

# 1994 ANNUAL REPORT

## CONSUMER PROTECTION UNIT



### **MISSION STATEMENT**

*Four years ago the Legislature enacted Idaho's Telephone Solicitation and Pay-Per-Telephone Call Acts and modernized the Idaho Consumer Protection Act in order to protect both consumers and businesses against unfair or deceptive acts in trade and commerce, and to provide efficient and economical procedures to secure such protection. In 1993, the Legislature enacted Idaho's Charitable Solicitation Act to provide similar protection from deceptive charitable solicitations. The Consumer Protection Unit, charged with enforcement of these Acts, as well as other laws, seeks to fulfill this charge through education, mediation, and enforcement efforts.*

### **HISTORY**

The Consumer Protection Unit was first established in 1973 when the Idaho Legislature enacted the Idaho Consumer Protection Act. At that time it was a full division within the Attorney General's Office. The Unit was disbanded by the Legislature in the early 1980s, and was started up again in 1987 with a staff of two. Because of the growing demand for its services and the benefits it provides to Idaho consumers and businesses, the Unit now has grown to a staff of ten people. All new employees, since 1990, have been paid for out of the fees and civil penalties the Unit has collected pursuant to the enforcement actions it has taken.

### **APPLICABLE LAWS**

The Consumer Protection Unit enforces and operates pursuant to the Idaho Consumer Protection Act, codified at Title 48, Chapter 6, Idaho Code, the Idaho Consumer Protection Rules, codified at IDAPA 04.02.01000 et seq., the Idaho Telephone Solicitation Act, codified at Title 48, Chapter 10, Idaho Code, the Idaho Pay-Per-Telephone Call Act, codified at Title 48, Chapter 11, Idaho Code, the Idaho Telephone Solicitation and Pay-Per-Telephone Call Services Rules, codified at IDAPA 04.02.02000 et seq., the Idaho Charitable Solicitations Act, codified at Title 48, Chapter 12, Idaho Code, and the Idaho Antitrust Act, codified at Title 48, Chapter 1, Idaho Code.

The Unit also enforces several provisions of other statutes, including the provisions of Idaho Code § 18-3101 dealing with chain and pyramid distribution schemes, the provisions of Idaho Code § 26-2505 dealing with loan brokers, and the provisions of Idaho Code § 67-1401 dealing with nonprofit corporations. Finally, the Unit is often asked for information and advice concerning other laws, such as Idaho's Lemon Law Act, codified at Title 48, Chapter 9, Idaho Code, and Idaho's Landlord/Tenant and Mobile Home Park Acts, codified, respectively, at Title 6, Chapter 3 and Title 55, Chapter 20, Idaho Code.

### **STAFFING**

The Unit is staffed by two deputy attorneys general, two and one-half investigators/paralegals, four consumer specialists, and one secretary.

## MEASURES OF GROWTH AND SUCCESS

The Consumer Protection Unit continues to receive large numbers of consumer complaints and inquiries, and continues to experience significant growth in the amount of consumer restitution obtained, civil penalties, fees, and costs recovered, and enforcement actions taken. The growth is a measure of the Unit's success in serving the public and enforcing the applicable Acts and Rules. The following chart displays this growth and success:

Activity	1987	1988	1989	1990	1991	1992	1993	1994
Complains/Inquires	1088	1428	1243	1614	2525	3367	3130	3228
Dollars Claimed Lost	\$713,967	\$416,599	\$735,731	\$680,172	\$489,467	\$831,437	\$1,042,885	\$1,268,283
Consumer Restitution Recovered	\$2,395	\$14,054	\$22,201	\$130,469	\$263,435	\$394,376	\$986,571	\$1,757,469
Civil Penalties, Fees/Costs recovered	\$0	\$0	\$0	\$500	\$56,500	\$127,845	\$243,571	\$163,621
Enforcement Actions **	0	4	6	9	62	66	100	78
Telemarketers Registered	N/A	N/A	N/A	N/A	N/A	18	41	66

\*\* Includes Assurances of Voluntary Compliance, Judgments, and Orders Compelling Response and Granting Injunctive and Other Relief obtained

The complaint categories that received the largest number of complaints in 1993 are:

Telemarketing: 672

Automobile Advertising, Sales, and Repairs: 265

Construction: 221

Mail Orders: 187

Multi-level Marketing: 168

Mobile Homes: 129

Finance/Loan Brokers/Mortgage Lenders: 96

**NOTES:** For the past four years the Unit has recovered more money for Idaho residents than the Legislature has appropriated from its general fund for Unit operations. Unit staff salaries and benefits cost taxpayers approximately \$260,000 for the 1994-95 fiscal year. Another \$194,000 is budgeted out of the consumer protection account for consumer education, the salaries of four staff members, and litigation and investigative expenses. The consumer protection account is comprised of monies obtained through Unit enforcement actions.

Dramatic increases in construction complaints and finance/loan broker/mortgage lender complaints stand out in this year's report. The increase in the number of construction complaints is 191 % over 1993. The increase for finance/loan broker/mortgage lender complaints is 57% over 1993.

Consumer restitution jumped 78% over 1993's figures, which were, in turn, an increase of 150% over 1992. For 1994, the Unit recovered seven dollars in restitution for each taxpayer dollar appropriated.

## **1994 SUCCESS STORIES**

This year the Consumer Protection Unit secured significant consumer restitution as a result of a number of enforcement actions. Unit personnel educated more people about consumer protection issues than ever before.

### **Enforcement**

The Consumer Protection Unit concluded a settlement with Fleet Mortgage Corporation. In a lawsuit filed by the Unit and 25 other states, it was alleged that Fleet Mortgage violated state and federal laws by keeping excess payments made by homeowners in their escrow accounts. A settlement of the action resulted in refunds and reduced mortgage premiums of \$2,067,282 being made to 7,660 Idahoans as well as cessation of the practices in dispute. Of the over two million dollars in refunds, \$769,000 were accounted for in the Unit's 1993 report.

The Consumer Protection Unit settled the State's largest telemarketing case against Baylis Company and five individual defendants. In the settlement, defendants admitted violations of Idaho's consumer protection laws, agreed to permanent injunctions being entered against them, and also agreed to pay \$40,000.00, which represents the State's fees and costs in the case. The Unit also settled a similar lawsuit against another large in-state telemarketer, United Communications, Inc., its President, and several of its employees.

The Unit settled a dispute with American Security and Protection, an authorized Sears contractor for home security systems, which was doing business in Idaho as Sears Security Systems. The settlement resolved allegations that Sears Security Systems' telemarketers violated Idaho's telemarketing laws. Under the settlement, in addition to agreeing to comply with Idaho's consumer protection laws, Sears Security Systems will make refunds totaling \$97,000 to Idahoans solicited by the company.

The Unit settled its first case under the Idaho Charitable Solicitation Act. The settlement was with Angel Planes, also known as "The Children's Miracle Flights." In the settlement, Angel Planes, a Las Vegas, Nevada charity, agreed to provide restitution to donors, reimburse the Unit its fees and costs, and not violate the Charitable Solicitations Act in the future. The settlement resolved charges that Angel Planes telemarketers were misrepresenting how the donations would be used. Unit investigators discovered that over 80% of each donation went into the pockets of a for-profit telemarketer making the charitable solicitation. Telemarketers told people, however, that all the donated funds would go directly to helping transport sick children to medical facilities.

The Unit obtained over \$75,000 in consumer restitution from two Las Vegas, Nevada telemarketers, Professional Marketing, Inc., and North American Enterprises, as well as injunctions prohibiting either company from doing further business in Idaho, and \$35,000 in civil penalties and fees for violations of Idaho's Consumer Protection and Telephone Solicitation Acts. The Unit followed up these cases with a lawsuit against Tellus Corporation, the parent company of Professional Marketing, for additional consumer restitution for Idaho consumers.

The Unit obtained a \$326,000 judgment against Eastern Idaho contractor Mason's, Inc. and its principals, James and Ellen Mason, who bilked scores of Idahoans out of \$240,000 in home remodeling projects. The Unit was successful in having a receiver appointed over the contractor's property and assets, and is presently working with the receiver to marshal assets and provide restitution to Idaho victims. A similar lawsuit was also filed against Ron Stratton and Stratton Construction, a Northern Idaho contractor. The Unit obtained a judgment of \$190,000 against the defendant.

The Unit obtained a \$65,000 judgment against Wheels "R" Us, Inc., a Boise-based automobile dealer for multiple violations of Idaho's consumer protection laws. Included in the judgment is a permanent injunction against Wheels "R" Us from ever again acting as an automobile dealer in Idaho. A lawsuit was filed against the principals and is currently being litigated by the Unit.

Over seventy other actions were brought, and judgments, orders and assurances of voluntary compliance obtained against telemarketers, automobile dealers, home repair businesses, and prize promoters. The total amount of penalties, fees, restitution, and expenses recovered from these actions exceed \$500,000.

The Unit has also participated in many multi-state actions with the offices of other state attorneys general against various businesses for violations of Idaho's Consumer Protection Act and federal and state antitrust laws. The actions have or will result in tens of thousands of dollars in consumer restitution for Idaho residents and businesses and significant protection against further unlawful conduct.

These multi-state actions include settlements with Publishers Clearing House for alleged violations of Idaho's consumer protection laws, eight major airlines, including United, Delta, American Northwest, and Alaska, for alleged unlawful antitrust practices; and Pre-Paid Legal Services for alleged violations of Idaho's consumer protection laws.

The Unit also announced a six-month undercover investigation of fraudulent telemarketers. In the undercover operation, Unit investigators identified from its files Idaho consumers who had been repeatedly victimized by telemarketers. With the cooperation of U.S. West Communications and the consent of the victims, the victims were given new telephone numbers. Their old numbers were then transferred to a telephone in the Attorney General's Office. Each time a telemarketer called, they spoke to an investigator posing as the victim. Each call was tape recorded for use as evidence in lawsuits. As a result of these tapes, the Unit filed lawsuits against Family Credit Services, Inc., the Marki Group, Inc., Jeff Beaupain, and Mark Dittmar, telemarketers caught on tape defrauding the victims. Judgments in excess of \$85,000 plus permanent injunctions against these telemarketers from doing further business in Idaho were obtained as a result of these lawsuits.

### **Education**

Consumer Protection Unit personnel gave 126 speeches to over 6,400 people in locations throughout the state. In January the Unit staffed a booth at the Business Expo in Boise. At speeches and pursuant to consumer requests, Unit personnel distributed thousands of pieces of consumer information packets and materials.

The Consumer Protection Unit was the lead state in developing with 29 other states a comprehensive package of television, radio, and print spots on consumer protection issues. The purpose of this multi-state effort was to pool resources, experience, and expertise in jointly producing these materials. The spots were aired in January and February 1994. These spots were aired with the cooperation of the Idaho Broadcasters Association and were well received.

The Consumer Protection Unit prepared and disseminated thousands of folders with consumer information targeted toward a variety of groups of people, including Idaho senior citizens and high school seniors.

The Consumer Protection Unit prepared and released 46 news releases. Unit staff also did scores of television and radio interviews about consumer related issues.

The Consumer Protection Unit is proud to report that all of its consumer education efforts--all television and radio spots produced, all pamphlets, brochures, and tip sheets written and published, and all speeches, travel, and training seminars attended--were done at no taxpayer

expense; monies from the consumer protection account--into which all civil penalties, fees, and costs are deposited--were used to fund all of these activities.

### **RULES AND LEGISLATION**

The Consumer Protection Unit did not propose any legislation nor promulgate any Rules in 1994.

