell, William Boswell, Nathan Boswell, Tommy A. Wright and Lewis C. Fountain

The Attorney General filed a lawsuit July 25, 2007 alleging violations of the KCPA by receiving payment for services never provided, as well as failure to provide consumers with "Notice of Cancellation" as required by K.S.A. 50-640(b)(5). The Journal Entry of Consent Judgment was signed by the Judge July 25, 2008 ordering Defendant to pay consumer \$5040 in restitution and \$10,000 to the State in civil and investigative penalties and fees.

State of Kansas ex rel., v. Guidant Corporation, Cardiac Pacemakers Inc. and Guidant Sales Corporation

The Attorney General entered into a multi-state Consent Judgment with the Defendant for violations of the KCPA related to the marketing and sale of cardiac pacemakers. The defendant agreed to pay \$390,000 to the State of Kansas to pay for civil penalties, fees and the costs of investigation and litigation.

State of Kansas ex rel., v. The Old Mission Mausoleum and Its Trust Fund

The Attorney General filed a lawsuit October 30, 2007 alleging that the cemetery did not possess the level of assets required to permit it to continue to manage and maintain the Mausoleum and the Mausoleum's Trust fund and that there were no employees or volunteers to care for graves, grave stones, driveways and to maintain records as required by law. Subsequently, the Old Mission Mausoleum and the Mausoleum Trust Fund was declared terminated and the cemetery and any cemetery corporation holding title or any interest was dissolved. Title of all cemetery property was transferred to the municipality of the City of Wichita, Kansas pursuant to K.S.A. 17-1367.

State of Kansas ex rel., v. Mark R. Nichols, and individual, d/b/a Nichols and Sons Remodeling

The Attorney General filed a lawsuit September 20, 2007 alleging violations of the KCPA related to Defendant, a home remodeler, receiving payment for services never provided. When the Defendant failed to respond to the State's petition the Court entered default judgment in favor of the State and Defendant was ordered to pay \$40,000 in fines and investigative fees and \$8,000 in customer restitution.

In the Matter of Leading Edge Recovery Solutions

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA related to the company's release of confidential debtor information to a third party while attempting to collect a debt from a consumer. The company agreed to implement and maintain procedures to prevent this type of disclosure in the future and to pay the State \$1,000 in fines and investigative fees.

State of Kansas ex rel., v. Earl Simmons, d/b/a Esco d/b/a Earl Simmons Co.

The Attorney General filed a lawsuit December 12, 2007 alleging violations of the KCPA related to receiving payment for services never provided. Defendant represented to consumers that he would perform and provide all materials to complete the described construction work at a specified price. Consumers received no material benefit from the subject of the transaction. The case was pending in the Barton County District Court at the end of 2007.

State of Kansas ex rel., v. Swartz Paving, a/k/a Blacktop Paving, Noah Richard Lovell, individually, and George B. Wilson, individually.

The Attorney General filed a lawsuit December 10, 2007 alleging violations of the KCPA related to Defendant's door to door solicitation of consumers for various home improvement services, including, but not limited to the installation, sealing and repair of asphalt driveways at Kansas residences. The State's motion to dismiss without prejudice for failure to obtain service on the defendant was granted.

State of Kansas ex rel., v. Midwestern Subscription and Jason Cogbill, individually.

The Attorney General entered into a Consent Judgment with Defendant for violations of the KCPA for door to door sales of magazine subscriptions and failure to provide the required cancellation notices upon completion of the sales. Consumers received no material benefit from the subject of the transaction. Defendant agreed to pay a total of \$641 in restitution to 11 consumers and to cease selling magazine subscriptions in the State of Kansas.

State of Kansas ex rel., v. International Coating and Chemical Co., Thomas C. Pavlik

The Attorney General entered into a Consent Judgment with Defendant for violations of the KCPA by receiving payment for services never provided. Defendant engaged in a consumer transaction with Kansas consumers in which Defendant knew or had reason to know that the consumers would receive no material benefit from the subject of the transaction. At the end of 2007, the case was pending in Shawnee County Court.

In the Matter of Certified Auto Warranty Service, Inc.

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA for deceptive consumer solicitations. Defendant sent or caused to be sent solicitations to Kansas consumers that willfully misrepresented that Defendant had unique records regarding said consumers, when, in fact, Defendant did not have any records specific to the consumers' vehicle warranty status. Defendant was ordered to pay the State \$5000 in civil and investigative penalties and fees.

State of Kansas ex rel., v. Joe's Unlimited Auto

The Attorney General entered into a Consent Judgment with Defendant for violations of the KCPA by limiting the implied warranty of merchantability on a vehicle sold to a Kansas consumer. Defendant entered into a consumer transaction with a Kansas consumer for the sale of a vehicle, yet the consumer was unable to receive a material benefit from the transaction, because she was unable to lawfully license and/or register the vehicle. The company agreed to pay the consumer \$1500 in restitution and \$3500 to the State in civil and investigative fees.

In the Matter of Speedway Motors, Inc.

The Attorney General entered into an Assurance of Voluntary Compliance with the company for violations of the KCPA by limiting the implied warranty of merchantability on a vehicle sold to a Kansas consumer. Defendant agreed to pay a total of \$750.00 to the State to constitute recovery of reasonable expenses and investigation fees.

State of Kansas ex rel., v. Joanna Unruh, individually & Chet Unruh, individually, d/b/a C & J Enterprises

The Attorney General filed a lawsuit December 7, 2007 alleging violations of the KCPA. The nature of Defendant's business include, but is not limited to the solicitation and sale of

advertising space on placemats that are to be placed in restaurants and other similar businesses. Defendants engage in "door-to-door" sales to verbally solicit sales and then give consumers a document that is to be taken as a receipt and memorialization of the agreement. Defendants failed to provide consumers with fully completed copies of contracts pertaining to sale and notice of their rights to cancel the transaction. The suit was pending at the end of 2007.

ANTITRUST ENFORCEMENT ACTIONS

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

On September 27, 2001, Kansas joined Florida and Colorado in filing a complaint against Abbott Laboratories, Geneva Pharmaceuticals, Inc and IVAX Pharmaceuticals. The case involves the drug Hytrin, a brand-name drug manufactured by Abbott that is prescribed for the treatment of hypertension and benign prostatic hyperplasia ("BPH"). The complaint alleges that certain conduct by these companies prevented generic versions of Hytrin from coming to the market and that this conduct violates the antitrust laws of the United States and Kansas. A settlement was reached with IVAX Pharmaceuticals in 2004. The case involving Abbot Laboratories, Inc. and Geneva Pharmaceuticals, Inc. was settled in 2005 for \$30.7 million and benefited consumers nationwide. Recovery for public entities was received in 2007. These proceeds have not yet been distributed.

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

On August 8, 2000, the Attorney General, along with 41 other states and three territories, filed suit in the United States District Court for the Southern District of New York against the nation's largest distributors of recorded music, affiliated labels and various retailers for price fixing. Also named were retail giants Musicland, which operates more than 1,300 retail outlets under the Musicland and Sam Goody trade names, Trans World, which operates more than 900 stores under the names Camelot, FYE, Music & Movies, Planet Music, Record Town, Saturday Matinee, Spec's Music, Strawberries and the Wall, and MTS Inc. (doing business as Tower Records.) The complaint further targets unnamed co-conspirators "both known and unknown" and call for the awarding of triple damages to consumers and the assessment of civil penalties against the companies. The complaint alleges that in the early 1990's, recorded music outlets such as Best Buy, Circuit City and Target began to offer stiff competition to mall-based music stores. The Defendants are accused of engaging in an unlawful scheme designed primarily to stop retail outlets from offering music at deep discounts. The parties have agreed to a settlement which included a cash payment of \$13.86 to consumers who made a timely claim, and a contribution of music CD's to the States. Kansas share of the CDs was distributed to its public libraries in 2005. Residual cy pres monies were received in 2007 and are expected to be distributed pursuant to the cy pres plan in 2008.

State of Kansas ex rel. v. Microsoft

On May 18, 1998, the Attorney General, along with 18 other states and the Department of Justice, filed an antitrust action against Microsoft Corporation in the United States District Court for the District of Columbia. The suit alleged that Microsoft's conduct violated state and federal antitrust laws. In November 1999, the court found that Microsoft had violated the state and federal antitrust laws and caused consumer harm by, *inter alia*, engaging in a series of actions designed to protect its monopoly power. The Court issued an order in June 2000 which included remedies involving the reorganization of the structure of Microsoft. Microsoft appealed to the United States Court of Appeals for the District of Columbia which affirmed the Findings of Fact that Microsoft's conduct violated the law, but reversed and remanded the case for further proceedings and consideration of the remedy to be imposed for the illegal conduct. In November 2000, nine states and the Department of Justice entered into a settlement of the case which must be approved by the Court. The State of Kansas and the other non-settling states continued to litigate and submitted a separate remedy proposal. Although there was significant industry opposition to the DOJ settlement, the court approved the settlement while at the same time granting judgment to the litigating states for some, but not all, of the additional relief suggested by the litigating states. Court oversight of the final judgment has been extended to 2009. Kansas and the other states continue to work with Microsoft to insure compliance with the settlement and judgment.

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

The States contend that the Defendants fraudulently manipulated the patent process for its drug Remeron, as a means by which to prevent generic versions of the drug from coming to the marketplace. A \$36 million settlement was reached in the case. Due to unexpected delays, proceeds from the settlement were not received until March 2007. These proceeds have not yet been distributed.

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

The States contend that Warner Chilcott and Barr entered into an anticompetitive agreement. Warner Chilcott is a pharmaceutical company that develops, manufactures, and markets proprietary women's healthcare products. Barr is a pharmaceutical company that markets both proprietary and generic prescription pharmaceutical products. The affected drug in this matter is Ovcon, a women's oral contraceptive product. A \$5.5 million global settlement was reached with Warner Chilcott late in 2007. Litigation continues against Barr Pharmaceuticals.