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ATTORNEY GENERAL**

**OFFICE OF THE ATTORNEY GENERAL  
2002 ANNUAL REPORT ON  
CONSUMER PROTECTION ACTIVITIES**



*The Attorney General enforces various consumer laws, including Idaho's Consumer Protection, Competition, Telephone Solicitation, Pay-Per-Telephone Call, and Charitable Solicitation Acts. These Acts protect consumers, businesses and the marketplace from unfair or deceptive acts and practices. The Attorney General seeks to fulfill this charge efficiently and economically through education, mediation, and enforcement.*

The Attorney General reports to the public annually regarding consumer protection activities. This report covers the calendar year 2002.

**HISTORY**

The Legislature has assigned to the Attorney General enforcement duties related to consumer protection, telephone and charitable solicitations, 900-number telephone calls, the tobacco Master Settlement Agreement and Idaho's Master Settlement Agreement Act, and antitrust. In 2000, the Legislature established the Idaho No Call Law and placed the duty of maintaining and enforcing its provisions also upon the Attorney General.

In 2002, the Attorney General recovered \$1,147,339.23 in restitution. This equates to \$2.45 for each taxpayer dollar appropriated for consumer operations. For the past 12 years, the Attorney General has recovered more money for Idaho residents than the Legislature has appropriated from the general fund for consumer operations. Salaries and benefits of those who are primarily involved in consumer protection efforts are expected to cost taxpayers approximately \$467,840 for the 2003 fiscal year. Another \$140,800 is budgeted from the Attorney General's consumer protection account for consumer education efforts. The consumer protection account is comprised of moneys obtained through Attorney General enforcement actions and Idaho's No Call List registration and purchase fees.

**2002 ACTIVITIES SUMMARY**

This year was full of activity related to consumer protection, antitrust, telemarketing, Idaho's No Call List, and charitable trusts. The Attorney General settled significant consumer protection cases with Ford Motor Company and Qwest Corporation. In the antitrust arena, several cases involving the awarding of hundreds of thousands of dollars in restitution to Idaho consumers were also resolved. The year 2002 marked the Attorney General's second year of

enforcement and administration of Idaho's No Call Law. By year's end, nearly 46,000 Idaho households had signed up, exceeding overall expectations by 100 percent. Many citizens reported receiving fewer unwanted telephone solicitations, to their satisfaction. The Attorney General filed actions against tobacco product manufacturers for violating Idaho's Master Settlement Agreement Act. Finally, in a case of first impression, the Attorney General reviewed the charitable conversion of a non-profit medical facility to for-profit status. The Attorney General approved the conversion, after obtaining agreement that the value of the non-profit assets will continue to be used for charitable health related purposes.

The Attorney General obtained record consumer recoveries in 2002, resulting from his enforcement actions. The Attorney General recovered \$1,147,339 for Idaho consumers (including restitution from enforcement actions) and \$1,569,232 in civil penalties, fees, and costs. These amounts do not include the \$25,794,366 the state received in 2002 pursuant to the settlement agreement negotiated by the Office of the Attorney General with tobacco manufacturers.

The Attorney General's Consumer Protection Unit logged 15,074 instances of consumer assistance in 2002, the third year in a row in which consumer assistance exceeded 10,000 contacts. 3,076 contacts were consumer complaints. The remainder consisted of information received from consumers, processing requests for information and forms, and responding to inquiries about particular businesses. This number does not reflect the multitude of telephone calls and personal contacts that are not logged in or tracked by the Attorney General's consumer database.

On the education front, Office of the Attorney General staff educated thousands of people about consumer issues, attended fairs around the state, and worked on updating consumer information brochures. The staff completed an initial project of translating several consumer brochures into Spanish. A second project, involving the translation of additional consumer materials into Spanish, continues. These translation efforts were made possible as a result of two grants obtained by the Attorney General's Consumer Protection Unit, and are intended to better serve Idaho's changing population.

Money from civil penalties, fees and reimbursed costs is deposited into the consumer protection account. Funds from this account pay for the Attorney General's educational activities, pursuant to legislative appropriation. At the end of fiscal year 2002, \$1,128,516 in surplus funds were transferred to the State's General Fund. Prior year transfers were \$510,948 in fiscal year 2001 and \$700,000 in fiscal year 2000.

## **APPLICABLE LAWS**

In the field of consumer protection, competition, telephone and charitable solicitations, the Attorney General enforces, and operates pursuant to, the following statutes and rules:<sup>1</sup>

- Consumer Protection Act
- Idaho Competition Act
- Idaho Charitable Solicitation Act
- Idaho Pay-Per-Telephone Call Act
- Idaho Telephone Solicitation Act, including the Idaho No Call Law
- Tobacco Master Settlement Agreement Act
- Consumer Protection Rules
- Idaho Telephone Solicitation and Pay-Per-Telephone Call Services Rules

The Attorney General also enforces provisions of other consumer-related statutes, including those dealing with chain and pyramid distribution schemes. In addition, the Office of the Attorney General provides information regarding Idaho's Lemon Law, Landlord/Tenant, and Mobile Home Park Acts.

## **LEGISLATION**

In 2002, Attorney General Al Lance proposed legislation to make it a violation of the Idaho Consumer Protection Act for a person to charge exorbitant amounts for essential goods, such as water, food, fuel, and medicines in areas subject to a declared state of emergency. The Legislature supported this proposal and enacted the Attorney General's bill, which the Governor signed into law.

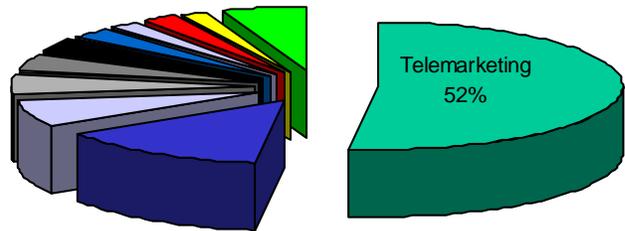
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<sup>1</sup> The listed Idaho statutes and rules are codified, respectively, as follows: Consumer Protection Act, title 48, chapter 6, Idaho Code; Idaho Competition Act, title 48, chapter 1, Idaho Code (Supp.); Idaho Charitable Solicitation Act, title 48, chapter 12, Idaho Code; Idaho Pay-Per-Telephone Call Act, title 48, chapter 11, Idaho Code; Idaho Telephone Solicitation Act, title 48, chapter 10, Idaho Code; Tobacco Master Settlement Agreement Act, title 39, chapter 78, Idaho Code; Idaho Consumer Protection Rules, IDAPA 04.02.01000 et seq.; and Idaho Telephone Solicitation and Pay-Per-Telephone Call Services Rules, IDAPA 04.02.02000 et seq.

## 2002 TOP TEN CONSUMER COMPLAINTS

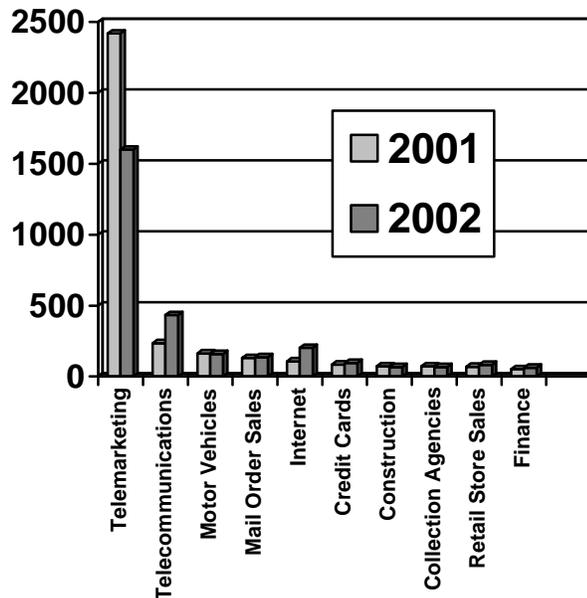
Telemarketing has held the number one or two position on the Attorney General's Top Ten Complaint List for more than ten years. Telemarketing complaints, totaling 1,600, again made it the number one complaint category, accounting for more than half (52%) of all the complaints received by the Office of the Attorney General in 2002. The top ten list is as follows:

|                                  |       |
|----------------------------------|-------|
|                                  | 3,076 |
| 1. Telemarketing                 | 1,600 |
| 2. Telecommunications            | 433   |
| 3. Internet                      | 202   |
| 4. Motor Vehicles                | 159   |
| 5. Mail Order Sales              | 136   |
| 6. Credit Cards                  | 96    |
| 7. Retail Store Sales            | 83    |
| 8. Construction                  | 67    |
| 9. Collection Agencies           | 67    |
| 10. Finance/Lending Institutions | 62    |
| Total of all other complaints    | 171   |



2002 Top Ten Complaints  
(As a percentage of all complaints)

|                                  |       |
|----------------------------------|-------|
|                                  | 3,707 |
| 1. Telemarketing                 | 2,419 |
| 2. Telecommunications            | 235   |
| 3. Motor Vehicles                | 163   |
| 4. Mail Order Sales              | 131   |
| 5. Internet                      | 107   |
| 6. Credit Cards                  | 85    |
| 7. Construction                  | 72    |
| 8. Collection Agencies           | 72    |
| 9. Retail Store Sales            | 69    |
| 10. Finance/Lending Institutions | 52    |
| Total of all other complaints    | 302   |



## **ENFORCEMENT**

**THE ATTORNEY GENERAL'S NO CALL LIST.** The Attorney General continues to register Idaho consumers on his No Call List. By the end of 2002, 45,968 Idaho households had registered their telephone numbers. The majority of the registered households continues to report that unwanted telephone solicitations have gone down significantly or have been completely eliminated.

Compliance with Idaho's No Call Law improved markedly in 2002. In 2001, consumers filed 1,481 No Call complaints. In 2002, the number dropped to 968, a reduction of 34%. The Attorney General continued to take enforcement actions where needed. In 2002, the Attorney General reached settlements with six such companies: A-1 Installation Network, Cascade Auto Glass, Mountain States Glass, Warrior Custom Golf, Sponsor Reps, Inc., and McLeod USA Telecommunications Services, Inc. The businesses agreed, in future telemarketing calls, to comply with the Idaho No Call Law. They also paid the Attorney General costs and fees in resolving these matters.

445 (45%) of the No Call complaints were about calls from "appointment setters." Idaho's No Call law does not prohibit these calls, in which a telemarketer calls to schedule an appointment to sell a good or service in a face-to-face meeting. In response to the large number of consumer complaints, Attorney General Lance recommended prohibiting appointment setter calls to households registered in the No Call List. The legislation was not enacted.

**FORD MOTOR COMPANY.** The Attorney General entered into a settlement with Ford Motor Company resolving allegations of deceptive trade practices relating to the sales and advertising of Ford sport utility vehicles. Under the settlement, Ford agreed to commence a national public service announcement campaign, and pay the Attorney General \$300,000. The settlement was reached in conjunction with Ford entering into identical settlements with the country's 49 other state attorneys general.

**QWEST.** In 2002 the Attorney General entered into an Assurance of Voluntary Compliance with Qwest Corporation and Qwest Wireless, L.L.C. The settlement resolved more than 100 complaints filed by Idaho consumers during 2001 and the beginning of 2002. The settlement resolved complaints from consumers that Qwest placed unauthorized charges on telephone bills, misrepresented its services resulting in unauthorized charges, and did not disclose certain charges to its customers. Qwest agreed to revise its business practices to avoid future deceptions, pay restitution to Idaho consumers, and pay \$200,000 in attorney fees and investigative costs.

**VITAMIN PRICE FIXING CARTEL.** The Attorney General entered into a two-part settlement that will result in Idaho receiving more than \$2.3 million. The settlements are the largest ever under state laws which permit consumers and businesses to recover damages for price-fixing overcharges, even though the consumers and businesses did not buy directly from the price-fixers. Federal antitrust law does not permit these "indirect purchasers" to recover their damages, but Idaho's Competition Act permits such recoveries.

The settlement, with six vitamin manufacturers, was reached in conjunction with similar settlements entered into by the defendants and 20 other states, Puerto Rico, and the District of Columbia. In Idaho, the Attorney General alleged that the six companies conspired for more than a decade to fix prices and restrict supplies of vitamins.

Under the settlement, the companies will pay more than \$177 million to compensate consumers and businesses in the 23 participating jurisdictions. More than \$107 million of the \$177 million will be used to benefit consumers. Because it would be nearly impossible to determine how much each consumer paid in higher prices, the consumer settlement will be distributed to non-profit charitable groups for programs that advance the health or nutrition of consumers. Idaho's share of this amount is \$1,350,000. Final district court approval of the settlement was obtained in May 2002. Several intervenors to the Attorney General's lawsuit, however, have objected to the court's order approving the settlement and have filed an appeal with the Idaho Supreme Court.

**MYLAN PHARMACEUTICALS.** Idaho, along with 33 other states and the FTC, joined in a settlement halting illegal anti-competitive practices by drug manufacturer Mylan Laboratories of Pittsburgh, PA. and three of its suppliers. The Attorney General, other state attorneys general and the Federal Trade Commission (FTC) filed lawsuits in 1998 alleging that Mylan led an illegal price-fixing and monopolization scheme that resulted in price increases of more than 2,000 percent for two widely used prescription drugs, Clorazepate and Lorazepam. Clorazepate and Lorazepam are anti-anxiety medications frequently prescribed for nursing home and hospice patients, including patients suffering from long-term debilitating conditions such as Alzheimer's disease.

Under the settlement, Mylan Laboratories paid \$327,000 to Idaho consumers injured by the company's illegal conduct. In addition, the State of Idaho received \$102,000 for damages incurred in purchasing prescription drugs. An additional \$142,000, to be awarded in 2003, will be given to the state to help needy individuals obtain mental health medications.

**CONTACT LENSES.** In 1996, Idaho and 31 other states filed lawsuits, alleging that retail prices of disposable contact lenses were too high because the defendant manufacturers had illegally agreed with the American Optometric Association to limit the availability of the manufacturers' lenses. Ultimately, the Attorney General entered into separate settlements with Johnson & Johnson, Bausch & Lomb, and the American Optometric Association, resolving the states' antitrust claims. The attorneys general alleged that because of this illegal agreement, consumers had more difficulty buying replacement lenses through the mail or from pharmacies (known as alternative channels in the lawsuit). The states alleged that this agreement violated federal and state antitrust laws and resulted in higher prices for these contact lenses. While the defendants denied wrongdoing, they agreed, collectively, to provide benefits of at least \$40 million nationally in the form of rebates to consumers for use in future contact lens purchases and eye exams. The defendants also agreed to injunctive relief related to selling their lenses to alternative channels. In 2002, Idaho consumers received \$474,583 in restitution as a result of this case. The Attorney General also received \$142,322 in costs and fees in litigating and resolving the case.

**UNSOLICITED FACSIMILE ENFORCEMENT.** The Attorney General continues to take enforcement action against companies and individuals that send unsolicited facsimiles to Idaho consumers. The majority of those affected by this illegal practice are small businesses. Businesses report that the voluminous advertisements, often faxed on a daily basis, are financially draining on their resources. During the past year, the Attorney General took action against twelve businesses that violated the Idaho unsolicited facsimile law. These businesses include: Global Wireless Communications Products, Inc., JD&T Enterprises, Inc., dba Travel To Go, Central Imaging Supply, Inc., Partnership for Education, Healthcare Networks of America, Inc., Precise Marketing, IBC USA Conferences, Inc., Market News Alert, Central State Supply, Acom Solutions, Inc., and Network Generations, Inc. The businesses agreed to comply with Idaho law and abstain from sending unsolicited fax advertisements in the future. They collectively paid the Attorney General \$22,500 in costs and fees in resolving these matters.

**PRIVACY.** The Attorney General settled two privacy related cases with two of the nation's largest banks. The agreements will lead to major reforms in the way the banks' telemarketing firms sell products to the banks' customers. The settlements with Citibank and Bank One followed a two-year investigation by the Attorney General and other state attorneys general.

The investigation revealed that, for years, Citibank and BankOne contracted with telemarketing firms to sell products and services - such as discount buying clubs, roadside assistance, credit card loss protection and dental plans - to bank customers. In exchange for their customer lists, the banks received a percentage of the sales by these companies.

The states raised concerns that the marketing practices of the banks' business partners were deceptive and often resulted in consumers being charged for products and services that they had not agreed to purchase. For example, many solicitations offered free trial periods. However, the telemarketers failed to adequately disclose that consumers would be charged if they did not cancel the service during the trial period. Consumers were not asked to provide a credit card number to the phone solicitor and were surprised to discover these charges on their credit card bills. They did not understand that the banks had provided the credit card number and that they would be charged once the free trial period expired.

The settlement agreements require the banks to incorporate new consumer protection policies in contracts with telemarketing firms. These reforms will:

- Prohibit customer charges unless there is express authorization by the account holder;
- Prohibit deceptive solicitations;
- Require bank review and approval of all scripts and marketing materials.

**IDAHO FALLS SURGICAL CENTER.** Pursuant to his statutory duty to supervise charitable trust assets and non-profit corporations, the Attorney General approved the acquisition and conversion from non-profit to for-profit status of the Idaho Falls Surgical Center. The approval was granted after the acquiring party—Teton Anesthesia Investment Group—agreed to various conditions set by the Attorney General.

Idaho Falls Surgical Center had operated as a not-for-profit entity. Teton Anesthesia Investment Group proposed to purchase the surgical center, and, as part of the acquisition, convert it to a for-profit entity.

In approving the acquisition and conversion of Idaho Falls Surgical Center, the Attorney General set the following conditions:

- The establishment of a \$400,000 Idaho Falls Indigent Patient Fund for purposes of assisting needy people in the Idaho Falls community with ambulatory medical services;
- An agreement that Idaho Falls Surgical Center will not close or liquidate for a minimum period of five years following its acquisition, unless economic circumstances change such that the surgical center has not been able to maintain a positive cash flow for a consecutive twelve month period, and will not be able to maintain a positive cash flow for the foreseeable future.
- An agreement that Idaho Falls Surgical Center will not raise aggregate prices during the next five years that exceed increases in the medical component of the Consumer Price Index.

The Attorney General held a public hearing in Idaho Falls before making his decision to approve the transaction.

**TOBACCO.** During 2002, the tobacco industry paid \$25,794,366 to Idaho, pursuant to its settlement agreement with the various state attorneys general. The Attorney General continues to work on many implementation issues related to the settlement agreement, including enforcement of Idaho's Master Settlement Agreement Act. In 2002, the Attorney General filed six lawsuits and obtained judgments and settlements with each of the defendants, alleging violations of Idaho's Master Settlement Agreement Act.

## **EDUCATION**

Members of the Attorney General's Consumer Protection Unit made consumer education presentations throughout the state of Idaho. In addition, the staff talked with thousands of Idaho residents during the Western Idaho, Twin Falls County, and Eastern Idaho Fairs.

The Attorney General's Office received grants to complete its Hispanic outreach project by translating consumer protection information brochures into Spanish. The grants were from a fund created as a result of a multi-state settlement that Idaho and other states negotiated with the Sears Corporation. The office's goal is to provide a consumer information library to Spanish-speaking citizens comparable to that available in English.

All of the Attorney General's written consumer education materials are available through the Attorney General's Internet homepage. Consumers can also sign up for the Attorney General's No Call List at the Attorney General's Internet homepage. The homepage includes tip

sheets covering telephone solicitors, automobile repairs, mail fraud, Idaho's Lemon Law, construction fraud, charitable donations, and other subjects. Consumers can also read Idaho's consumer protection laws and learn how to file a consumer complaint. The Attorney General's Internet address is: [www.state.id.us/ag](http://www.state.id.us/ag). Citizens can also obtain information on consumer issues by calling 334-2424 (Boise) or toll-free (in-state) 800-432-3545.

The Attorney General's educational efforts do not cost the taxpayers. Money from civil penalties, fees and reimbursed costs is deposited into the consumer protection account. Funds from this account pay for the Attorney General's educational activities, pursuant to legislative appropriation.



## CONSUMER PROTECTION -- BY THE NUMBERS

| ACTIVITY                            | 1989      | 1990      | 1991      | 1992      | 1993        | 1994        | 1995      | 1996        | 1997        | 1998      |
|-------------------------------------|-----------|-----------|-----------|-----------|-------------|-------------|-----------|-------------|-------------|-----------|
| Complaints*                         | 1,243     | 1,614     | 2,525     | 3,367     | 3,130       | 3,228       | 3,627     | 4,497       | 5,451       | 5,678     |
| Dollars Claimed Lost                | \$735,731 | \$680,172 | \$489,467 | \$831,437 | \$1,042,885 | \$1,268,283 | \$960,191 | \$528,945   | \$920,285   | \$882,486 |
| Consumer Restitution Recovered      | \$22,201  | \$130,469 | \$263,435 | \$394,376 | \$986,571   | \$1,757,469 | \$532,657 | \$1,363,375 | \$1,918,676 | \$638,360 |
| Civil Penalties and Costs Recovered | \$0       | \$500     | \$56,500  | \$127,845 | \$243,571   | \$163,621   | \$134,000 | \$164,300   | \$537,768   | \$413,121 |
| Enforcement Actions**               | 6         | 9         | 62        | 66        | 100         | 78          | 96        | 63          | 50          | 56        |
| Telemarketers Registered            | N/A       | N/A       | N/A       | 18        | 41          | 66          | 57        | 61          | 46          | 51        |

| ACTIVITY                            | 1999      | 2000      | 2001        | 2002        | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|-------------------------------------|-----------|-----------|-------------|-------------|------|------|------|------|------|------|
| Complaints*                         | 1,874     | 2,193     | 3,664       | 3,076       |      |      |      |      |      |      |
| Other Consumer Contacts*            | 8,005     | 8,125     | 21,925      | 11,998      |      |      |      |      |      |      |
| Dollars Claimed Lost                | \$793,493 | \$765,555 | \$1,190,849 | \$860,542   |      |      |      |      |      |      |
| Consumer Restitution Recovered      | \$376,972 | \$905,055 | \$1,429,325 | \$1,147,339 |      |      |      |      |      |      |
| Civil Penalties and Costs Recovered | \$962,019 | \$546,136 | \$209,560   | \$1,569,232 |      |      |      |      |      |      |
| Enforcement Actions**               | 29        | 23        | 32          | 45          |      |      |      |      |      |      |
| Telemarketers Registered            | 48        | 46        | 30          | 69          |      |      |      |      |      |      |
| Idahoans on No Call List            | N/A       | N/A       | 33,731      | 45,968      |      |      |      |      |      |      |

\* From 1989 to 1998, this category included all written complaints lodged, inquiries made, information provided and consumers' requests for written information. Implementation of a new database enables the Unit to now track complaints and other consumer contacts separately.

\*\* Includes Assurances of Voluntary Compliance, Judgments, and Orders Compelling Response and Granting Injunctive Relief obtained. Lawsuits filed, but not yet concluded, are not counted.