

# KANSAS

CONSUMER PROTECTION  
DIVISION

The seal of the Office of Attorney General of Kansas is a circular emblem. It features a central figure of a woman in a long, flowing dress, holding a scale of justice in her left hand and a sword in her right. Above her head is a sunburst. The words "OFFICE OF ATTORNEY GENERAL" are inscribed around the top inner edge of the circle, and "STATE OF KANSAS" is inscribed around the bottom inner edge. A five-pointed star is positioned on the right side of the circle. A decorative, wavy line in shades of blue and yellow curves across the background of the cover, passing behind the seal.

FISCAL YEAR 2009  
ANNUAL REPORT

Published by the  
Office of Attorney General  
Steve Six

120 SW 10th, 2nd Floor  
Topeka, KS 66612



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

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ATTORNEY GENERAL

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Members of the Legislature:

I am pleased to provide the Consumer Protection Division annual report for Fiscal Year 2009. Between July 1, 2008 and June 30, 2009, the Consumer Protection Division received 8,012 requests for investigation, and were able to resolve or refer 8,310 requests. A total of \$8.1 million in savings, restitution, penalties and judgments were received for Kansans.

I recognize that fighting consumer fraud requires aggressive education in addition to proactive enforcement of the consumer protection laws. Through the proceeds of our enforcement efforts, I added a staff position for education and outreach to increase the critical task of educating consumers across our state about how to avoid scams and frauds.

In honor of National Consumer Protection Week 2009, hundreds of high school students across the state attended our first Knowledge is Power high school workshops held at the University of Kansas and Kansas State University during March. Consumer protection professionals attended a workshop at the Topeka Public Library and Consumer Protection Division employees helped consumers across Kansas shred more than 15 tons of personal documents to deter identity theft and to protect privacy.

In addition to the events from National Consumer Protection Week, our Outreach and Education team spoke with Kansans at events throughout the state about topics ranging from the details of the Kansas Consumer Protection Act, Identity Theft, Common Scams and Frauds to Avoid, and prevention of fraud in disaster areas.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Six".

Steve Six  
Kansas Attorney General

## **Fiscal Year 2009 (July 1, 2008 through June 30, 2009)**

<b>Number of Investigative Requests Received:</b>	<b>8,012</b>
<b>Number of Investigative Requests Closed:</b>	<b>8,310</b>
<b>Consumer Savings (without litigation):</b>	<b>\$1,343,832.04</b>
<b>Judgments Awarded (litigation):</b>	
Restitution	\$1,105,607.10
Penalties/Fees	\$3,496,200.00
Multi-State	\$2,151,844.30

**Total savings, judgments and restitution: \$8,097,483.44**

### **Number of Investigative Requests Received by Category:**

<b>Account Access Ruse</b>	<b>178</b>
<b>Advanced Fee Letters</b>	<b>14</b>
<b>Advertising</b>	<b>260</b>
<b>Antitrust (Merger &amp; Acquisition)</b>	<b>1</b>
<b>Antitrust (Monopolization)</b>	<b>1</b>
<b>Antitrust (Price Fixing)</b>	<b>2</b>
<b>Appliances</b>	<b>57</b>
<b>Assistive Device (Lemon Law)</b>	<b>1</b>
<b>Auto (Leasing)</b>	<b>2</b>
<b>Auto (Lemon Law)</b>	<b>20</b>
<b>Auto (Motor Homes, RV's &amp; Campers)</b>	<b>4</b>
<b>Auto (New Vehicles)</b>	<b>50</b>
<b>Auto (Repair &amp; Service)</b>	<b>176</b>

<b>Auto (Title Issues)</b>	<b>30</b>
<b>Auto (Used Vehicles)</b>	<b>171</b>
<b>Auto (Warranty Problems)</b>	<b>165</b>
<b>Boats, Boating Equipment &amp; Repairs</b>	<b>6</b>
<b>Book, Record &amp; Tape Clubs</b>	<b>8</b>
<b>Business Opportunity Services</b>	<b>101</b>
<b>Cable Television</b>	<b>48</b>
<b>Cemeteries</b>	<b>7</b>
<b>Cemetery Corporations</b>	<b>1</b>
<b>Charitable Organizations</b>	<b>31</b>
<b>Clothing</b>	<b>7</b>
<b>Collectibles &amp; Antiques</b>	<b>2</b>
<b>Collection (Agency)</b>	<b>585</b>
<b>Collection (Attorney)</b>	<b>37</b>
<b>Collection (Principle Creditor)</b>	<b>89</b>
<b>Computers</b>	<b>71</b>
<b>Computer (Internet Sales)</b>	<b>222</b>
<b>Computer (Online Services)</b>	<b>64</b>
<b>Contests (Mail)</b>	<b>28</b>
<b>Credit</b>	<b>489</b>
<b>Credit Reporting Agencies</b>	<b>54</b>
<b>Discount Buying Clubs</b>	<b>13</b>
<b>Door-To-Door Sales</b>	<b>51</b>

<b>Education</b>	<b>29</b>
<b>Employment Services</b>	<b>6</b>
<b>Energy Saving Devices</b>	<b>2</b>
<b>Failure to Furnish Merchandise (Other Than Mail)</b>	<b>1</b>
<b>Farm Implements &amp; Equipment</b>	<b>15</b>
<b>Faxes (Unsolicited)</b>	<b>22</b>
<b>Fire, Heat &amp; Smoke Alarms</b>	<b>1</b>
<b>Floor Coverings</b>	<b>8</b>
<b>Food Products</b>	<b>6</b>
<b>Funeral Homes</b>	<b>11</b>
<b>Funeral Plans</b>	<b>1</b>
<b>Furniture</b>	<b>30</b>
<b>Gasoline (Content)</b>	<b>6</b>
<b>Gasoline (Pricing)</b>	<b>50</b>
<b>Health (Services – Doctor, Dentist, Hospitals, etc)</b>	<b>98</b>
<b>Health Spas &amp; Weight Salons</b>	<b>22</b>
<b>Hearing Aids</b>	<b>11</b>
<b>Heating &amp; Air Conditioning</b>	<b>27</b>
<b>Home Construction</b>	<b>44</b>
<b>Home Improvement (Electrical)</b>	<b>5</b>
<b>Home Improvement (General Complaint)</b>	<b>122</b>
<b>Home Improvement (House Painting)</b>	<b>6</b>
<b>Home Improvement (Plumbing)</b>	<b>11</b>

<b>Home Improvement (Roofing)</b>	<b>63</b>
<b>Home Improvement (Siding)</b>	<b>10</b>
<b>Home Improvement (Windows &amp; Doors)</b>	<b>23</b>
<b>Identity Theft</b>	<b>71</b>
<b>Invoice &amp; Billing Scams</b>	<b>18</b>
<b>Jewelry</b>	<b>8</b>
<b>Junk Mail</b>	<b>43</b>
<b>Loan Finders</b>	<b>22</b>
<b>Lottery &amp; Sweepstakes</b>	<b>132</b>
<b>Magazine Subscriptions (Sales)</b>	<b>80</b>
<b>Magazine Subscriptions (Service)</b>	<b>9</b>
<b>Mail Order (Defective Merchandise)</b>	<b>4</b>
<b>Mail Order (Deceptive Practices)</b>	<b>39</b>
<b>Mail Order (Failure to Deliver)</b>	<b>20</b>
<b>Mail Order (Refusal to Make Refunds)</b>	<b>20</b>
<b>Mail Order (Unordered Merchandise)</b>	<b>32</b>
<b>Medical Discount Cards</b>	<b>32</b>
<b>Medical Equipment</b>	<b>12</b>
<b>Miscellaneous</b>	<b>824</b>
<b>Mobile Homes &amp; Manufactured Homes</b>	<b>16</b>
<b>Mobile Home Parks</b>	<b>1</b>
<b>Mortgages</b>	<b>250</b>
<b>Mortgage (Escrow Problems)</b>	<b>2</b>

<b>Motorcycles &amp; Bicycles</b>	<b>56</b>
<b>Moving &amp; Storage</b>	<b>19</b>
<b>Multi-level Marketing &amp; Pyramid</b>	<b>13</b>
<b>Musical Instruments &amp; Lessons</b>	<b>2</b>
<b>Negative Selection</b>	<b>25</b>
<b>Nigerian Letters</b>	<b>42</b>
<b>No-Call</b>	<b>374</b>
<b>Nurseries, Lawn, Gardening and Landscape</b>	<b>28</b>
<b>Nursing Homes</b>	<b>7</b>
<b>Office Equipment &amp; Supplies</b>	<b>1</b>
<b>Overpayment Scam</b>	<b>15</b>
<b>Pest Control</b>	<b>12</b>
<b>Pets &amp; Animals</b>	<b>28</b>
<b>Photo Equipment &amp; Services</b>	<b>5</b>
<b>Photo Studios &amp; Companies</b>	<b>4</b>
<b>Privacy Issues</b>	<b>1</b>
<b>Real Estate (Houses)</b>	<b>18</b>
<b>Real Estate (Other Than Houses)</b>	<b>4</b>
<b>Rebates</b>	<b>38</b>
<b>Recovery Companies</b>	<b>1</b>
<b>Satellite Dishes</b>	<b>91</b>
<b>Securities &amp; Investments</b>	<b>25</b>
<b>Security Systems</b>	<b>45</b>

<b>Services (General)</b>	<b>837</b>
<b>Services (Professional)</b>	<b>39</b>
<b>Sporting Goods</b>	<b>17</b>
<b>Steel Buildings</b>	<b>5</b>
<b>Stereo Equipment</b>	<b>2</b>
<b>Telephone (800#, 900# &amp; International Calls)</b>	<b>2</b>
<b>Telephone (Cell &amp; Pager Services)</b>	<b>177</b>
<b>Telephone (Cramming)</b>	<b>117</b>
<b>Telephone (Prepaid Phone Cards)</b>	<b>7</b>
<b>Telephone (Service &amp; Long Distance)</b>	<b>128</b>
<b>Telephone (Slamming)</b>	<b>30</b>
<b>Telephone (Solicitations - Business Advertising)</b>	<b>1</b>
<b>Telephone (Solicitations - General)</b>	<b>106</b>
<b>Telephone (Solicitations - Office Supplies)</b>	<b>6</b>
<b>Telephone (Solicitations - Magazines)</b>	<b>14</b>
<b>Televisions &amp; VCR's</b>	<b>19</b>
<b>Timeshares (Sales)</b>	<b>31</b>
<b>Tobacco Sales</b>	<b>1</b>
<b>Toys</b>	<b>6</b>
<b>Travel</b>	<b>138</b>
<b>Unauthorized Practice of Law</b>	<b>15</b>
<b>Unsolicited E-mail (Spam)</b>	<b>35</b>
<b>Warranty Problems (Other Than Auto)</b>	<b>81</b>

<b>Water Softeners, Conditioners, Purifiers, etc.</b>	<b>15</b>
<b>Work-At-Home Schemes</b>	<b>18</b>
<b>TOTAL</b>	<b>8,012</b>

## **Largest Cases Highlighted:**

### **Countrywide Financial Corporation:**

The State of Kansas entered into an Assurance of Voluntary Compliance with Countrywide Financial Corporation on November 26, 2008 after the investigation of Countrywide concerning allegations of predatory lending. The AVC provided a cash settlement for consumers of \$776,000.00 and an indirect savings for consumers of 16,100,000.00 in loan modifications. The State of Kansas received \$250,000.00 in fees.

### **Vacation International Professional Services, LLC (Elite Escapes):**

In July of 2008, the State of Kansas conducted an undercover investigation on Vacation International Professional Services, LLC (Elite Escapes) concerning allegations of Elite Escapes making misrepresentations to consumers during the sell of travel club packages. The State of Kansas received and executed a Temporary Restraining Order against Elite Escapes and received a Default Judgment on November 12, 2008. The judgment provided \$32,396.00 in consumer restitution and \$1,937,200.00 in penalties and fees to the State of Kansas. This action effectively shut down the operations of Vacation International Professional Services, LLC (Elite Escapes) in Kansas.

### **Eli Lilly:**

On October 8, 2008, the State of Kansas entered into a settlement agreement with Eli Lilly related to the improper marketing and off-label promotion of the antipsychotic drug Zyprexa. The settlement marked the largest multistate consumer protection pharmaceutical settlement. Eli Lilly agreed to pay the participating states \$62 million, of which Kansas received \$1.8 million. Eli Lilly further agreed to change the way it markets Zyprexa to eliminate the off-label promotion of the drug for uses that are not approved by the U.S. Food and Drug Administration. The agreement provided that the settlement money must be utilized to increase and promote consumer protection laws and education.

### **Pfizer, Inc:**

On October 22, 2008, the State of Kansas entered into a settlement agreement with Pfizer, Inc. related to the improper marketing and off-label promotion of the Cox-2 drugs Celebrex and Bextra. The multistate consumer protection investigation focused on representations made by Pfizer indicating these drugs were safer and more effective than traditional non-steroidal anti-inflammatory drugs (NSAIDs), such as ibuprofen and naproxen. Pfizer agreed to pay the participating states \$60 million, of which Kansas received \$740,000.00. Pfizer further agreed to extensive injunctive terms relating to the promotion and marketing of these drugs. The agreement provided that the settlement money must be utilized to increase and promote consumer protection laws and education.

### **FY 2009 Case Summary**

State v. Midwest Lending.Net, LLC

9-28-2008

Assurance of Voluntary Compliance

The Attorney General obtained an assurance of voluntary compliance from MidwestLending.Net, LLC, for engaging deceptive lending practices in connection with a transaction with one consumer. MidwestLending.Net, LLC, agreed to refund the consumer \$1,300.00 through an assurance of voluntary compliance with our office.

State v. Outdoors Unlimited Lawn and Landscape, *et al.*

10-16-2008

Jefferson County 08 CV 110

The Attorney General's Office sued Outdoors Unlimited Lawn and Landscape, Jeremy Pickens and Nicole Pickens for using unconscionable contracts for their lawn and landscaping services as well as accepting payment for work that was never completed. One family was refunded \$2,500.00 as part of a total judgment of \$5,000.00.

State v. Straub International, Inc.

10-31-2008

Assurance of Voluntary Compliance

The Attorney General's Office entered into an assurance of voluntary compliance with Straub International, Inc. after Straub used form contracts that improperly waived implied warranties in violation of Kansas law. Straub agreed to change all contract immediately, honor all implied warranties and pay the Office of the Attorney General \$1,900.00.

State v. Countrywide Financial Corporation

11-26-2008

#### Assurance of Voluntary Compliance

The Attorney General's Office entered into an assurance of voluntary compliance with Countrywide Financial Corporation to address the ongoing foreclosure crisis in Kansas. As a result, Countrywide, now owned by Bank of America, agreed to provide modifications of home loans in Kansas through a variety of programs and methods, referred to as the National Home Retention Program (NHRP). This settlement will continue to provide savings to Kansans until the end of 2012. Through the end of FY 2009 the NHRP provided Kansans \$3,839,122.00 in savings and \$281,580.00 in cash payouts. Through the end of FY 2010 the NHRP has provided \$15,847,914.00 in savings to Kansas consumers.

#### Cashback America, Inc. *et al.*

Shawnee County, 08C1482

1-06-09

The Attorney General obtained a Default Judgment against the Defendants for violations of the KCPA related to the solicitation and administration of a rebate voucher program in conjunction with the purchase of certain household items. The State of Kansas was awarded \$4,929,000.00 in civil penalties and fees, and \$21,000.00 in consumer restitution, in addition to injunctive measures regarding business practices.

#### Dell, Inc. and Dell Financial Services, LLC

1-12-09

The Attorney General entered into a multi-state Assurance of Voluntary Compliance with the Defendants for violations of the KCPA related to the financing of consumer transactions and the fulfillment of service agreements. The Defendants agreed to pay \$25,000.00 to the State of Kansas for fees, consumer restitution and the enforcement fund, in addition to injunctive measures regarding business practices.

#### State v. Fairway Auto Sales

1-9-2009

Sedgwick County 08 CV 3808

The Attorney General's Office entered into a consent judgment with Fairway Auto Sales for deceptive acts and practices in connection with a vehicle sale. Fairway improperly waived implied warranties and refused to pay for necessary repairs to a vehicle sold to a Kansas consumer. The consent judgment required that Fairway pay for all repairs to the vehicle in the amount of \$937.85.

#### State v. Vintage Stoves, Inc. *et al.*

1-23-2009

The Attorney General's Office obtained a default judgment against Vintage Stoves, Inc. and Steven Radakovich for deceptive and unconscionable practices related to the sale and rehabilitation of antique and custom made

stoves. After a lengthy search, the defendant was served with a lawsuit. Default judgment was obtained against Vintage Stoves and Mr. Radakovich in the amount of \$670,384.51 which includes \$470,000.00 in civil penalties, \$192,884.51 in restitution and \$7,500.00 in investigative fees.

State v. Jonson Huang, Inc.

Sedgwick County 09 C 77

1-21-2009

The Attorney General's Office filed a quo warranto petition to revoke the articles of incorporation for Jonson Huang, Inc. The real Jonson Huang is a doctor in Topeka, Kansas. He was the victim of identity theft in late 2008. As a result of an investigation, the Attorney General's office was able to provide some help to this victim by revoking the articles of incorporation filed by the identity thief.

State v. Dream Vacations

Shawnee County 09 C 107

1-26-2009

The Attorney General's Office entered into a consent judgment with Dream Vacations for engaging in deceptive and unconscionable sales practices with one elderly consumer in Kansas. Dream Vacations agreed to not contest a \$880.00 credit card chargeback the consumer obtained, never again do business in Kansas and pay \$1,100.00.

State v. AIO Acquisitions, d/b/a Personnel Concepts

Assurance of Voluntary Compliance

The Attorney General's Office entered into an assurance of voluntary compliance for activities conducted by Personnel Concepts in connection with the sale of posters to sole-proprietors and family partnerships. In connection with the sale of these products, the defendants did not provide statutory disclosures while using solicitations that look like bills. The defendant agreed to refund any consumer who made such a request and paid \$25,000.00 in penalties and fees.

Direct Advertising Consultants, Inc.

2-23-09

The Defendant agreed to pay \$2,000.00 in civil penalties and investigative fees, and \$20.00 in consumer restitution, in addition to injunctive measures regarding business practices.

State v. Dreamscapes Landscape and Irrigation, Inc. and Paul B. Gardner II

Douglas County, 08CV807

3-16-09

The Attorney General obtained a Default Judgment against the Defendants for violations of the KCPA related to the solicitation and performance of landscape and irrigation services. The State of Kansas was awarded

\$214,200.00 in civil penalties and fees, and \$30,122.00 in consumer restitution, in addition to injunctive measures regarding business practices.

State v. Chris Tucker d/b/a Tucker's Furniture  
Sedgwick County, 09CV1268  
4-2-09

The Attorney General filed suit against the Defendant for violations of the KCPA related to the sale of furniture and consumer financing. The case was dismissed without prejudice, as the State of Kansas was unable to obtain service on the Defendant.

State v. Twisted Liquid Racing, LLC, *et al.*  
Butler County 2008 CV 414  
4-14-2009

The Attorney General Obtained a default judgment against Twisted Liquid Racing, LLC and its owner James Barringer for deceptive and unconscionable practices related to the sale and modification of radio controlled miniature and model boats. Defendant had taken several boats and failed to modify or had accepted payment for boat purchases and never provided the merchandise for consumers. The Attorney General obtained a default judgment of \$417,447.00 which included \$5,697.00 in restitution, \$410,000.00 in civil penalties and \$1,750.00 in fees as well as a permanent injunction.

State v. Aaron & Gold  
Shawnee County  
5-6-2009

The Attorney General obtained a default judgment against Aaron & Gold, a California company engaged in debt settlement and the unauthorized practice of law without a license. The company accepted payment to negotiate debts that were the subject of litigation. No one from the company was a lawyer licensed to practice law in Kansas or any other state. The Attorney General obtained a judgment of \$43,700.00.

State v. Fenton Motors of El Dorado, Inc.  
Butler County  
Assurance of Voluntary Compliance  
6-1-2009

The Attorney General's Office filed litigation against Fenton Motors of El Dorado which later led to a settlement via an assurance of voluntary compliance. The lawsuit stemmed from allegations of changing loan paperwork for consumer approval and selling cars that did not work as well as deceptive advertising. Fenton paid a \$14,250.00 which includes \$1,500.00 in civil penalties and \$1,702.00 in restitution.

**OFFICE OF ATTORNEY GENERAL  
STATE OF KANSAS**

**STEVE SIX  
ATTORNEY GENERAL**

**CONSUMER PROTECTION DIVISION STAFF**

**Fiscal Year 2009**

**July 1, 2008 through June 30, 2009**

Angela Wilson	Deputy Attorney General
Emilie Burdette	Assistant Attorney General
Lynette Bakker	Assistant Attorney General
Meghan Barnds	Assistant Attorney General
Charles Rutter	Assistant Attorney General
Lee Urban	Assistant Attorney General
Tai Vokins	Assistant Attorney General
Becky Schwant	Paralegal
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
John Lewis	Special Agent
Samuel Jake Owen	Special Agent
Marcia Shuart	Administrative Assistant
Amber Toy	Administrative Assistant
Carrie Fink	Administrative Assistant