

1996 ANNUAL REPORT

CONSUMER PROTECTION UNIT



MISSION STATEMENT

In 1990, the Legislature modernized the Idaho Consumer Protection Act. In 1992, it enacted Idaho's Telephone Solicitation and Pay-Per-Telephone Call Acts. The purpose was 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 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. Since then, there has been an ever growing demand for its services and the benefits it provides to Idaho consumers and businesses. In recent years the Legislature has assigned new and additional duties and responsibilities to the Attorney General relating to consumer protection in the areas of telephone and charitable solicitations and 900 telephone calls. Presently, the Unit consists of a staff of nine people. All new positions added since 1990 have been paid for out of the fees and penalties the Unit has collected pursuant to the enforcement actions it has taken.

APPLICABLE LAWS

The 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 the most important of which includes the provisions of Idaho Code § 18-3101 dealing with chain and pyramid distribution schemes. 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 investigators/legal assistants, four consumer specialists, and one secretary.

MEASURES OF ACCOMPLISHMENTS AND ACTIVITIES

The Unit continues to receive large numbers of consumer complaints and inquiries, recover large sums of consumer restitution, civil penalties, fees, and costs, and pursue, where appropriate, significant enforcement actions. The following chart illustrates some of the Unit's activities and accomplishments:

Activity	1988	1989	1990	1991	1992	1993	1994	1995	1996
Complains/Inquires	1428	1243	1614	2525	3367	3130	3228	3627	4497
Dollars Claimed Lost	\$416,599	\$735,731	\$680,172	\$489,467	\$831,437	\$1,042,885	\$1,268,283	\$960,191	\$528,945
Consumer Restitution Recovered	\$14,054	\$22,201	\$130,469	\$263,435	\$394,376	\$986,571	\$1,757,469	\$532,657	\$1,363,375
Civil Penalties, Fees/Costs recovered	\$0	\$0	\$500	\$56,500	\$127,845	\$243,571	\$163,621	\$134,000	\$164,300
Enforcement Actions **	4	6	9	62	66	100	78	96	63
Telemarketers Registered	N/A	N/A	N/A	N/A	18	41	66	57	61

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

Overall, consumer complaints and inquiries were up 24 percent over 1995's figures and 39 per cent over 1994's figures. The top ten complaint categories in 1996 are:

Multi-level: 644

Telemarketing: 364

Motor Vehicles: 354

Mail Order Sales: 337

Loan Brokers/Advanced Fee: 226

Construction: 151

Appliances: 129

Travel: 112

Unauthorized switching of telephone service: 102

Magazine Sales: 100

NOTES: For the past six 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 are expected to cost taxpayers approximately \$225,699 for the 1997 fiscal year. Another \$201,900.00 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.

The Unit's efforts at recovering money for damaged Idahoans continue to produce excellent results. In 1996, the Unit recovered six dollars in restitution for each taxpayer dollar appropriated.

1996 ACTIVITIES

This year the Unit secured significant consumer restitution as a result of a number of enforcement actions. Unit personnel educated thousands of people about consumer issues.

Enforcement

Smith's Home Furnishings filed for bankruptcy in August of 1995. Prior to doing so, it sold thousands of extended warranties to Idaho residents. With the bankruptcy filing, Idahoans were left with extended warranties and no place to turn for service. The Unit negotiated with a number of financial institutions that had purchased Smith's Home Furnishings contracts. The result was settlements with General Electric Capital Corporation, American General Finance, Inc., and Household Bank (Nevada). In these settlements, the businesses agreed either to honor the service contracts or provide a refund of the contract to consumers. The value of the settlements is \$944,256.00

The Unit brought 5 enforcement actions against a number of travel and vacation promoters, including Vacation Break USA, Promotional Travel, Design Travel, Travel Opportunities of Florida, and Florida Travel Network, Inc., for using deceptive vacation promotional materials. The settlements have significantly reduced the number of misleading travel certificate promotions coming into Idaho, and the Unit has recovered \$62,500 in civil penalties, attorney fees and costs. A contempt action is pending against Vacation Break USA. In that case, a District Judge has already found that Vacation Break violated the terms of its Consent Judgment with the Unit. A hearing set to gather evidence relating to an appropriate amount of civil penalties is set for February 1997.

The Unit entered into Assurances of Voluntary Compliance with General Motors Corporation, American Honda Motor Co. Inc., Mitsubishi Motor Sales of America, Inc., and American Isuzu Motors Inc. to resolve allegations that their "zero down" or nothing down" television lease advertisements were misleading to consumers. The settlement agreements will require these manufacturers to change the way they advertise auto leases. In a separate matter, the Unit sued Mazda Motor of America, Inc., for advertising lease offers in a deceptive way. Mazda later agreed also to reform its television lease advertising practices. Collectively, the auto manufacturers also agreed to pay the Unit \$92,500.

The Unit settled with National Accounts, Inc., a New Jersey-based long-distance telephone service reseller. The settlement addresses allegations that National Accounts telemarketers made a variety of misrepresentations and switched a number of Idaho consumers' long-distance services to National Accounts, without the consumers' approval (a practice known in the industry as "slamming"). In addition to offering restitution to eligible consumers, National Accounts paid \$45,000 to the Unit and agreed that it would ensure there would be no future misrepresentations related to the sale of long distance services. The company also agreed to take specific steps to verify that consumers have consented to a change in their long-distance provider before any change in the consumers' service is made. In other slamming cases, the Unit obtained a \$150,000 judgment against One-to-One Communications, Inc., an Alabama-based long distance carrier, and filed suit against EqualNet Corporation, a Texas-based long distance carrier. In the EqualNet case, several of the slamming victims included government agencies.

The Unit obtained a \$74,000 judgment against a business and its promoter for engaging in a pyramid scheme. The judgment also permanently restrains the promoter, Bobby Lee Weedn and his business, Option 3 from doing business in Idaho. Option 3 promised people that if they gave the business \$50, and got four other people to give \$50, they would get back \$125. The promotion progressed through at least eleven levels, with the consumer promised \$175,915 upon the successful completion of this level. Option 3 and Weedn did not disclose, however, that in order for a consumer to complete his or her eleventh level, it would take 4,194,304 people each remitting \$50 to Option 3--about four times Idaho's population.

The Unit filed suit in August against American Deputy Sheriffs' Association and its professional fund raiser, Community Network, Inc. The Unit initiated an investigation of the organizations in February in response to numerous inquiries from consumers who were solicited. Idaho residents reported being told that the fund-raisers were calling from Idaho locations, that various sheriffs' offices had already received benefits from the association, and that donations would directly benefit local sheriffs' departments. In the course of the investigation, the Unit determined that the organization had no members in Idaho at the time of the solicitations, and it had not provided any benefit or aid to Idaho law enforcement personnel.

The Unit continues to aggressively deal with unscrupulous telemarketers. Last year, the Unit undertook 23 enforcement actions against unregistered telemarketers this year, including entering into 13 Assurances of Voluntary Compliance. The Unit is pleased to report that since 1994 telemarketing complaints are down 46 percent.

The Unit joined other state attorneys general in settling with eight major airlines, including United, Delta, American Northwest, and Alaska, for alleged unlawful antitrust practices. The settlement, entered on behalf of state and local government entities, granted 10 percent discounts to state and local governmental entities for official state and local government travel. During the settlement's applicable time period for the travel discount, Idaho state and local government entities realized savings for taxpayers of \$402,687.83 in travel expenses.

The Unit also joined 21 other states in a lawsuit to end an alleged conspiracy among three major manufacturers, optometric associations, and several individual optometrists. The defendants include Vistakon (a Johnson & Johnson, Inc. company), Bausch & Lomb, Inc., CIBA Vision Corporation, the American Optometric Association, and the Contact Lens and Anterior Segment Society, Inc. The suit charges the defendants have conspired to restrain consumer access to prescriptions needed to obtain replaceable soft contact lenses. It also alleges a conspiracy to eliminate the supply of replaceable soft contact lenses to mail order companies, pharmacies, buying clubs, retail stores and other channels of distribution. Without the illegal constraints, the suit says, these contact lenses would be more widely available at much lower prices.

Education

Unit personnel gave 60 speeches to 3,106 people in locations throughout the state. In August and September the Unit staffed booths at the Western Idaho and Twin Falls County Fairs, meeting thousands of Idaho residents.

The 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 Unit produced two television public service announcements and one radio public service announcement as part of a consumer education campaign, set to begin in January 1997. The spots will air for the first three months in 1997 and are aimed at helping consumers avoid becoming victims of consumer fraud. The program is being aired with the cooperation of the Idaho State Broadcasters Association.

The Unit also announced its homepage on the Internet. Now consumers can access consumer information at the Unit's homepage where consumers can read a variety of tipsheets that cover topics such as automobile repairs, mail fraud, Idaho's Lemon Law, construction fraud, and charitable donations. Consumers can also get information about Idaho's consumer protection laws and how to file a consumer complaint.

The Unit's homepage is located at: <http://www.state.id.us/ag/middle/consumer/consumer.htm>.

Last winter many parts of northern Idaho experienced serious flooding. The Unit prepared and disseminated different types of consumer information to assist Idahoans in protecting themselves

against a variety of scams that often follow natural disasters such as that which hit northern Idaho. The Unit, in cooperation with the Federal Emergency Management Agency, sent letters containing consumer information to every single citizen who reported damage from the flooding. The Unit also placed large newspaper ads, prepared and disseminated radio advertisements, and sent a variety of brochures and pamphlets to local prosecutors and sheriff departments.

The 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 Unit did not propose any legislation nor promulgate any Rules in 1996. It has prepared legislation addressing 900 adult entertainment calls and unsolicited facsimile advertisements for the 1997 legislative session.

