



KANSAS ATTORNEY GENERAL

Derek Schmidt

Consumer Protection Division

Annual Report

January 1 – December 31, 2011

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Message from Kansas Attorney General Derek Schmidt



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

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December 2012

Dear Fellow Kansans:

It is my pleasure to present the 2011 annual report for our Consumer Protection Division as required by K.S.A. 50-628.

The Consumer Protection Division combats fraud and other illegal business practices. As required by law, we work closely with local prosecutors and private litigants, but the bulk of consumer protection work in our state -- more than 6,000 cases per year -- is handled by our office. Consumer protection is one of our critical priorities, and I am proud this year to represent Kansas as co-chair of the Consumer Protection Committee of the National Association of Attorneys General.

Kansas consumers can expect from us fair, consistent and even-handed enforcement of the consumer protection laws. From the telemarketing laws to door-to-door sales, our goal is to enforce the law in a way that provides justice and ensures that the law is followed. In addition to helping consumers, this approach to enforcement is good for the Kansas economy by ensuring regulatory certainty for businesses.

During 2011, our office recovered more than \$10 million for Kansas consumers and taxpayers. That is the second-largest single-year recovery in Kansas history.

Thank you for the privilege of serving.

Best wishes,

A handwritten signature in black ink that reads "Derek".

Derek Schmidt
Kansas Attorney General

2011... By the Numbers

Consumer Savings

\$1,049,572.04 – without litigation

\$466,656.40 – through litigation

\$2,746,404.18 – through Assurance of Voluntary Compliance Agreements

\$4,262,632.62 – Total Consumer Savings

Penalties, Fees and Recoveries

\$3,448,371.25 – Investigative fees awarded

\$1,369,735.29 – Civil penalties awarded

\$23,000.00 – No-call penalties awarded

\$820,602.00 – Assurance of Voluntary Compliance Agreement fees awarded

\$386,505.71 – Antitrust recoveries

\$48,355.48 – False claims recoveries

\$6,096,569.73 – Total Penalties, Fees and Recoveries

**Total Savings and Recoveries:
\$10,359,202.35**

Investigative Requests

6,703 Investigative Requests Received

Top Categories

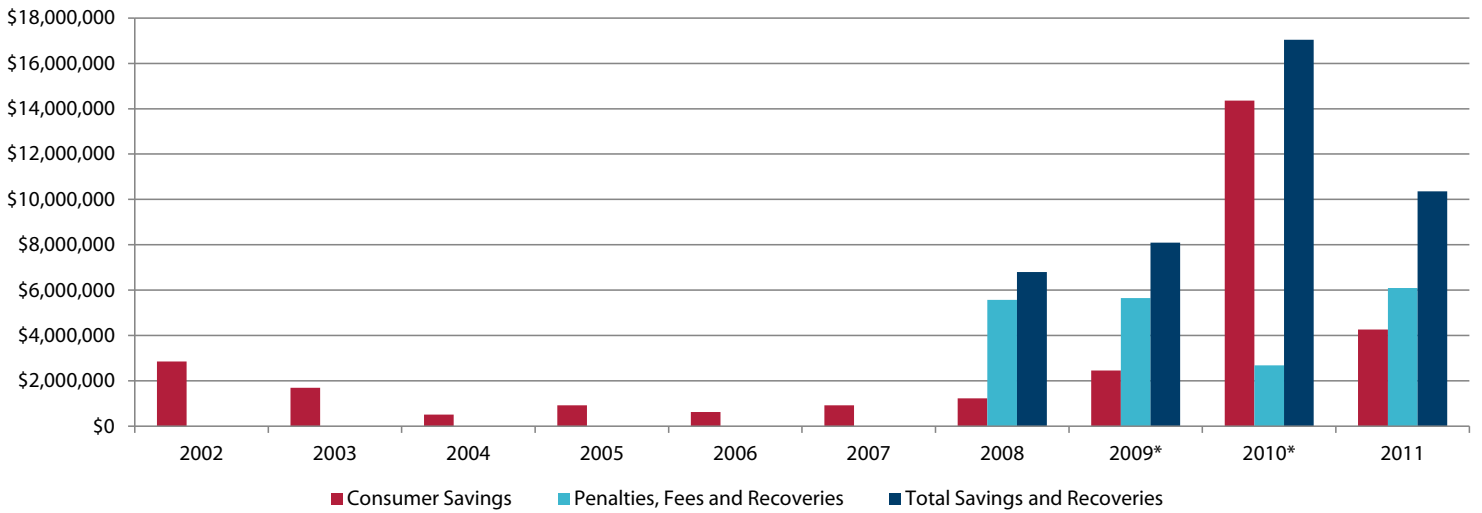
1. Collection Agencies
2. Miscellaneous
3. No-Call
4. General Services
5. Credit
6. Cellular Phones and Pager Services
7. Used Car Sales Practices
8. Account Access Ruse
9. Auto Repair and Service Problems
10. Mortgages

6,041 Investigative Requests Closed

Top Categories

1. General Services
2. Miscellaneous
3. Collection Agencies
4. No-Call
5. Credit
6. Used Car Sales Practices
7. Cellular Phones and Pager Services
8. Account Access Ruse
9. Mortgages
10. Auto Repair and Service Problems

Recovery Trends

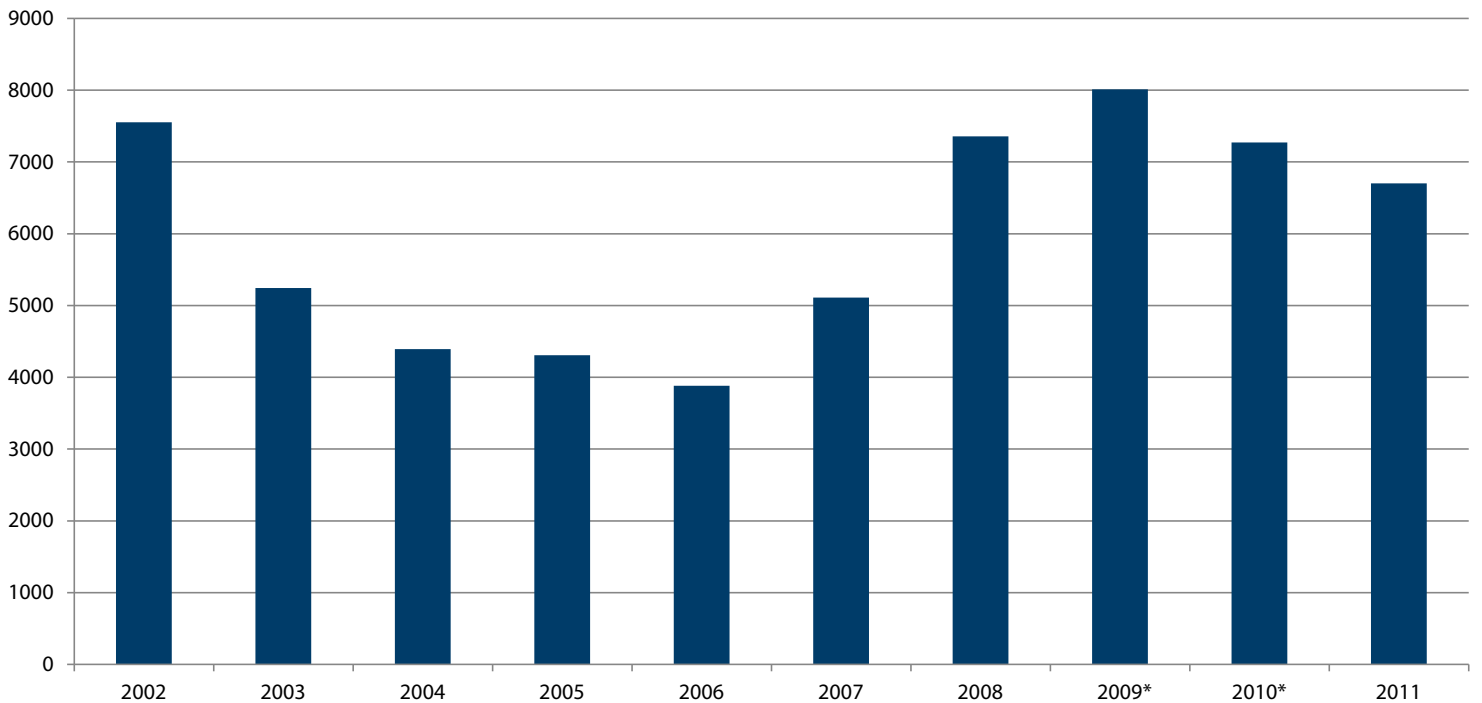


Consumer Savings includes savings without litigation, restitution ordered and savings through assurances of voluntary compliance.

Data for penalties and fees was not reported separately prior to 2008.

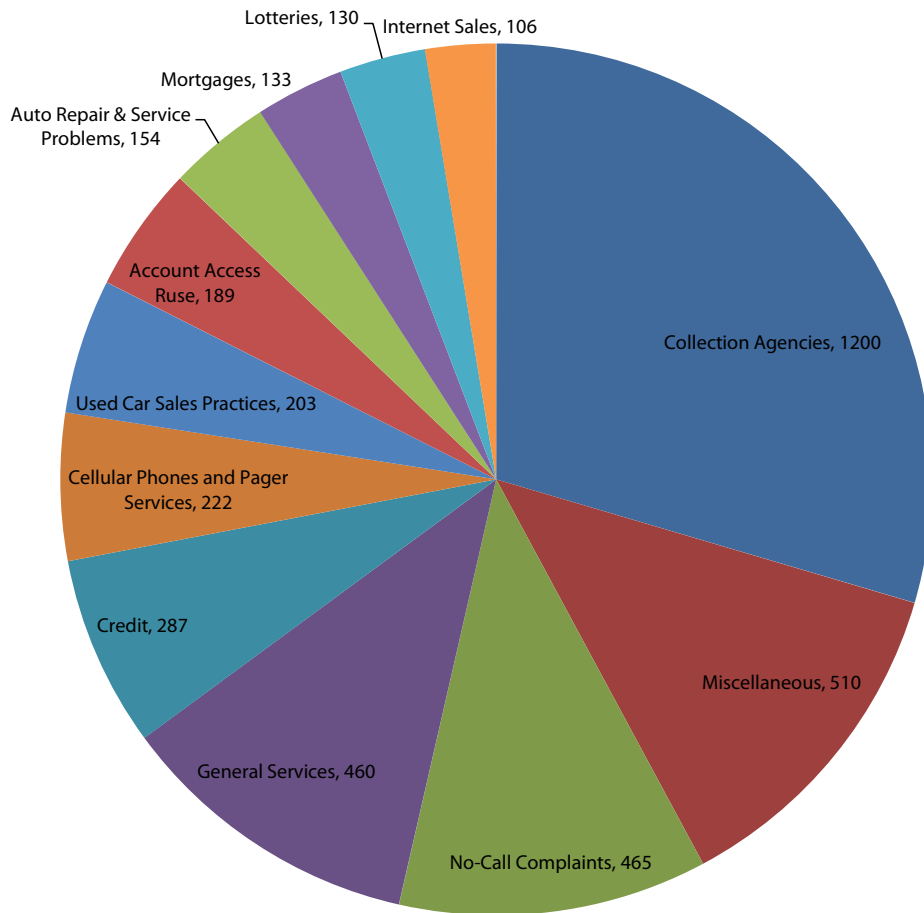
*2009 and 2010 data were reported based on Fiscal Years.

Investigative Requests Received: Trends

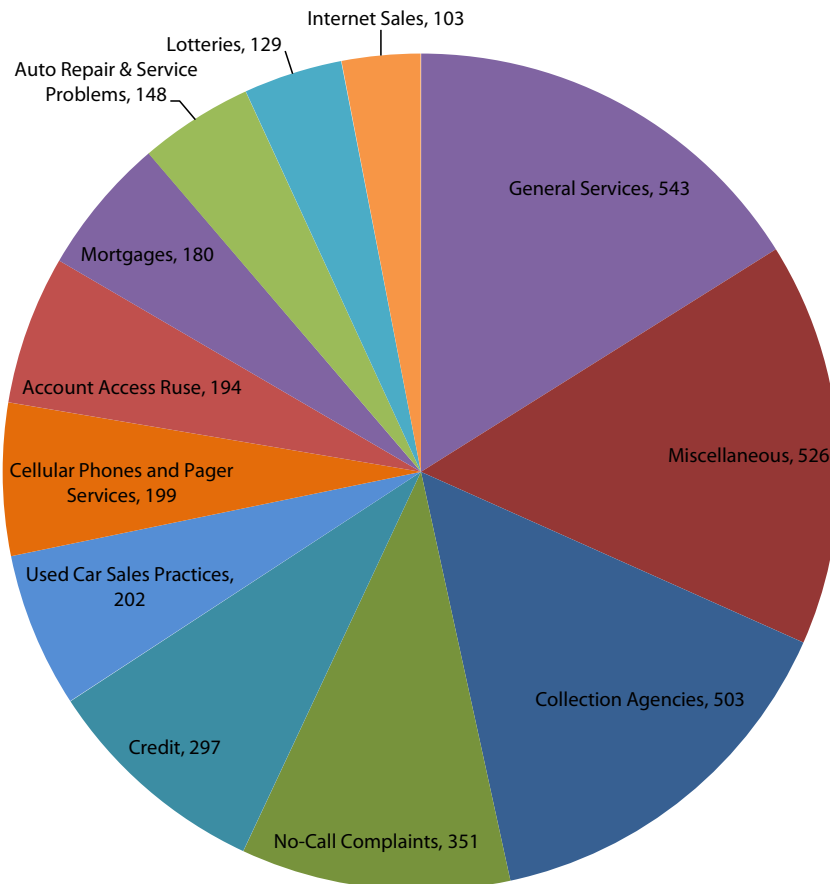


*2009 and 2010 data were reported based on Fiscal Years.

Investigative Requests Received (Total: 6,703)



Investigative Requests Closed (Total: 6,041)



Consumer Education and Outreach

While our office takes pride in helping consumers who fall victim to scams and other violations of the Kansas Consumer Protection Act, we also make strong efforts to prevent consumers from becoming victims in the first place.

In accordance with K.S.A. 50-629, the Attorney General's Office conducts outreach and educational programs for consumers at events throughout the state. In 2011, the office hosted or participated in 60 events that provided information to consumers on how to avoid becoming the victim of scams, identity theft and other consumer-protection topics.

In addition, 2011 marked the launch of a new website for the office, which incorporated a large number of articles, tips and all of our consumer publications. Attorney General Schmidt also submits a monthly consumer protection column to newspapers across the state, keeping consumers informed on how to protect themselves from the latest scams and other timely consumer issues.



The Attorney General's Office launched a new consumer-friendly website in December 2011.

Litigation Summary

State v. Bid's N More Inc. and Roger L. Porter Jr.

Shawnee County, 09-C-1661

Filed October 21, 2009

Consent Judgment obtained January 18, 2011

The Attorney General entered into a consent judgment with the Defendants for violations of the KCPA related to the sale of used automotive vehicles in the state of Kansas. **The Defendants agreed to pay \$8,000.00 in civil penalties, \$7,500.00 in investigative fees, and \$2,500.00 in consumer restitution, and to abide by certain injunctive measures regarding business practices.**

State v. Team One Promotions LLC

Shawnee County, 09-C-949

Filed June 17, 2009

Consent Judgment obtained January 24, 2011

The Attorney General entered into a consent judgment with the Defendant for violations of the KCPA related to door-to-door sales of vacuum cleaners. **The Defendant agreed to pay \$7,500.00 in civil penalties and \$12,500.00 in investigative fees, and to abide by certain injunctive measures regarding business practices.**

State v. Charles H. Moore DBA 4-Auto Parts.com and 4 Auto Parts LLC

Johnson County, 09-CV-10695

Filed November 25, 2009

Consent Judgment obtained February 22, 2011

The Attorney General entered into a consent judgment with the Defendants for violations of the KCPA related to the Internet sale of used automotive parts. **The Attorney General agreed to suspend \$12,500.00 in consumer restitution and investigative fees provided Defendants comply with all terms of the consent judgment, including certain injunctive measures regarding business practices.**

State v. Orbital Publishing Group, Inc.

Johnson County, 11-C-632

Filed May 25, 2011

Default Judgment obtained July 13, 2011

The Attorney General filed suit against the Defendant for violations of the KCPA related to the offering of magazine subscriptions to Kansas consumers. When the Defendant failed to answer the allegations made in the Attorney General's petition, the Court entered a default judgment against the Defendant. **The Court awarded civil penalties in the amount of \$30,000.00 and investigative fees to the Attorney General in the amount of \$5,000.00.**

State v. Dennis Praire DBA Concrete Dr.

Shawnee, 11-C-1055

Filed September 15, 2011

Dismissed November 28, 2011

The Attorney General filed suit against the Defendant for violations of the KCPA related to door-to-door sales to Kansas consumers. Because the Defendant was unable to be located and successfully served the summons and petition, it was requested that the Court dismiss the allegations against the Defendant without prejudice.

State v. Email Discount Network LLC and Email Discounts LLC and Residential Email LLC

Shawnee County, 10-C-582

Filed April 14, 2010

Consent Judgment obtained May 6, 2011

The Attorney General entered into a consent judgment with the Defendants for violations of the KCPA related to the cramming of unauthorized charges onto Kansas consumers' telephone bills. **The Defendants agreed to pay \$25,000.00 in investigative fees, and to abide by certain injunctive measures regarding business practices.**

State v. Voicemail Direct USA LLC and Intelicom Messaging LLC and Conxtr LLC

Shawnee County, 10-C-581

Filed April 14, 2010

Consent Judgment obtained May 6, 2011

The Attorney General entered into a consent judgment with the Defendants for violations of the KCPA related to the cramming of unauthorized charges onto Kansas consumers' telephone bills. **The Defendants agreed to pay \$25,000.00 in investigative fees, and to abide by certain injunctive measures regarding business practices.**

State v. The Williams Law Center PC and A.I.M. Center LLC

Shawnee County, 11-C-462

Filed April 12, 2011

Default Judgment obtained July 8, 2011

The Attorney General filed suit against the Defendants for violations of the KCPA related to the offering of debt management services to Kansas consumers and violations of the Kansas No Call Act. When the Defendants failed to answer the allegations made in the Attorney General's petition, the Court entered a default judgment against the Defendants. **The Court awarded consumer restitution in the amount of \$1,868.00, civil penalties in the amount of \$100,000.00, and investigative fees to the Attorney General in the amount of \$5,000.00.**

State v. Affiliate Strategies Inc. et al.

U.S. District Court of Kansas, 5:09CV04104-JAR-KGS

Filed July 20, 2009

The Attorney General, along with three other states and the Federal Trade Commission, filed suit against the Defendants for violations of the KCPA, the Telemarketing Sales Rule (“TSR”) and the FTC Act related to the telemarketing of grant writing products and services. Each of the following judgments bars the Defendants from engaging in certain activities and from future violations of the KCPA.

- a. Stipulated Final Order obtained August 18, 2011, as to Defendant Alicia Nossov. **The Court ordered Defendant to pay \$25,378.80 to the State of Kansas, to be allocated toward consumer restitution and investigative fees.**
- b. Stipulated Final Order obtained July 21, 2011, as to Defendant Brett Blackman, Defendant James Rulison, and Defendant Jordan Sevy. **The Court ordered Defendants to pay \$27,247,141.00 in consumer restitution and investigative fees, to be paid jointly and severally, but agreed to suspend payment of the judgment due to the Defendants’ inability to pay.**
- c. Stipulated Final Order obtained July 21, 2011, as to Defendant Justin Ely. **The Court ordered Defendant to pay \$3,407,262.00 in consumer restitution and investigative fees, but agreed to suspend payment of the judgment due to the Defendant’s inability to pay.**
- d. Stipulated Final Order obtained August 12, 2011, as to Defendant Wealth Power Systems, LLC and Defendant Aria Financial Services, LLC. **The Court ordered Defendants to pay \$3,407,262.00 in consumer restitution and investigative fees, to be paid jointly and severally, but agreed to suspend part of the judgment due to the Defendants’ inability to pay. Defendants paid \$53,000.00 to the State of Kansas, to be allocated toward consumer restitution and investigative fees.**
- e. Summary Judgment obtained July 26, 2011, as to Defendants Real Estate Buyers Network, LLC and Martin Nossov. **The Court ordered Defendants to pay \$1,074,621.20 to the State of Kansas in consumer restitution and investigative fees, to be paid jointly and severally.**
- f. Final Order by Court obtained September 26, 2011, as to Defendant Meggie Chapman. **The Court ordered Defendant to pay \$336,590.00 to the State of Kansas, to be allocated toward consumer restitution and investigative fees. Defendant filed a notice of appeal on September 26, 2011.**

State v. East Valley Financial LLC and David Sourwine Jr.

Shawnee County, 10-C-824

Filed July 22, 2010

Consent Judgment obtained November 18, 2011

The Attorney General filed suit against the Defendants for violations of the KCPA related to the offering of debt management services to Kansas consumers and violations of the Kansas No Call Act. **The Defendants agreed to pay \$12,000.00 in investigative fees and \$5,000 in No Call civil penalties, and to abide by certain injunctive measures regarding business practices.**

State v. Law Office of Robert V. Rosenwasser P.A. DBA Friendly Financial Services and Robert V. Rosenwasser

Shawnee County, 11-C-579

Filed May 10, 2011

Default Judgment obtained July 11, 2011

The Attorney General filed suit against the Defendants for violations of the KCPA related to the offering of debt management services to Kansas consumers. When the Defendants failed to answer the allegations made in the Attorney General’s petition, the Court entered a default judgment against the Defendants. **The Court awarded consumer restitution in the amount of \$3,395.00, civil penalties in the amount of \$60,000.00, and investigative fees to the Attorney General in the amount of \$5,000.00.**

State v. Resort Solution Trust Inc.

Shawnee County, 11-C-987

Filed August 26, 2010

Default Judgment obtained October 25, 2011

The Attorney General filed suit against the Defendant for violations of the KCPA related to the telemarketing of timeshare services to Kansas consumers. When the Defendant failed to answer the allegations made in the Attorney General's petition, the Court entered a default judgment against the Defendant. **The Court awarded consumer restitution in the amount of \$2,900.00, civil penalties in the amount of \$40,000.00, and investigative fees to the Attorney General in the amount of \$2,500.00.**

State v. David Gotterup DBA Empire Home Savings

Shawnee County, 11-C-804

File July 8, 2011

Default Judgment obtained September 14, 2011

The Attorney General filed suit against Defendant for violations of the KCPA related to the offering of debt management services to Kansas consumers. When the Defendant failed to answer the allegations made in the Attorney General's petition, the Court entered a default judgment against the Defendant. **The Court awarded consumer restitution in the amount of \$1,200.00, civil penalties in the amount of \$40,000.00, and investigative fees to the Attorney General in the amount of \$5,000.00.**

State v. Vandell Communication LLC and Tony Mitchell

Shawnee County, 11-C-1114

Filed September 23, 2011

The Attorney General filed suit against the Defendants for violations of the Kansas No Call Act. **The case remains pending.**

State v. Quality Road Construction, Gary Haynes, Todd Haynes, Eddie Jones

Cloud County, 2011-CV-41

Filed July 12, 2011

Consent Judgment on Gary Haynes and Quality Road Construction October 4, 2011

Default Judgment on Todd Haynes and Eddie Jones December 1, 2011

Marshall County, 2011-CV-40

Filed July 26, 2011

Consent Judgment through Cloud County on Gary Haynes and Quality Road Construction October 4, 2011

Default Judgment on Todd Haynes and Eddie Jones November 15, 2011

The Attorney General entered into a consent judgment with the Defendants Gary Haynes and Quality Road Construction for violations of the KCPA related to door-to-door sales of paving services. **The Defendant agreed to pay \$19,500.00 in restitution to Cloud County and Marshall County consumers and \$3,000.00 in investigative fees, and to be permanently enjoined from doing business in Kansas.**

The Attorney General received a default judgment against Defendants Todd Haynes and Eddie Jones for violations of the KCPA related to door-to-door sales of paving services in Cloud County. **The State was awarded \$95,000.00 in civil penalties and \$5,810.00 in investigative fees.**

The Attorney General received a default judgment against Defendants Todd Haynes and Eddie Jones for violations of the KCPA related to door-to-door sales of paving services in Marshall County. **The State was awarded \$195,000.00 in civil penalties and \$5,000.00 in investigative fees.**

State v. Brand Investments LLC

Sedgwick County, 10-CV-1398

Consent Judgment filed and obtained May 9, 2011

The Attorney General filed suit against the Defendant in Sedgwick County District Court alleging multiple violations of the Kansas Consumer Protection Act. **The Defendant agreed to pay the Kansas Attorney General's office \$9,500 and to refrain from violating the KCPA and the Kansas Mortgage Business Act.**

State v. U.S. Mitigation Service LLC

Shawnee County, 11-C-1444

Petition Filed December 2, 2011

The Attorney General filed a petition in district court alleging U.S. Mitigation Service violated the Kansas Consumer Protection Act. The office is seeking \$3,395.00 in consumer restitution, \$30,000.00 in civil penalties, costs, and a permanent injunction. **A temporary restraining order barring the company from doing business in Kansas was issued, which remains in effect until such time as the case is decided.**

State v. Michael Maddox DBA Asphalt Paving

Republic County, 11-CV-06

Filed May 5, 2011

The Attorney General filed suit against the Defendant for violations of the KCPA related to door-to-door asphalt paving services in the state of Kansas. The case remains pending.

State v. First Kansas Financial LLC

Shawnee County, 11-C-1154

Consent Judgment filed and obtained October 5, 2011

The Attorney General entered into a consent judgment with First Kansas Financial LLC and Ted Ulan, the managing partner. The defendants engaged in deceptive acts and practices and the unauthorized practice of law regarding mortgage audits of homes in foreclosure. **The consent judgment required the defendants to pay \$4,950 in restitution, \$5,000 in civil penalties and \$5,000 in investigative fees. The defendants are also enjoined from engaging in any consumer transactions in the state of Kansas.**

State v. RBSL Inc.

Shawnee County, 11-C-65

Consent Judgment filed and obtained January 19, 2011

The Attorney General entered into a consent judgment with RBSL, Inc. for violations of the KCPA. Defendant engaged in deceptive and unconscionable practices related to helping a Kansas consumer secure a loan. **RBSL agreed to a consent judgment that required the Defendant to pay \$2,849.00 in restitution and \$5,000.00 in investigative fees.**

State v. Leslie Edwin Snell

Johnson County, 99-C-10402

Motions filed June 3, 2011

The Attorney General filed a civil penalties motion against Defendant for numerous violations of the injunctive provisions of the original court order entered by the Court on May 10, 2000. A motion for prejudgment garnishment was concurrently filed to preserve known assets for recovery purposes. **The garnishment motion was granted, and the civil penalties motion is still pending at this time.**

State v. Freedom Financial Management Inc.

Shawnee County, 10-C-866

Filed June 17, 2010

Consent Judgment obtained July 1, 2010

Case reopened June 1, 2011

The Attorney General entered into a consent judgment with the Defendants for violations of the KCPA related to debt management, debt settlement and consumer credit repair services. **The Defendants agreed to pay the Office of Attorney General \$50,000.00, consumer restitution \$176,103.35, and be permanently enjoined from doing business in Kansas. This file was re-opened by Assistant Attorney General, Bob Hiatt on June 1, 2011. The file remains open.**

State v. Pinnacle Security Inc.

Shawnee County, 11-C-707

Filed June 15, 2011

Consent Judgment obtained June 20, 2011

The Attorney General entered into a consent judgment with the Defendants for violations of the KCPA related to home security service in the state of Kansas. **The Defendants agreed to pay the Office of Attorney General \$25,000.00 investigative fees and \$3,798.65 in consumer restitution. The Defendants agreed to release consumers from their current contract totaling \$14,688.23. Defendants also agreed to abide by certain injunctive measures regarding business practices.** The file was closed on July 7, 2011.

Multi-State: Astrazeneca Pharmaceuticals LP and Astrazeneca LP

Shawnee County, 11-C-311

Filed March 10, 2011

Consent Judgment obtained March 10, 2011

The Attorney General entered into a consent judgement with Defendants, as part of a multi-state action, concerning the sale of pharmaceuticals. The judgment addresses promotional activities, dissemination/exchange of medical information, grants, payments to consultants/speakers, and clinical research results. **The Court ordered Defendants to pay \$1,639,302.00 to the Attorney General.**

Multi-State: Glaxosmithkline LLC, and SB Pharmco, Puerto Rico, Inc.

Shawnee County, 11-C-746

Filed 06-28-11

Consent Judgment obtained June 28, 2011

The Attorney General entered into a consent judgment with the Defendants, as part of a multi-state action, concerning the sale of pharmaceutical products. The judgment addresses false, misleading or deceptive representations related to the products. **The Court ordered Defendant to pay \$701,858.00 to the Attorney General.**

Antitrust Enforcement Actions

Multi-State: In re Vitamins Antitrust Litigation

District of Columbia, 1:09-CV-02112-TFH

The Attorney General, with 20 other states, the District of Columbia, Puerto Rico, and a group of private plaintiffs, reached a \$25.03 million multi-state and class action settlement in October 2009 with Akzo Nobel Inc.; Bioproducts Incorporated, Mitsui & Co., Ltd. and Mitsui & Co. (U.S.A.), Inc.; Chinook Global Limited (f/k/a Chinook Group Ltd.) and Chinook Group, Inc.; Evonik Degussa GmbH, successor to Degussa AG f/k/a Degussa-Hüls AG, and Evonik Degussa Corporation f/k/a Degussa Corporation and f/k/a Degussa-Hüls Corporation; Lonza AG; Merck KGaA, E. Merck OHG and EM Industries, Inc. (n/k/a EMD Chemicals Inc.); Nepera, Inc.; Sumitomo Chemical America, Inc. and Sumitomo Chemical Co., Ltd.; Mitsubishi Tanabe Pharma Corporation (f/k/a Tanabe Seiyaku Company Ltd.) and Tanabe U.S.A., Inc.; UCB Pharma, Inc.; and Vertellus Specialties Inc. (f/k/a Reilly Industries, Inc.) and Vertellus Chemicals SA (f/k/a Reilly Chemicals SA). This settlement follows a large indirect purchaser settlement reached in 2000. It resolved remaining allegations of price fixing of bulk vitamins and vitamin products by participants in the alleged conspiracy. A final approval hearing was held June 18, 2010. A supplemental third party objection was filed the same day. The judge granted final approval of the settlement, but the Attorney General, the objector, appealed the ruling. The appeal was eventually dismissed on September 2, 2010. Shortly thereafter, the settlement funds were received. Pursuant to court order and Kansas statutes, the funds were distributed to the Antitrust Special Revenue fund and to three Kansas food banks — Harvesters, Second Harvest Community Food Bank, and the Kansas Food Bank. In March 2011, the Attorney General's Office received the final residue of the Vitamins I Antitrust Litigation Settlement Fund from the 2000 settlement. These funds were also distributed to the Kansas Food Bank pursuant to court order.

State of Kansas ex rel. v. Microsoft

DATE FILED: May 18, 1998

COURT: District of Columbia

The Attorney General, along with 18 other states and the Department of Justice, filed an antitrust action against Microsoft Corporation, alleging that Microsoft's conduct abusing its dominant position in the computer operating systems market violated state and federal antitrust laws. In November 2000, nine states and the Department of Justice entered into a settlement of the case which was 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. Kansas and the other states worked with Microsoft to ensure compliance with the settlement and judgment. Court oversight of the final judgment ended on May 12, 2011.

In re Cardizem CD Antitrust Litigation

DATE FILED: July 2, 2001

COURT: Eastern District of Michigan

An action was brought by the Attorney General, along with Attorneys General of 26 other states, seeking relief for a series of anti-competitive and illegal acts by which Defendants sought to delay or prevent the marketing of less expensive, generic alternatives to Cardizem CD, a highly profitable, brand-name drug for treatment of chronic chest pains, high blood pressure, and prevention of heart attacks. The parties agreed to an \$80 million settlement in 2004. Consumer payments were distributed shortly thereafter. Residual multistate consumer funds of \$283,000 were distributed by court order to the Visiting Nurse Associations of America ("VNAA") to expand the Heart Failure section of its Chronic Conditions Clearinghouse and to the Consumers Union of U.S., Inc. to popularize and communicate nationally-developed, evidence-based guidelines to consumers for clinical preventative services for heart and vascular diseases. Final Progress and Expenditure Reports from the organizations have been submitted and all monies distributed.

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

DATE FILED: October 20, 2004

Court: District of New Jersey

The Attorneys General of all 50 states, the District of Columbia, and three territories filed suit contending 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. The settlement provided recovery for both governmental purchasers and for individual consumer purchasers. A number of consumers filed claims with the administrator, but never cashed their checks. In December 2010, the States filed a motion requesting court approval to distribute the uncashed funds to each state's unclaimed property fund or program. The court approved the States' plan in January 2011 and the funds were transmitted to the State Treasurer's Unclaimed Property Division.

Municipal Bonds Settlements

Bank of America Corporation

UBS AG

JPMorgan Chase & Co.

Wachovia Bank, N.A.

GE Funding Capital Market Services, Inc.

Martin Kanefsky

Kansas, with a group of other states, has been investigating anticompetitive activities in the municipal bond industry regarding a nationwide scheme to rig bids and engage in other anticompetitive conduct that defrauded state agencies, municipalities, school districts and not-for-profit entities in their purchase of municipal bond investments. The states have entered into settlement agreements with Bank of America Corporation ("BOA"), UBS AG, JPMorgan Chase & Co., Wachovia Bank N.A., a wholly-owned subsidiary of Wells Fargo & Company, and GE Funding Capital market Services, Inc. The states have also entered into a settlement agreement with Martin Kanefsky, an individual broker.

On December 7, 2010, the Attorney General with nineteen other States, entered into a global \$67 million out-of-court settlement with BOA to settle claims. The States' settlement was one component of an overall \$137 million dollar settlement Bank of America entered into simultaneously with the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Internal Revenue Service and the Federal Reserve.

The States' UBS global \$90.8 million out-of-court settlement was entered into May 4, 2011, providing for nationwide restitution million to state agencies, municipalities, school districts and not-for-profit entities nationwide that entered into municipal derivative contracts with UBS, or used UBS as its broker for such transactions between 2001 and 2004, plus civil penalties, fees, and costs of the investigation to the settling states.

JP Morgan Chase settled with the multistate group on July 7, 2011, for \$92 million, including restitution payments directly to certain government and not-for-profit entities under separate agreements with the U.S. Securities and Exchange Commission and the Office of the Comptroller of the Currency. The Wachovia multistate settlement, entered into on December 8, 2011, totaled \$58.75 million in restitution, penalties, and additional payments. GE Funding Capital Market Services, Inc. settled with the multistate group, on behalf of itself and its subsidiaries Trinity Funding Company, LLC and Trinity Plus Funding Company, LLC, on December 23, 2011 for a total of \$34.25 million in restitution, penalties, and additional payments. Martin Kanefsky settled with the multistate group on July 27, 2011. Kanefsky agreed to make a payment for damages, losses and related costs, as well as injunctive language and an agreement to cooperate with the ongoing Attorneys General investigation.

A separate action was filed against brokers and providers of municipal bond services by private parties seeking class certification. The private plaintiffs' have objected to the states' settlements before the court (In re Municipal Derivatives Antitrust Litigation, MDL No. 1950, Master Docket No. 08-2516 (VM)(GWG) (S.D.N.Y.). Due to these objections, the Bank of America settlement notice to eligible entities was not distributed until December 2011. Settlement notices have not yet been sent to eligible entities under the other settlements. The states continue to negotiate with and investigate additional brokers and providers of municipal bond services. At this time, no settlement funds have been paid out to the affected parties or to the investigating states.

Antitrust Investigations

The State of Kansas is conducting investigations of companies for potential antitrust violations in the following areas:

- **Municipal Bond Services and Product Markets**
- **Telecommunications**
- **Retail Gasoline**
- **Retail Ice Sales**
- **Pharmaceuticals**

Antitrust Amicus Filings

In re K-Dur Antitrust Litigation

Third Circuit, Nos. 10-2077, 10-2078 & 10-2079

May 18, 2011

The Attorney General joined 21 states in filing an amicus brief asking the Court to reverse the lower court decision allowing anticompetitive “reverse payment” agreements between pharmaceutical makers, effectively immunizing collusive competitor agreements from the antitrust scrutiny. These agreements provide for payments from a purported patent holder to a generic drug manufacturer for agreeing not to market a competing generic drug against the patent holder. These agreements increase the price paid for drugs by both consumers and State Medicaid programs. The Court has not yet ruled on the appeal.

Washington State v. Chimei Innolux Corp.

Ninth Circuit, No. 11-80051

August 2011

The Attorney General joined 29 states in filing an amicus brief asking the Court to uphold the lower court decision finding that a parens patriae lawsuit brought by a state is not a class action or a mass action and therefore is not removable to federal court under the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1332(d), 1453, & 1711-1715. The three judge panel upheld the lower court ruling in a decision rendered October 3, 2011.

Other Antitrust Filings

In the Matter of applications of AT&T Inc. and Deutsche Telekom AG for consent to assign or Transfer Control of Licenses and Authorizations

FCC Proceeding No. 11-65

November 21, 2011

The Attorney General filed a comment with the Federal Communications Commission expressing concern regarding the proposed merger between AT&T, Inc. and T-Mobile USA, asking that the Commission take necessary action to deny the proposed merger because of the antitrust concerns raised by the combination of the two companies. On November 23, 2011, AT&T withdrew its merger application, which the Commission allowed. At the same time, the Commission released Staff Analysis and Findings, which indicated the merger would harm competition in the wireless service industry. The proposed merger requires both Commission and U.S. Department of Justice approval to proceed. The Department of Justice brought a lawsuit, joined by seven states, to block the proposed merger. On December 19, 2011, AT&T announced it was abandoning its bid to acquire T-Mobile.

Kansas False Claims Act

Royal Chemical Inc.

September 16, 2011

The Attorney General's Office entered into an agreement with Royal Chemical, Inc. regarding allegations the company violated the Kansas False Claims Act. The State alleged that sales representatives from Royal Chemical contacted city offices and made sales pitches for large quantities of product. After the cities denied the sales pitch, saying their cities were small and would never need that much product, the sales representative would get the cities to agree to a free sample or small order to test the product. After receiving the small order, Royal Chemical would ship large quantities of product and aggressively try to collect for it, even though the cities dispute the orders.

The settlement agreement included restitution to following seven Kansas government units:

- Galena Police Department – \$832.85
- Stanton County Recreation Department – \$7,580.59
- Jackson County Shop – \$665.28
- City of Udall – \$2,218.43
- Elk County EMS – \$632.52
- Eureka Fire Department – \$227.81
- Labette County Fire Department – \$498.00

Additionally, Royal Chemical agreed to pay the State a penalty and investigative fees totaling \$37,500.

Other Amicus Filings

Vassalle v. Midland Funding LLC, et al.

Northern District of Ohio, Western Div., 3:11-CV-0096

June 1, 2011

The Attorney General joined 37 states in filing an amicus brief asking the Court to reject a class action settlement agreement reached between plaintiffs' counsel and Defendants Midland Funding LLC, Midland Credit Management Inc., Encore Capital Group Inc., and their related entities because the settlement was not fair, reasonable or adequate. At the core of the class action was the use of false and misleading affidavits, also known as robo-signed affidavits, in collections matters. The settlement offered class members *de minimus* monetary recovery (less than \$10.00) and weak injunctive relief (limited to one year post-settlement). In addition to weak relief, the settlement release required consumers to give up "all causes of action, suits, claims and demands, whatsoever, known or unknown, in law or equity, based on state or federal law" that they could assert related to Defendants "use of affidavits in debt collection lawsuits." The notice provided to class members also failed to impress upon consumers this consequence of failing to opt-out of the settlement. **Despite the amicus filing of 38 Attorneys General, as well as objection by the Federal Trade Commission, the court approved the class action settlement on August 12, 2011.**

Consumer Protection Division Staff

(January 1, 2011 through December 31, 2011)

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