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OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

2008 ANNUAL REPORT ON
CONSUMER PROTECTION, COMPETITION AND TOBACCO
ENFORCEMENT ACTIVITIES



The Attorney General enforces various consumer laws, including Idaho's Consumer Protection Act, Competition Act, Telephone Solicitation Act, Pay-Per-Telephone Call Act, and Charitable Solicitation Act. These laws 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 also enforces and defends the state's Master Settlement Agreement with the tobacco industry and has been delegated the duty of enforcing Idaho's Tobacco Master Settlement Agreement Act, Tobacco Master Settlement Agreement Complementary Act, and Prevention of Minors' Access to Tobacco Act. The MSA and these acts seek to promote the public health and protect the fiscal soundness of the state.

The Attorney General reports to the public annually regarding consumer protection, telephone solicitation, charitable solicitation, competition, and tobacco activities. This report covers the calendar year 2008.

2008 ACTIVITIES SUMMARY

In 2008, the Attorney General recovered \$932,134 in restitution. This equates to \$1.51 for each taxpayer dollar appropriated for consumer operations.

For the past 18 years, the Attorney General has recovered more money for Idaho residents and businesses than the Legislature has appropriated from the general fund for consumer protection operations. Salaries and benefits of those who are involved primarily in consumer protection efforts are expected to cost taxpayers approximately \$614,964 for the 2009 fiscal year. Another \$225,200 is budgeted from the Attorney General's consumer protection

account for consumer education efforts. The consumer protection account is comprised of moneys obtained through the Attorney General's enforcement actions.

The Attorney General also recovered \$2,988,047 in civil penalties, fees and costs, the largest amount ever recovered by the Attorney General's Office. These amounts do not include the \$28,503,410 the State received in 2008 pursuant to the tobacco Master Settlement Agreement (MSA) negotiated between the Office of the Attorney General and tobacco manufacturers in 1998. To date, the State has received \$223,556,369 under the MSA.

Activity this year related to consumer protection, competition, telemarketing, tobacco law enforcement, and consumer education and outreach.

The Attorney General settled significant consumer protection cases with pharmaceutical manufacturers, foreclosure rescue operations, telemarketers, and other businesses.

In the antitrust arena, the Attorney General settled an important case involving pharmaceutical products.

The year 2008 marked the Attorney General's seventh year of enforcement and administration of Idaho's No Call Law. By year's end, there were 855,696 Idaho phone numbers registered on the No Call List. This compares to 702,513 phone numbers in 2007. Citizens continue to report receiving fewer unwanted telephone solicitations.

The Attorney General also undertook actions related to enforcement and defense of Idaho's various tobacco laws and the MSA. He obtained significant judgments against large Internet cigarette sellers and cigarette wholesalers violating Idaho's tobacco sales laws. The Attorney General also obtained favorable rulings in cases alleging that the MSA is unconstitutional or otherwise in violation of various laws.

The Attorney General's Consumer Protection Division logged 6,673 instances of consumer assistance in 2008, a sizeable increase of 33 percent over 2007. Of those consumer contacts, 1,676 contacts were consumer complaints.

In 2008, Idaho consumers reported losses of \$9,800,077, the largest amount ever claimed. Sizable losses were reported by consumers related to educational institutions and programs, construction and remodeling matters, and motor vehicles.

Other than complaints, the remainder of consumer contacts consisted of information from consumers, requests for information and forms, and consumer inquiries about particular businesses. This number does not reflect the multitude of telephone calls and personal contacts that are not logged or tracked by the Attorney General's consumer database.

The Attorney General continued a consumer education program to protect children from Internet sexual predators. ProtecTeens is an award-winning, informative video presentation and resource kit concerning Internet safety. During the year, the Consumer Protection Division also introduced new mortgage foreclosure and senior citizen manuals that were well received.

The Attorney General's staff educated thousands of people about consumer issues and attended fairs in Northern and Eastern Idaho, as well as the Magic and Treasure Valleys. Consumer Protection Division staff also attended other events and meetings throughout the state, distributing consumer education brochures and making presentations.

The Attorney General deposits money from civil penalties, fees and reimbursed costs into the consumer protection account. Funds from this account pay for the Attorney General's educational activities, pursuant to legislative appropriation. Indeed, the Attorney General's consumer educational efforts do not use tax dollars, but are fully funded from the consumer protection account.

The Attorney General transferred \$380,272 in unspent consumer protection account funds to the General Fund at the end of fiscal year 2008. A transfer of \$2,200,000 from the consumer protection account was pending before the legislature at the time of this report's publication. When completed, the Attorney General will have transferred \$7,792,528 to the General Fund since fiscal year 2000. Prior fiscal year transfers were \$1,282,752 in 2007; \$158,758 in 2006; \$181,292 in 2005; \$746,861 in 2004; \$503,129 in 2003; \$1,128,516 in 2002; \$510,948 in 2001; and \$700,000 in 2000.

APPLICABLE LAWS

In the field of consumer protection, competition, tobacco and telephone and charitable solicitations, the Attorney General enforces the following Idaho statutes and rules:¹

- Consumer Protection Act
- Competition Act
- Charitable Solicitation Act
- Pay-Per-Telephone Call Act
- Telephone Solicitation Act, including the Idaho No Call Law
- Tobacco Master Settlement Agreement Act
- Tobacco Master Settlement Agreement Complementary Act
- Prevention of Minors' Access to Tobacco Act
- Reduced Cigarette Ignition Propensity Act
- Credit Report Protection Act
- Consumer Protection Rules
- Telephone Solicitation and Pay-Per-Telephone Call Services Rules
- Tobacco Master Settlement Agreement Complementary Act Rule

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 and Mobile Home Park Acts, Idaho's landlord-tenant laws, and identity theft.

LEGISLATION

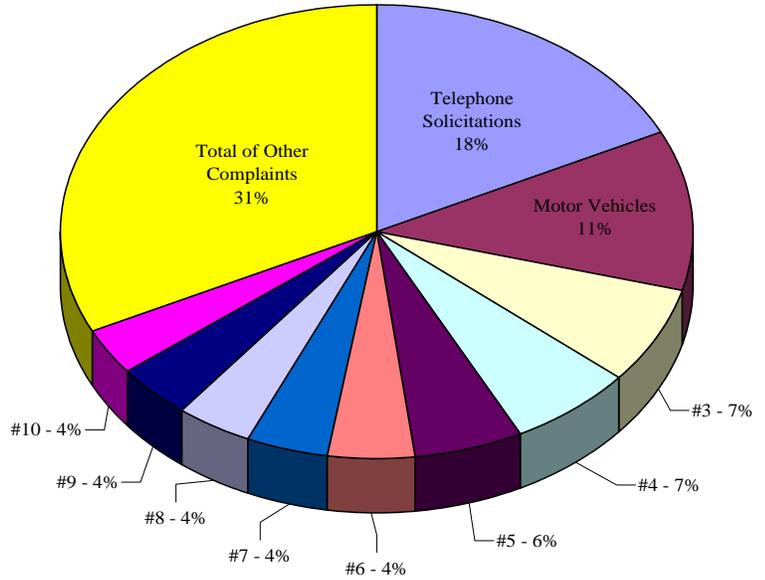
The Attorney General did not propose consumer related legislation in 2008.

¹ The listed Idaho statutes and rules are codified, respectively, as follows: Consumer Protection Act, title 48, chapter 6, Idaho Code; Competition Act, title 48, chapter 1, Idaho Code; Charitable Solicitation Act, title 48, chapter 12, Idaho Code; Pay-Per-Telephone Call Act, title 48, chapter 11, Idaho Code; Telephone Solicitation Act, title 48, chapter 10, Idaho Code; Tobacco Master Settlement Agreement Act, title 39, chapter 78, Idaho Code; Tobacco Master Settlement Agreement Complementary Act, title 39, chapter 84, Idaho Code (Supp.); Prevention of Minors' Access to Tobacco Act, title 39, chapter 57, Idaho Code; Reduced Cigarette Ignition Propensity Act, title 39, chapter 89, Idaho Code; Credit Report Protection Act, title 28, chapter 52, Idaho Code; Consumer Protection Rules, IDAPA 04.02.01 et seq.; Telephone Solicitation and Pay-Per-Telephone Call Services Rules, IDAPA 04.02.02 et seq.; and Tobacco Master Settlement Agreement Complementary Act Rule, IDAPA 04.20.01 et seq.

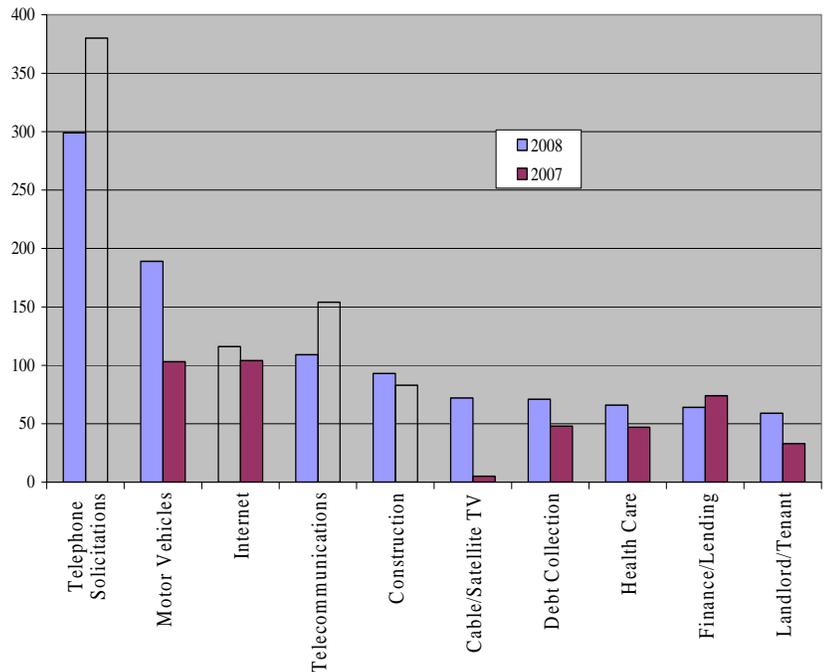
2008 TOP TEN CONSUMER COMPLAINTS

Total consumer complaints increased slightly in 2008. Telephone solicitation complaints declined but still ranked as the number one complaint category. Telephone solicitation complaints include deceptive telemarketing offers and violations of Idaho’s No Call Law. There was a very large increase in motor vehicle complaints, and it became the number two complaint category. Until 2008, telephone solicitation and telecommunications complaints had held the first or second position on the Top Ten Consumer Complaint List for more than ten years.

2008 Total	1,676
1. Telephone Solicitations	299
2. Motor Vehicles	189
3. Internet	116
4. Telecommunications	109
5. Construction	93
6. Cable/Satellite TV	72
7. Debt Collection	71
8. Health Care	66
9. Finance/Lending	64
10. Landlord/Tenant	59
Total of all other complaints	538



2007 Total	1,614
1. Telephone Solicitations	380
2. Telecommunications	154
3. Retail Store Sales/Service	107
4. Internet	104
5. Motor Vehicles	103
6. Construction	83
7. Finance/Lending Inst.	74
8. Mail Order Sales	62
9. Electronic Equip./Service	60
10. Collection Agencies	48
Total of all other complaints	439



ENFORCEMENT

THE ATTORNEY GENERAL'S NO CALL LIST

Idahoans continue to add telephone numbers to the Attorney General's No Call List. By the end of 2008, Idahoans had registered 855,696 telephone numbers, a 21 percent increase from the 702,513 telephone numbers registered at the end of 2007. Idahoans registered on the No Call List continue to report that unwanted telephone solicitations have decreased significantly or have stopped completely.

Complaints concerning Idaho's No Call Law decreased to 177, a significant drop from 380 in 2007. This is particularly noteworthy given the continued growth of phone numbers registered on the No Call List. The Attorney General continues to monitor complaints and oversee compliance with Idaho's No Call Law.

CONSUMER PROTECTION

Enforcement of Idaho's consumer laws protects the free and competitive market and ensures a level playing field for all businesses. The Attorney General undertook a variety of consumer protection matters in 2008 that were noteworthy in scope and impact.

Average Wholesale Pricing

Idaho has lawsuits pending against the drug manufacturers listed below, based on the companies' alleged false and deceptive average wholesale price (AWP) reporting practices. AWP is used as a basis for the state to reimburse health care providers for the cost of prescription drugs used by people receiving Medicaid.

Abbott Laboratories	Sandoz Inc., f/k/a Geneva Pharmaceuticals, Inc.
Alpharma USPD Inc.	Teva Pharmaceuticals USA, Inc.
Astrazeneca Pharmaceuticals LP	Watson Pharma, Inc., f/k/a Schein
Astrazeneca LP	Pharmaceuticals, Inc.
Barr Laboratories, Inc.	Watson Pharmaceuticals, Inc.
Centocor, Inc.	Aventis Pharmaceuticals Inc.
Ivax Corp.	Forest Laboratories, Inc.
Ivax Pharmaceuticals, Inc.	Mylan, Inc.
Janssen Pharmaceutical Products, LP	Mylan Pharmaceuticals Inc.
Johnson & Johnson	Novartis Pharmaceuticals Corp.; Pfizer Inc.
McNeil-PPC, Inc.	Pharmacia Corp.
Merck & Co., Inc.	Schering-Plough Corp.
Ortho Biotech Products, LP	Smithkline Beecham Corp., d/b/a Glaxosmithkline
Ortho-McNeil Pharmaceutical, Inc.	Warrick Pharmaceuticals Corporation
Par Pharmaceutical Cos., Inc.	Ben Venue Laboratories, Inc.
Purepac Pharmaceutical Co.	Boehringer Ingelheim Pharmaceuticals, Inc.
Roxane, Inc., n/k/a Boehringer	
Ingelheim Roxane, Inc.	

BRISTOL MYERS SQUIB / APOTHECON, INC.: These two drug manufacturers paid Idaho more than \$1.7 million in a settlement resolving the state's claims relating to the companies' alleged false reporting of average wholesale prices of their drugs. The Assurance of Voluntary Compliance also resolved a number of claims relating to off-label promotion, alleged anti-kickback violations, and other alleged price misrepresentations.

Business Opportunities / Work-at-Home

STARTUP ESSENTIALS: This Dallas, Texas, business promised to help consumers develop a plan to develop and market their home-based businesses. Consumers actually received a cheap laptop computer and a non-cancelable, long-term lease commitment through A-1 Leasing. The Attorney General obtained a court order prohibiting the business from operating in Idaho.

Charitable Contributions

COALITION OF POLICE AND SHERIFFS (COPS): Idaho consumers complained that, even though they never agreed to contribute money, they received a bill for \$20 from COPS, a charity located in Santa Ana, California. Others complained that, despite their requests that COPS stop calling, COPS continued calling and sent a \$20 invoice. The Attorney General obtained an Assurance of Voluntary Compliance in which COPS agreed that it will no longer conduct charitable solicitations in Idaho. The business faces a civil penalty of up to \$10,000 if it violates the settlement agreement.

Construction and Contractors

JNTN, LLC, D/B/A JT ENTERPRISES (BERT & TIERA NASH): This Nampa, Idaho, contractor accepted more than \$198,000 from consumers for landscaping and pool installations that the contractor never provided. The Attorney General obtained a default judgment permanently revoking the company's contractor registration and requiring it to pay restitution, attorney's fees, and \$130,000.

COOKS, INC.: A Post Falls, Idaho, contractor accepted more than \$156,000 from consumers for construction services it failed to provide before going out of business. The Attorney General obtained a judgment against the company for more than \$223,000.

OUTSTANDING ROOFING: A Boise, Idaho, contractor accepted money from consumers and provided substandard roofing services. The Attorney General obtained a court order prohibiting the company from doing business in Idaho.

Debt Collection

SMITH & ASSOCIATES: An Orlando, Florida, business sent debt collection letters to Idaho consumers threatening to have them arrested and jailed if they did not pay debts

that were no longer collectable. The Attorney General obtained a judgment prohibiting the business from operating in Idaho and requiring it to pay \$46,420.72 in civil penalties, costs, and fees.

Foreclosure Rescue

MORTGAGE ASSISTANCE SOLUTIONS (MICHAEL STOLLER): The Clearwater, Florida, foreclosure rescue company sent advertisements to consumers claiming their homes were in foreclosure. Idahoans filed complaints alleging that they were sent a direct-mail advertisement that stated in bold, red letters: “FORECLOSURE COMPLAINT NOTICE.” The advertisement stated that the consumer’s home was “scheduled to be sold at auction.” The ad instructed the consumer to call Mortgage Assistance Solutions in order to avoid foreclosure. The advertisement also contained false property recording information and identified “National Bank” as the financial institution associated with the foreclosure. Idahoans indicated that their homes were not in foreclosure and that they had never done business with “National Bank.” Mortgage Assistance Solutions made claims it could negotiate a better deal with a homeowner’s mortgage lender than the homeowner could negotiate by dealing directly with the lender. However, the company required a \$1,200 payment before it would discuss possible options with the consumer. Under the Assurance of Voluntary Compliance, if Mortgage Assistance Solutions is found doing business in Idaho, it is subject to a \$10,000 civil penalty. The company reimbursed the Attorney General \$1,700 in attorney fees and costs.

Health and Safety

MERCK: Merck and Company, Inc., entered into a consent judgment with Attorney General Wasden and the attorneys general of other states. The agreement resolved concerns about the pharmaceutical manufacturer’s promotion of its drug, Vioxx. The judgment requires Merck to submit all direct-to-consumer television advertisements to the U.S. Food and Drug Administration (FDA) for approval and comments prior to running the advertisements. Merck is also prohibited from engaging in certain activities that could lead to deceptive promotion of its products. Merck paid a total of \$58 million to the participating states. Idaho received \$1,150,140 from the settlement.

PFIZER: Another pharmaceutical manufacturer, Pfizer, Inc., entered into a consent judgment with Idaho and 31 other states resolving concerns about the promotion of its drug, Bextra. The judgment prohibits Pfizer from certain activities that could lead to deceptive promotion of its products and required Pfizer to pay a total of \$60 million to the participating states. Idaho received \$1,641,482 from the settlement.

ANHEUSER-BUSCH, INC.: Anheuser-Busch, the largest alcohol beverage company in the United States, agreed to stop making alcohol drinks containing caffeine or other stimulants, pursuant to a settlement with Attorney General Wasden. Alcohol energy drinks taste and look like non-alcoholic energy drinks. They are popular with young people, who often believe, incorrectly, that the caffeine in the drinks will counteract the

intoxicating effects of the alcohol. In fact, the stimulants in these beverages mask the effects of the alcohol. As a result, the consumer feels alert and, although impaired by alcohol, does not perceive that he or she is impaired.

MATTEL, INC. AND FISHER-PRICE, INC.: Mattel and Fisher-Price entered into a settlement with Attorney General Wasden concerning the appearance of lead paint in several of their popular toys, such as Dora the Explorer and “Sarge,” a die-cast car. After the Attorney General, along with attorneys general of several other states, contacted Mattel in August 2007, Congress enacted the Consumer Product Safety Improvement Act (CPSIA), which, starting in February 2009, provides more stringent standards for lead in surface coatings and substrates. Mattel agreed to phase in more stringent standards ahead of the timelines provided by the CPSIA and to notify the attorneys general if it confirms excessive lead in any of its products.

AIRBORNE: The makers of Airborne dietary supplements will change the way they market their products as a result of a settlement with Idaho and other states. The settlement addresses unsubstantiated and misleading claims that Airborne could prevent the common cold or provide relief from cold symptoms. Under terms of the settlement, Airborne will not make any claims concerning the health benefit, performance, effectiveness, or safety of its dietary supplement products unless competent and reliable scientific evidence exists to substantiate each claim. Airborne Original is the number one selling dietary supplement in its category and is sold at most major retailers.

ELI LILLY & CO.: Idaho filed a lawsuit against Eli Lilly, a pharmaceutical manufacturer, to recover Medicaid damages as a result of the company’s false and deceptive advertisement of its drug, Zyprexa. Zyprexa is a prescription drug for treatment of schizophrenia and bipolar disorder. Eli Lilly removed the case to federal court, and it is now being litigated in federal court in New York.

Housing

COUNTRYWIDE: Idaho homeowners will receive more than \$700,000 in mortgage foreclosure relief from a legal settlement between the Attorney General, the Idaho Department of Finance, and Countrywide Financial Corporation. Countrywide Financial agreed to take the following actions for eligible Idaho homeowners:

- Suspend foreclosures pending a determination of the borrower’s ability to afford the loan modification;
- Reduce interest payments and principal balances;
- Waive approximately \$275,000 in late fees;
- Waive approximately \$243,000 in prepayment penalties; and
- Provide approximately \$179,000 in relocation assistance payments.

The modification program includes subprime and pay option adjustable rate mortgage loans (POMs) in which the borrower's first payment was due between January 1, 2004, and December 31, 2007.

Internet

DIRECTORY BILLING LLC (doing business as USDirectory.com): Directory Billing, an online yellow pages directory, entered into an agreement with the Attorney General resolving concerns about its business practices. Specifically, Directory Billing sent businesses and other organizations checks for a nominal sum, usually \$3.50. When deposited, the checks authorized advertising with Directory Billing. Some businesses and organizations deposited the checks without knowing they were purchasing advertising or that the deposit authorized a monthly billing or debit. Directory Billing agreed to cease using checks that obligated a business to purchase its services and to make refunds or cancellations. The company also reimbursed the state its fees and expenses.

JOSEPH HODGE: An eBay seller accepted money for auto parts but failed to deliver them. The Attorney General obtained a court order prohibiting him from doing business in Idaho.

SQUARED CIRCLE TOYS: An eBay seller accepted money for miniature wrestling figurines but failed to deliver them. The Attorney General sued the owner and obtained a consent judgment requiring him to pay restitution to all consumers.

Landlord/Tenant

MKAT PROPERTIES: An Idaho property management company went out of business and failed to return rent payments and deposits to consumers. One owner signed an Assurance of Voluntary Compliance, and the Attorney General obtained a judgment against the other owner. The judgment ordered the owner to pay restitution, civil penalties, and fees in the amount of \$104,495.50.

Motor Vehicle Advertising, Sales, and Services

POST FALLS MAZDA (MARK GIBSON): Between 2005 and 2007, the Idaho car dealership retained payments received from consumers for the purchase of extended service contracts and insurance. The dealer should have forwarded the consumers' payments to the insurance companies. Consumers eventually learned that they did not have the coverage they believed they had purchased. The Attorney General, following a review of three years of records, filed suit in early August 2008. The dealer then filed for Chapter 13 bankruptcy, where the matter is being litigated today. The Attorney General's Office estimates that the dealer retained more than \$200,000 in consumer payments.

Telecommunications / Telemarketing

ELITE SPONSORS: The for-profit business telemarkets on behalf of several charitable organizations, including the Coalition of Police and Sheriffs (COPS). Consumers alleged that Elite Sponsors represented themselves as law enforcement. Under the terms of the Assurance of Voluntary Compliance, the company must register to telemarket, comply with the National Do Not Call Registry, discontinue its invoice solicitations, and disclose its physical address in all of its written charitable solicitations. When calling Idahoans, Elite Sponsors must disclose all terms and conditions of the solicitation, and, if it is calling on behalf of a law enforcement organization, disclose that it is not affiliated with any Idaho law enforcement agency. Elite Sponsors paid \$1,500 to reimburse the Attorney General's Office for fees and costs. The business is subject to a \$10,000 penalty if it violates the settlement agreement.

QUALITY AIRE SYSTEMS: Consumers complained that Quality Aire Systems claimed it was conducting a health survey, when the company's actual purpose was to generate sales leads. Consumers also complained that the company kept calling them, despite requests to stop, and that it called consumers whose telephone numbers were registered on the National Do Not Call Registry. The business scheduled appointments over the phone and then attempted to sell vacuum cleaners and air-purifying systems to consumers in their homes. Quality Aire Systems was required to reimburse the Attorney General's Office \$1,773 for fees and costs and is subject to a \$5,000 penalty if the company violates the settlement agreement.

UNITED PUBLISHERS: Idahoans were contacted under the premise that they had been specially selected to win a prize when, in reality, United Publishers simply purchased lists of consumers' telephone numbers from data brokers and then randomly selected numbers to call in an attempt to sell magazine subscriptions. Although United Publishers' ultimate purpose in contacting consumers was to sell them magazine subscriptions, before the company's telemarketers ever discussed the topic of purchasing a subscription, they allegedly asked consumers whether they had a credit card and told consumers they would receive a free watch and free magazines. In order to receive the free merchandise, however, consumers had to purchase non-cancelable magazine subscriptions. Before it can resume soliciting in Idaho, the Assurance of Voluntary Compliance requires United Publishers to register to telemarket. The company also paid \$1,000 in civil penalties and \$1,507 in attorney fees and investigation expenses.

INSTITUTE OF BUSINESS PUBLICATIONS (IOBP): Consumers complained that this business sent to a collection agency bills for a subscription to IOBP's *Safety Alert*. During a telephone solicitation, the consumers had agreed to receive two complementary copies of the publication but did not agree to subscribe. IOBP claimed that the consumers consented to purchase the subscription because they did not call to cancel it. The Exton, Pennsylvania, publisher paid restitution to all Idaho businesses with accounts that IOBP submitted to a collection agency since January 1, 2002. Under the Assurance of Voluntary Compliance, IOBP was required to register to telemarket and to change the forms it sends to consumers so that consumers are informed that they are not obligated to purchase IOBP's publications. Additionally, IOBP must obtain the consumer's written or

recorded verbal consent to purchase a subscription before IOBP can charge the consumer. The company also must remove any incorrect information about a business that it reported to a credit reporting agency and reimburse the Attorney General for attorney fees and costs.

ZIPWIDEB.COM (ZWW-ISP): The Internet directory company telemarketed Idaho businesses without being registered as a telemarketer. ZWW-ISP signed an Assurance of Voluntary Compliance requiring it to register with the Attorney General and pay the Attorney General's fees and costs.

Unauthorized Charges

LEANRX: Consumers complained that Lean Rx, based in Ontario, California, without authorization, billed the consumers' credit cards for products the consumers never ordered or received. The Attorney General obtained an order prohibiting the company from doing business in Idaho.

Unsolicited Facsimiles

TRAVELCOMM INDUSTRIES: The Attorney General obtained a judgment against this Orlando, Florida, faxer that advertises discount vacations. The judgment ordered Travelcomm to pay \$500,000 in civil penalties, \$3,762 in attorney's fees, and \$500 in consumer restitution.

HARD MONEY PLACEMENT (MARTY SWEETEN): The Attorney General obtained a consent judgment against this business, which sent unsolicited faxes advertising commercial and residential mortgage loans. Mr. Sweeten was required to reimburse the Attorney General's Office for costs and fees, and a \$75,000 civil penalty is held in abeyance pending Mr. Sweeten's compliance with the Consent Judgment. The settlement requires Mr. Sweeten to include, in any fax he sends to Idaho, a clear and conspicuous disclosure stating the consumer previously provided written permission to receive the advertisement. The advertisement must also include a toll-free telephone number for consumers to call to request removal of their fax number from the business' databases within 48 hours.

SUNSTAR TRAVEL & TOURS: A consent judgment requires the company to stop sending unsolicited faxes, reimburse the Attorney General's costs and fees, and pay restitution. A \$15,000 civil penalty is held in abeyance pending SunStar Travel and Tours' compliance with the consent judgment. The business must include, in any fax it sends to an Idaho consumer, a clear and conspicuous disclosure stating the consumer previously provided written permission to receive the advertisement. The advertisement must also include a toll-free telephone number for consumers to call to request removal of their fax number from the business' databases within 48 hours.

COMPETITION ACT

In enacting Idaho's Competition Act, the Legislature stated that the Act's purposes are to maintain and promote economic competition in Idaho commerce, to provide the benefits of that competition to consumers and businesses in the state, and to establish efficient and economical procedures to accomplish these purposes and policies. The Attorney General took action in 2008 under the Competition Act to realize these purposes.

OVCON: The Attorney General entered into a settlement with Warner Chilcott and Barr Pharmaceuticals, the makers of the popular oral contraceptive product Ovcon. Under terms of the settlement, the companies terminated an agreement that prevented generic versions of Ovcon from reaching the marketplace. The Attorney General alleged that Warner Chilcott paid Barr \$20 million to keep Barr from marketing a generic version of Ovcon and that this agreement violated the antitrust laws and kept prices for the product artificially high.

ABBOTT LABORATORIES FOURNIER INDUSTRIE ET SANTE, AND LABORATOIRES FOURNIER, S.A.: The Attorney General sued these entities for alleged anticompetitive practices that kept generic versions of the popular drug TriCor off the market. TriCor is a drug used to regulate triglyceride and cholesterol levels. The lawsuit seeks to end the alleged anticompetitive practices and allow the less expensive generic version of TriCor to be marketed.

TOBACCO ENFORCEMENT

The Legislature has assigned the Attorney General enforcement duties under Idaho's Tobacco Master Settlement Agreement Act (MSA Act), Tobacco Master Settlement Agreement Complementary Act (Complementary Act), and Prevention of Minors' Access to Tobacco Act. The Attorney General prosecutes violations of these laws and defends these laws against constitutional challenge in state and federal court actions. The Attorney General also enforces and defends the state's Master Settlement Agreement (MSA). In addition, Attorney General Wasden serves on the Board of Directors of the American Legacy Foundation. The foundation was created by the MSA to conduct on-going national advertising to discourage youth tobacco use.

The MSA has had a substantial impact on cigarette consumption in the United States. Since 1998, the year the MSA was signed, cigarette consumption has dropped more than 30%. Youth smoking rates also have declined significantly, according to a study sponsored by the National Institute on Drug Abuse.

MASTER SETTLEMENT AGREEMENT. During 2008, the tobacco industry paid \$28,503,410 to Idaho pursuant to its settlement agreement. This brings the total the State has received under the MSA to nearly a quarter billion dollars (\$223,556,369).

The Attorney General continues to defend the MSA and Idaho's tobacco laws in state and federal lawsuits. The lawsuits assert that the MSA, as well as Idaho's MSA and Complementary

Acts, violate constitutional provisions or are preempted by federal law. To date, the Attorney General has defeated challenges to these Idaho laws in actions arising in Idaho, California, Washington, D.C., Oregon, Kentucky, and New York. Several matters are still pending.

Pursuant to Idaho's Complementary Act, the Attorney General maintains and administers a directory of tobacco manufacturers and brands that are in compliance with the Act. At present, the Attorney General has certified 48 tobacco manufacturers and 321 tobacco brands. The directory is available in the tobacco section of the Attorney General's website (www.ag.idaho.gov).

The Attorney General also promulgated and enforces rules under the Complementary Act.

The Attorney General is presently litigating a dispute with the tobacco industry over the state's enforcement of Idaho's MSA Act. The industry disputes the effectiveness of the state's efforts. The state has introduced evidence that its enforcement efforts have produced a compliance rate of 99% and that this indicates effective, diligent enforcement. A finding of diligent enforcement will insulate the state from monetary claims of the tobacco industry.

PREVENTION OF MINORS' ACCESS TO TOBACCO. The Attorney General is part of an ongoing, multi-state enforcement effort related to the retail sale of cigarettes to minors. The Attorney General, along with other states, has negotiated agreements that are designed to reduce youth tobacco product sales with retailers, gas stations and convenience stores, including Kroger, Wal-Mart, Walgreens, and RiteAid stores and with gas stations and convenience stores operating under the Chevron, ConocoPhillips, ExxonMobil, and BP brand names. Preliminary research indicates that the agreements are meeting that goal. The Attorney General reached a new settlement in 2008, discussed below, to further address the issue.

Tobacco Enforcement

SCOTT MAYBEE: Scott Maybee sells cigarettes over the Internet under several names, including smartsucker.com, ordersmokesdirect.com, and buycheapcigarettes.com. Idaho's lawsuit alleged that he sold more than two million cigarettes that were not on the Attorney General's Directory of Compliant Tobacco Product Manufacturers and Brand Families and that he sold the cigarettes at retail without obtaining a tobacco permit from the Department of Health and Welfare, as required by Idaho's Minors' Access Act. The court entered judgment against Maybee for \$163,225 in civil penalties and \$8,742 for attorney's fees and costs and permanently enjoined him from selling cigarettes in violation of Idaho's tobacco laws. Maybee has appealed the judgment to the Idaho Supreme Court.

PAPIOTRADE, INC.: The Attorney General obtained judgment against Papiotrade, Inc., an Omaha, Nebraska, tobacco wholesaler, for selling cigarettes that were not approved for sale in Idaho and in violation of the Complementary Act. The Attorney General previously sued Papiotrade in 2005 for the illegal stamping of cigarettes and entered into a Consent Decree in which Papiotrade agreed not to sell or possess for sale cigarettes that

were not legal for sale in Idaho. Papiotrade later sold illegal cigarettes in Idaho in violation of the 2005 consent decree. The Attorney General was awarded \$100,000 in civil penalties and \$5,040 in attorney fees and costs, and the Idaho State Tax Commission revoked Papiotrade's wholesaler permit.

BLACKSHEEP DISTRIBUTING, INC.: The Attorney General entered into an Amended Consent Decree with Blacksheep Distributing, Inc., a Spokane, Washington, tobacco wholesaler. In 2006, Blacksheep had agreed to a Consent Decree to resolve violations related to illegal stamping of cigarettes and failure to file required reports. Blacksheep violated the terms of the 2006 Consent Decree and, pursuant to the Amended Consent Decree, paid a civil penalty of \$5,000, surrendered its wholesalers permit to the Idaho State Tax Commission, and agreed not to conduct business in Idaho for at least two years.

NATIVE WHOLESALE SUPPLY COMPANY: The Attorney General and the Idaho State Tax Commission filed suit against Native Wholesale Supply, an unlicensed cigarette wholesaler from Perrysburg, New York. The Attorney General alleged Native Wholesale illegally sold Seneca and Opal brand cigarettes in Idaho and sold wholesale cigarettes without the required permits. These cigarette brands and their manufacturer, Grand River Enterprises, have been enjoined from sale in Idaho following entry of a judgment against Grand River Enterprises in 2002. Records received by the Attorney General show that, since 2004, Native Wholesale Supply has sold more than 90 million illegal cigarettes in Idaho. Despite receiving notice of these illegal sales and being served with the lawsuit, Native Wholesale Supply continued illegal cigarette shipments into Idaho. The case is pending in the United States District Court for the District of Idaho.

SHELL OIL PRODUCTS AND MOTIVA ENTERPRISES LLC: The Attorney General entered into an agreement with the companies to implement new policies and procedures to reduce tobacco sales to minors in the companies' stores in Idaho and throughout the country. Among other provisions, Motiva and Shell agreed to:

- Implement comprehensive youth prevention tobacco retailing practices;
- Require franchisees to report violations to the corporate office; and
- Modify franchise agreements to provide that violations of youth access laws could constitute grounds for termination or non-renewal of the franchise agreement.

ELECTRONIC CLEARING HOUSE, INC., AND FIRST REGIONAL BANK: The Attorney General, in cooperation with the Attorneys General of New York and California, entered into agreements with two electronic payment processors, Electronic Clearing House, Inc., and First Regional Bank. The two companies agreed to stop providing electronic processing services to online tobacco retailers. Virtually all sales of cigarettes over the Internet violate state and federal laws that require sellers to verify the purchaser's age, regulate direct shipment of cigarettes to consumers, and require collection of state taxes. Internet cigarette sales also present a significant public health

risk, as cigarettes are sold much cheaper on the Internet because the Internet sellers do not collect state excise taxes.

CONSUMER EDUCATION

PROTECTEENS. ProtecTeens is a video presentation and resource kit to educate parents about the potential danger to their children from sexual predators on the Internet. Attorney General Wasden and Secretary of State Ben Yursa are responsible for the development of ProtecTeens. The Attorney General and the Secretary of State created a broad partnership that includes Governor C.L. “Butch” Otter, First Lady Lori Otter, Superintendent of Public Instruction Tom Luna, the Idaho Prosecuting Attorneys Association, the Idaho Sheriffs’ Association, the Idaho Chiefs of Police Association, the Idaho Internet Crimes Against Children Task Force, the Idaho Medical Association, the Idaho School Boards Association, the Idaho Association of School Administrators, and the Idaho PTA.

Attorney General Wasden and his partners presented ProtecTeens to groups throughout Idaho in 2008 and have distributed more than 100,000 ProtecTeens CDs to Idahoans to date.

The Attorney General makes the ProtecTeens CD and resource kit available on his website at www.ag.idaho.gov. Idahoans may view this information online or request that a copy of the CD to be mailed to them. In addition, Idahoans may make a request for a ProtecTeens presentation to a group or organization.

IDENTITY THEFT. Consumers too often continue to receive the unwelcome news that they are the victims of a computer-security breach. These breaches put thousands of Idahoans at risk of identity theft. In 2008, the Attorney General’s staff continued to educate consumers about identity theft and how to prevent it.

CONSUMER EDUCATION PUBLICATIONS. The Consumer Protection Division introduced several new consumer publications in 2008, including a foreclosure manual and a manual designed for senior citizens, both of which have been very well received.

Other consumer education publications by the Attorney General include:

<u>A Parent’s Guide to Social Networking</u>	<u>The Internet Lingo Dictionary</u>
<u>Credit and Debt</u>	<u>The Idaho Consumer Protection Manual</u>
<u>The Young Adult Handbook</u>	<u>Identity Theft</u>
<u>Idaho Lemon Law</u>	<u>Charitable Giving</u>
<u>Landlord and Tenant Guidelines</u>	<u>Internet Safety</u>
<u>Pyramids</u>	<u>Gift Schemes & Network Marketing</u>
<u>Telephone Solicitations</u>	

The Attorney General offers Spanish translations of the consumer protection publications listed above. The Spanish materials were produced using grant funds. The Attorney General’s

Consumer Protection Division continues to utilize the Language Line Service to enable Spanish-speaking consumers to obtain consumer information and referrals by telephone.

In addition to the publications listed above, the Attorney General offers consumer tip sheets covering telephone solicitors, automobile repairs, mail fraud, construction fraud, charitable donations and other subjects.

All of the Attorney General's printed consumer education materials are available free of charge upon request or through the Attorney General's Internet site (www.ag.idaho.gov). The Internet site also contains Idaho's consumer protection laws and information for citizens who wish to file a consumer complaint. Consumers may obtain additional information on consumer issues by calling 334-2424 (Boise) or toll-free (in-state) 800-432-3545.

CONSUMER OUTREACH. In 2008, Consumer Protection staff made consumer education presentations throughout the state and spoke to hundreds of people at a variety of speaking engagements.

The Attorney General's educational efforts do not use tax dollars. 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.

MEDIATION

Consumer specialists in the Attorney General's Consumer Protection Division mediated 1,676 complaints in 2008 and, as a result of that effort, recovered \$362,012 for Idaho consumers. The amount recovered in mediation is the largest sum ever recovered in one year.



CONSUMER PROTECTION -- BY THE NUMBERS

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

ACTIVITY	1998	1999	2000	2001	2002	2003	2004	2005
Complaints*	5,678	1,874	2,193	3,664	3,076	2,259	4,079	1,875
Other Consumer Contacts*	N/A	8,005	8,125	21,925	11,998	7,635	2,762	5,236
Dollars Claimed Lost	\$882,486	\$793,493	\$765,555	\$1,190,849	\$860,542	\$967,673	N/A	\$1,380,717
Consumer Restitution Recovered	\$638,360	\$376,972	\$905,055	\$1,429,325	\$1,147,339	\$1,671,078	\$5,777,643	\$603,089
Civil Penalties & Costs Recovered	\$413,121	\$962,019	\$546,136	\$209,560	\$1,569,232	\$566,486	\$528,138	\$252,777
Enforcement Actions**	56	29	23	32	45	30	15	22
Telemarketers Registered	51	48	46	30	69	76	76	52
Idaho Numbers on No Call List	N/A	N/A	N/A	33,731	45,968	256,182	362,061	434,382

ACTIVITY	2006	2007	2008	2009	2010	2011	2012	2013
Complaints*	2,051	1,614	1,676					
Other Consumer Contacts*	3,226	3,384	4,997					
Dollars Claimed Lost	\$2,622,263	\$3,641,859	\$9,800,077					
Consumer Restitution Recovered	\$1,692,089	\$662,253	\$932,134					
Civil Penalties & Costs Recovered	\$281,678	\$1,772,175	\$2,988,047					
Enforcement Actions**	12	19	37					
Telemarketers Registered	66	71	53					
Idaho Numbers on No Call List	624,222	702,513	855,696					

* 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 in 1999 enables the Division 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.