

**STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION**

2014 FISCAL YEAR REPORT

**CONSUMER PROTECTION, COMPETITION,
CHARITIES, AND TOBACCO ENFORCEMENT**



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Mission Statement

The Attorney General enforces Idaho's consumer-related laws, including the Consumer Protection, Competition, Telephone Solicitation, Charitable Solicitation, Consumer Foreclosure Protection, and Credit Report Protection Acts. These laws protect consumers, businesses, and the marketplace from unfair or deceptive acts and practices, as well as unreasonable restraints of trade. The Attorney General seeks to fulfill this charge efficiently and economically through education, mediation, and, where appropriate, enforcement actions.

In addition to enforcing consumer protection statutes, the Attorney General enforces and defends the State's Master Settlement Agreement with the tobacco industry. The Legislature has also delegated to the Attorney General the duty of enforcing the Tobacco Master Settlement Agreement, Tobacco Master Settlement Agreement Complementary, and Prevention of Minors' Access to Tobacco Acts. The Master Settlement Agreement and these associated statutes help promote the public health and protect the fiscal soundness of the State.

INTRODUCTION

Each year Attorney General Lawrence Wasden reports to the public about the activities of his office in the areas of consumer protection, competition, telephone solicitations, charities and charitable solicitations, and tobacco enforcement. This report highlights the enforcement actions that the Attorney General undertook in Fiscal Year (FY) 2014 and provides updates of the office's significant settlements and ongoing litigation. In addition, the report identifies and discusses the top ten categories of which consumers filed complaints in FY 2014. The report also summarizes the office's FY 2014 consumer outreach and education efforts.



Enacted in 1971, the Idaho Consumer Protection Act (ICPA) protects consumers, businesses, and Idaho's marketplace from unfair competition and deceptive practices in trade and commerce. The Idaho Competition Act, enacted in 2000, prohibits unreasonable restraints of trade. Over the years, the Legislature has enacted other consumer laws, such as the Telephone Solicitation and Charitable Solicitation Acts. The Attorney General is committed to preserving the integrity of Idaho's marketplace, and his proactive enforcement and education efforts will ensure the continuing success of the ICPA, the Competition Act and other applicable consumer laws in the coming years.

ANNUAL ACTIVITIES SUMMARY

Consumer Complaints & Contacts

- Top Consumer Complaints: Motor vehicles
- Total Number of Consumer Complaints Filed: 829
- Total Number of Other Consumer Contacts Logged 9,678
- Total Amount of Dollar Losses Reported by Consumers: \$1,615,847

Enforcement Actions

- Investigated and prevailed in lawsuit, alleging that St. Luke's Health System's acquisition of the Saltzer Medical Group violates federal and Idaho law, which prohibits acquisitions that substantially lessen competition
- Implemented \$100 million Idaho mortgage foreclosure settlement and settled with another mortgage servicer
- Litigated and settled final drug manufacturers' average wholesale price cases
- Continued litigation of price-fixing claims, including the filing and partial settlement of a lawsuit alleging price fixing in the electronic books market
- Continued defense of Idaho's tobacco Master Settlement Agreement payments

Consumer Restitution & Financial Issues

- Recovered \$1,956,582 in consumer restitution. This amount equals \$2.72 for each taxpayer dollar appropriated for consumer operations in FY 2014 (\$718,500)
- Recovered—for the 22nd straight year—more money for residents and businesses than the Legislature appropriated from the general fund for consumer protection operations
- Recovered and deposited into the consumer protection account \$404,373 in civil penalties, fees, and costs
- Transferred \$185,936 unspent consumer protection account funds to the general fund in FY 2014. Since 2000 the office has transferred \$24,445,536 in consumer funds to the general fund
- Received \$27,450,592 under the tobacco Master Settlement Agreement (MSA), totaling \$382,283,121 received since the MSA was finalized in 1998

APPLICABLE STATE CONSUMER LAWS

Consumer Protection

- **Idaho Consumer Protection Act**, Title 48, Chapter 6, Idaho Code
- **Idaho Rules of Consumer Protection**, IDAPA 04.02.0100 et seq.
- **Idaho Lemon Law**, Title 48, Chapter 9, Idaho Code
- **Idaho Motor Vehicle Service Contract Act**, Title 49, Chapter 28, Idaho Code
- **General Contractor Disclosure Law**, Idaho Code § 45-525
- **Consumer Protection Foreclosure Act**, Title 45, Chapter 16, Idaho Code
- **Home Loan Modification Review Notice Law**, Idaho Code § 45-1506C
- **Credit Report Protection Act**, Title 28, Chapter 52, Idaho Code
- **Loan Broker Law**, Title 26, Chapter 25, Idaho Code
- **Pyramid Promotional Schemes**, Idaho Code § 18-3101
- **Security Breaches**, Title 28, Chapter 51, Idaho Code
- **Service Repair Contracts**, Idaho Code § 41-114B
- **Legal Service Expense Plans Law**, Idaho Code § 41-114B

Competition

- **Idaho Competition Act**, Title 48, Chapter 1, Idaho Code

Charitable Solicitations and Charitable Assets

- **Idaho Charitable Solicitation Act**, Title 48, Chapter 12, Idaho Code
- **Charitable Trust Assets**, Idaho Code §§ 67-1401 & 68-1204
- **Idaho Nonprofit Hospital Sale or Conversion Act**, Title 48, Chapter 15, Idaho Code
- **Prudent Management of Institutional Funds Act (notice)**, Title 33, Chapter 50, Idaho Code

Telephone Solicitations

- **Idaho Telephone Solicitations Act**, Title 48, Chapter 10, Idaho Code
- **Idaho Pay-Per-Telephone Call Act**, Title 48, Chapter 11, Idaho Code
- **Idaho Rules of Telephone Solicitation and Pay-Per-Telephone Call Services**, IDAPA 04.02.0200 et seq.

Tobacco

- **Idaho Tobacco Master Settlement Agreement Act**, Title 39, Chapter 79, Idaho Code
- **Idaho Tobacco Master Settlement Agreement Complementary Act**, Title 39, Chapter 84, Idaho Code
- **Idaho Tobacco Master Settlement Agreement Complementary Act Rule**, IDAPA 04.20.0100
- **Prevention of Minors' Access to Tobacco Act**, Title 39, Chapter 57, Idaho Code
- **Reduced Cigarette Ignition Propensity Act**, Title 39, Chapter 89, Idaho Code

CONSUMER ENFORCEMENT ACTIVITIES

★ *CONSUMER PROTECTION* ★

Enforcement of Idaho's consumer laws protects a free and competitive marketplace and ensures a level playing field for all businesses. A marketplace unfettered by false, deceptive, and misleading practices and free of unreasonable restraints of trade will yield the best allocation of Idaho's economic resources, the lowest prices, the highest quality, and the greatest innovative and material progress. Pursuant to his authority under the Idaho Consumer Protection Act, the Attorney General undertook a number of matters in FY 2014 that are noteworthy in scope and impact.

MORTGAGE FORECLOSURE SETTLEMENTS

The Attorney General, along with the Idaho Department of Finance, other states, and federal mortgage regulators, entered into consent judgments with the five largest loan servicers and their affiliates:

- Bank of America Corporation
- Citigroup, Inc.
- J.P. Morgan Chase & Company
- Ally Financial, Inc.
- Wells Fargo & Company

The National Mortgage Settlement (NMS) resolved claims related to the servicers' mortgage origination, servicing, and foreclosure practices. The Attorney General implemented the financial portions of the NMS in 2013.

Under the NMS, 6,564 Idahoans who lost their homes to foreclosure received individual payments, which collectively totaled

\$9,714,720. Idaho homeowners also collectively received \$157 million in direct relief as follows:

- \$14.7 million in first lien principal reduction modifications;
- \$86.8 million in completed short sales and forgiven deficiencies;
- \$18.2 million in completed refinances; and
- \$37.9 million in completed second lien extinguishments.

The State separately received a payment of \$13 million of which the Legislature appropriated \$500,000 to the Office of the Attorney General to address housing and foreclosure matters. The Attorney General subsequently negotiated service contracts with six HUD-certified housing counseling agencies, the Idaho Law Foundation's Volunteer Lawyer's Program, and Idaho Legal Aid. A supplementary report outlining how each

agency utilized its grant money was also released.

OCWEN FINANCIAL CORPORATION & OCWEN LOAN SERVICING

In December 2013, the Attorney General announced that he, along with other state attorneys general and the Consumer Financial Protection Bureau, had reached a settlement with Ocwen Financial Corporation and its loan servicing subsidiary, Ocwen Loan Servicing. Ocwen is the nation's fourth largest mortgage servicer. The settlement addresses allegations that Ocwen engaged in unlawful mortgage loan servicing practices, including robo-signing.

Under the settlement, Ocwen agreed to implement servicing standards similar to those outlined in the NMS. Ocwen also agreed to provide homeowners first-lien principal reductions and to establish a foreclosure fund

for borrowers who lost their homes to foreclosure.

In Idaho the settlement provides troubled Idaho borrowers with an estimated \$3.7 million in first lien principal reductions. Further, over 900 borrowers are eligible to receive a cash payment in excess of \$1,000 later this year.

SUNTRUST MORTGAGE, INC.

The Attorney General also joined a multistate settlement involving SunTrust Mortgage, Inc. Filed in June 2014, the settlement requires SunTrust to implement new servicing standards and to provide mortgage loan relief to struggling homeowners.

In Idaho the settlement provides troubled Idaho borrowers with an estimated \$480,000 in loan modifications. Further, over 200 borrowers are eligible to receive a cash payment in excess of \$1,000, also later this year.

PHARMACEUTICAL MANUFACTURERS ~ AVERAGE WHOLESALE DRUG PRICING

Idaho Medicaid provides health care services, including prescription drugs, to low-income Idahoans. Since early 2007, the Attorney General has represented the State of Idaho in multiple lawsuits against drug manufacturers based on the companies' alleged

false and deceptive average wholesale price reporting practices.

By law, Idaho Medicaid must reimburse pharmacies and hospitals at the "estimated acquisition cost" of the drug. Up until July 2011, Idaho Medicaid primarily used the drug's "average wholesale price," as reported by the

drug's manufacturer, as a basis for determining the estimated acquisition cost of a drug. The Attorney General alleged that the defendant drug manufacturers reported falsely inflated average wholesale prices, which resulted in the State of Idaho paying health care providers millions of dollars more than they should have received.

In 2013, the Attorney General settled with the last two drug manufacturers named in his lawsuits—Abbott Laboratories and Novartis Pharmaceuticals Corp.—recovering more than \$1.75 million collectively from these two

companies to reimburse the State and its taxpayers for their inflated prices. The settlements also reimbursed the Attorney General his fees and costs in pursuing the cases.

The 2013 settlements successfully concluded the Attorney General's average wholesale pricing litigation. Since 2007, the Attorney General has recovered \$28.3 million from similar settlements with manufacturers.

The chart below summarizes the amount of money each settling defendant manufacturer has paid the State of Idaho since 2005:

DATE	COMPANY	SETTLEMENT
07/12/05	TAP Pharmaceutical Products, Inc. (Lupron drug only)*	\$252,027.44
10/29/06	Dey, Inc. and Dey, L.P.*	\$1,180,600.00
06/25/08	Bristol-Myers Squibb Company and Apothecon, Inc.*	\$1,738,719.00
07/23/09	Ben Venue Laboratories, Inc., Boehringer Ingelheim Pharmaceuticals, Inc., Roxane, Inc.	\$666,000.00
06/10/10	Alpharma USPD Inc. and Purepac Pharmaceutical Co.	\$1,274,623.00
08/23/10	Teva Pharmaceuticals USA, Inc., Ivax Corp., Ivax Pharmaceuticals, Inc., and Barr Laboratories, Inc.	\$1,900,000.00
10/22/10	Sandoz, Inc.	\$1,650,000.00
01/14/11	Warrick Pharmaceuticals Corporation and Schering-Plough Corp.	\$750,000.00
03/31/11	Par Pharmaceuticals Cos., Inc.	\$1,700,000.00
08/10/11	AstraZeneca Pharmaceuticals LP and AstraZeneca LP	\$2,500,000.00
09/28/11	Merck Sharp & Dohme Corp. , f/k/a Merck & Co., Inc.	\$1,600,000.00
12/05/11	Johnson & Johnson, Centocor, Inc., Janssen Pharmaceutical Products, LP, McNeil-PPC, Inc., Ortho Biotech Products, LP, Ortho-McNeil Pharmaceutical, Inc.	\$2,000,000.00

01/27/12	Mylan Inc. and Mylan Pharmaceuticals Inc.	\$625,000.00
04/13/12	SmithKline Beecham Corp., d/b/a GlaxoSmithKline	\$2,600,000.00
06/01/12	Forest Laboratories, Inc.	\$790,000.00
07/12/12	Watson Pharma, Inc. and Watson Pharmaceuticals, Inc.	\$1,700,000.00
07/31/12	Aventis Pharmaceuticals Inc.	\$828,500.00
12/27/12	Pfizer Inc. and Pharmacia Corp.	\$2,900,000.00
02/05/13	Abbott Laboratories	\$1,000,000.00
07/10/13	Novartis Pharmaceuticals Corp.	\$750,000.00

TOTAL: \$28,399,469.44

* Pre-Litigation Settlement

OTHER CONSUMER PROTECTION CASES

AUTOS 4 LESS

The Attorney General settled a matter with Autos 4 Less to resolve allegations concerning the sale of a used motor vehicle that the Attorney General alleged violated the Idaho Rules of Consumer Protection.

In this matter, a consumer traded-in a vehicle and agreed to finance the remainder of the purchase in what is called a “subject-to-financing contract.” Before the financing was obtained, Autos 4 Less sold the trade-in vehicle and assigned the purchase contract to a third-party financing company. After the financing company declined to finance the purchase, Autos 4 Less seized the delivered vehicle and refused to refund the trade-in allowance to the consumer. Rule 237 of the Rules of Consumer Protection prohibits this type of behavior.

Under terms of the settlement, Autos 4 Less paid the consumer \$2,500 plus interest in restitution and reimbursed the Attorney General \$2,500 for the cost of his investigation.

COINUTS, INC., & KEVIN EVARD MITCHELL

In April 2013 the Attorney General sued CoiNuts, Inc., and its owner, Kevin Evard Mitchell, in Kootenai County District Court for multiple violations of the Consumer Protection Act. Between 2008 and 2012, consumers paid the defendants hundreds of thousands of dollars for gold and silver that the defendants promised to deliver, but never did. Without returning the consumers’ money, Mitchell closed his store, leaving behind dozens of damaged consumers.

The Attorney General obtained a judgment against CoiNuts, Inc., in September 2013 for \$742,826, which includes consumer restitution, civil penalties, and attorney's fees. The Attorney General is proceeding with his case against Mitchell.

DECEPTIVE DISCOUNT CLUBS

The Attorney General joined a \$32 million multi-state settlement with Affinion and its subsidiaries, Trilegiant and Webloyalty. The settlement resolves allegations that Affinion used misleading business practices to trick consumers into signing up and paying for discount clubs and memberships.

There are approximately 7,600 "members" of these programs in Idaho and Idahoans will receive approximately \$500,000 in restitution under the settlement when it is finalized. In addition, Affinion paid \$250,000 to reimburse the Attorney General for his costs related to the investigation.

Affinion and its subsidiaries run multiple "discount clubs" and "membership programs." These clubs offer services such as credit monitoring, roadside assistance, and discounted travel. Consumers complained that Affinion charged them for these services and memberships without their authorization or knowledge. Some also complained that once

they discovered the charges, they had trouble canceling or getting a refund.

The settlement requires Affinion to provide clear and conspicuous information to enrolled consumers regarding their membership, periodic reminders of their enrollment, and make changes to its cancellation practices.

ECOMMERCE SUPPORT, LLC

The Attorney General closed down a Boise company that sold ecommerce coaching services to thousands of consumers throughout the United States and Canada. As part of a settlement with the Attorney General, eCommerce Support, LLC, agreed to stop operating in Idaho and paid the office \$90,000 in consumer restitution.

Consumers reported that eCommerce Support misrepresented the written materials and coaching services it sold for thousands of dollars. The company allegedly misrepresented the amount of time consumers would have to dedicate to the program and how much money consumers could earn from the program.

In addition to paying restitution, eCommerce Support paid the Attorney General \$10,000 to reimburse him for his investigative costs. The settlement also holds a \$50,000 civil penalty in abeyance, pending eCommerce Support's compliance with the settlement

GLAXOSMITHKLINE LLC

The Attorney General entered into a consent judgment with pharmaceutical company GlaxoSmithKline LLC, resolving allegations that the company unlawfully promoted its asthma drug, Advair, and two of its antidepressant drugs, Paxil and Wellbutrin. The Attorney General alleged that the company violated the Idaho Consumer Protection Act by misrepresenting the uses and qualities of the drug. The judgment required the company to pay the State \$1.3 million and reform its marketing and promotional practices in a number of significant ways. For example, the company shall not:

- Make, or cause to be made, any written or oral claim that is false, misleading, or deceptive about any GSK product;
- Make promotional claims, not approved or permitted by the FDA that a GSK product is better, more effective, safer, or has less serious side effects or contraindications than has been demonstrated by substantial evidence or substantial clinical experience;
- Present favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for such information or conclusions, when presenting information about a clinical study regarding GSK products in any promotional materials; or
- Disseminate information describing any off-label use of a GSK product, unless such information and materials are consistent with applicable FDA regulations and FDA Guidances for Industry.

S & S SALES, INC., D/B/A OAKRIDGE HOME FURNITURE; L. KIP STEED; AND ANGELA L. STEED

Oakridge Furniture entered into an agreement with Attorney General to resolve consumer protection issues related to the recent closure of its Idaho Falls store.

During Oakridge Furniture's closing, banners on the store read: "\$2,000,000 STORE CLOSING LIQUIDATION," "STORE CLOSING SALE," and "EVERYTHING MUST GO." The Attorney General alleged the phrases misrepresented the type of "sale" Oakridge Furniture was conducting because the signs incorrectly informed consumers that Oakridge Furniture was closing for good when, in fact, it intended to reopen under a different name,

Under the agreement, if S & S Sales or the Steeds conduct a future going out of business sale, they must inform the Attorney General's Office about the sale at least 30 days before it begins. The parties also must provide in writing to the Attorney General's Office:

- the sale's projected end date;
- a detailed inventory of the furniture to be sold, including pre-sale prices;
- a detailed inventory of the furniture remaining at the end of the sale;
- a detailed inventory of the furniture that sold, including sale prices and sale dates; and

- information about the disposal of any remaining inventory.

The Steeds paid the Attorney General \$500 to reimburse the office for its attorney's fees and investigative expenses. A civil penalty of \$10,000 is suspended as long as S & S Sales' and the Steeds' comply with the agreement.

STANDARD & POOR'S

The Attorney General sued Standard & Poor's Financial Services, LLC and its parent company, McGraw-Hill Companies, Inc., for violations of the Idaho Consumer Protection Act stemming from S&P's public statements regarding its securities rating business.

The Attorney General alleges that S&P made false and misleading statements regarding S&P's independence and objectivity in its role as a credit rating agency for mortgage backed securities. The Attorney General alleges that S&P placed internal goals of market share and generating revenue from ratings fees ahead of S&P public statements of independence and objectivity. Consequently, S&P's false and misleading statements violated the Idaho Consumer Protection Act.

The Attorney General seeks remedies in the form of injunctive relief to prevent this type of behavior in the future, and statutory

penalties and disgorgement of fees charged by S&P for securities ratings during the relevant period. The Attorney General is not seeking damages on the behalf of private parties or government entities that may have relied on S&P's allegedly false statements in making investment decisions.

The Attorney General filed the lawsuit in state court in February 2013. However, S&P removed the case to federal court before answering the complaint. The federal court recently granted Idaho's motion to remand Idaho's lawsuit back to Idaho state court.

WESTERN AUTO SALES, LLC

Boise auto dealer Western Auto Sales, LLC, signed a settlement agreement with the Attorney General in May 2014. The agreement addressed issues involving the dealer's advertising, sales, and repossession practices.

The Attorney General inquired into Western Auto Sales' business practices after his Consumer Protection Division received consumer complaints alleging that the dealer engaged in a deceptive auto sale and that, during the repossession of the consumer's car, Western Auto Sales' agent threatened to arrest him and harassed his wife at her workplace.

Western Auto Sales satisfactorily resolved the consumers' complaints and, under the terms of the agreement is prohibited from engaging in

harassing debt collection or repossession acts or practices. Among other mandates, the agreement also requires Western Auto Sales to:

- review its Internet website advertising and make all required changes to ensure its advertising complies with state and federal law;
- comply with the Idaho Motor Vehicle Service Contract Act in the sale of its motor vehicle service contracts; and
- disclose all material terms and conditions relating to the receipt of a free motor vehicle service contract with the purchase of a car.

To reimburse the Attorney General for his attorney's fees and investigative expenses, Western Auto Sales paid \$950. If the auto dealer fails to comply with the agreement, it is subject to a \$15,000 civil penalty.

WHITE HAT GROUP

The Attorney General settled a matter with the White Hat Group and its owner, Mark

Wicklund, resolving allegations that the company and Wicklund engaged in the unauthorized practice of law. In addition to requiring payment of restitution to former customers, the settlement prohibits White Hat Group and Wicklund from providing legal advice and performing other acts that constitute the practice of law in Idaho.

The Attorney General alleged that Wicklund falsely represented that he was qualified to represent them in legal matters when he was not. It is a violation of the Consumer Protection Act to represent that you have qualifications you do not have. Consumers also complained that the White Hat Group did not perform the services for which consumers had paid. The settlement also requires White Hat Group and Wicklund to reimburse the Attorney General for the costs of the investigation.

★ *COMPETITION ACT* ★

The purposes of Idaho's Competition Act are to maintain and promote economic competition in Idaho commerce, provide the benefits of that competition to consumers and businesses in the State, and establish efficient and economical procedures to accomplish these purposes and policies. A marketplace free of unreasonable restraints of trade will yield the best allocation of Idaho's economic resources, the lowest prices, the highest quality, and the greatest material and innovative progress. In 2013, the Attorney General exercised his enforcement responsibilities under the Competition Act (and related

federal antitrust laws) and continued litigation in several other matters brought under the Competition Act. He also announced a settlement of one such matter.

AMERICAN EXPRESS COMPANY, MASTERCARD, & VISA LITIGATION

Along with the United States Department of Justice and other state attorneys general, the Attorney General filed a civil antitrust lawsuit in federal court in New York against Visa, MasterCard, and American Express. The lawsuit alleges that the companies, which operate the three largest credit card networks in the country, require merchants to restrict the types of discounts provided to credit card customers.

Every time a consumer uses a credit card to buy something from a merchant, that merchant pays a fee that is passed on to consumers through higher prices. In 2009 alone, the three credit card companies and their affiliate banks collected more than \$35 billion in these fees. Visa, MasterCard, and American Express went beyond imposing fees and allegedly prevented merchants from offering consumers any cost-saving options such as discounts or rewards for using less expensive forms of payment. Restrictive payment rules inhibit price competition among credit card networks. When merchants face increased business costs, consumers pay higher prices.

The attorneys general and USDOJ reached a settlement with Visa and MasterCard,

which the court approved. Because of the settlement, companies and retailers may provide their customers with more options and cost saving incentives. Merchants also may inform their customers which cards will lower business costs the most, allowing merchants to pass these savings on to consumers.

Litigation against American Express continues. The Attorney General asserts that American Express maintains the industry's most restrictive merchant rules and has the highest fees of any credit card company. Presently, American Express's rules prohibit any of the millions of merchants that accept American Express from taking advantage of the discounts and rebates that the Visa and MasterCard settlement would permit. Trial will commence on July 7, 2014 in the Eastern District of New York.

DYNAMIC RANDOM ACCESS MEMORY MANUFACTURER LITIGATION

Involving one of the largest price-fixing cartels ever discovered, the dynamic random access memory (DRAM) litigation involves 13 manufacturers and represents millions of dollars in damages to purchasers and end user consumers, including businesses, state agencies, and political subdivisions.

Personal computers, servers, workstations, and other products have semiconductors (i.e., memory chips) known as DRAM. DRAM holds temporary instructions and data available for quick access while the device is in use. Electronic products with DRAM are purchased by consumers, businesses, schools and government bodies throughout the world.

The defendant DRAM manufacturers allegedly discussed and coordinated the prices they charged to consumers and to the large computer manufacturers. In June 2002, the United States Department of Justice launched a criminal investigation into the manufacturers.

To recover restitution and damages for Idaho, in 2006 the Attorney General joined a multistate lawsuit against DRAM manufacturers and their subsidiaries, claiming violations of the Competition Act and federal antitrust law. The lawsuit alleges that, as a result of the manufacturers' price fixing, Idaho consumers, businesses, and state and local governmental agencies paid more for their computers, servers, and other electronic devices than they would have paid had there not been any price fixing.

The Attorney General and the defendants have now entered into settlements collectively totaling \$310 million in the participating jurisdictions, including restitution for damaged consumers. The restitution is on

behalf of consumers, businesses, the State of Idaho and certain local governmental agencies. A claims process, which is being implemented, will determine the amounts to be distributed to the various harmed parties.

E-BOOKS PRICE FIXING LITIGATION AND SETTLEMENT

The Attorney General joined with the attorneys general of 49 states in an antitrust lawsuit against Apple, Inc., and five of the largest U.S. book publishers: Hachette Book Group (USA), HarperCollins Publishers LLC., Simon & Schuster Inc., Holtzbrinck Publishers LLC d/b/a Macmillan, and Penguin Group (U.S.A.), Inc.

The lawsuit alleges that the publishers and Apple conspired to raise the retail price of E-books in two significant ways. First, in order to gain leverage in retail price negotiations with distribution outlets such as Amazon, four of the publishers agreed in late 2009 to delay publication of certain front-list E-books for several months following each books print release. Second, around January of 2010, Apple began to facilitate an agreement among the publishers to change the E-book distribution system from a Wholesale-Retail Model to an Agency Model. Under the Wholesale-Retail Model, distributors such as Amazon or Barnes & Noble set prices and sold E-books to consumers. The Agency Model allowed the

publishers to set E-book prices and sell E-books directly to consumers.

By May 2103, settlements had been reached with all the publishers, leaving Apple as the sole litigating defendant. Together, the publishers agreed to pay more than \$164 million to consumers nationwide. Collectively, Idaho consumers were entitled to receive up to \$832,000 for E-books purchased by Idaho consumers between April 1, 2010 and May 21, 2012 as a result of the publisher settlements.

In July of 2013, following a three week bench trial, a federal court ruled that Apple violated state and federal antitrust laws in Apple's role in the E-book price fixing scheme. The final judgment imposed limitations on Apple's ability to control its E-book pricing and regulates how Apple can deal with individual publishers for a period of five years. The court also appointed an external monitor to review Apple's antitrust compliance for a period of two years. Apple and some of the settling publishers have appealed the judgment.

The trial did not address the issues of damages or civil penalties. A second trial in summer of 2014 is scheduled to resolve these issues.

ST. LUKE'S REGIONAL MEDICAL CENTER AND SALTZER MEDICAL GROUP

St. Luke's Health System, Ltd. (St. Luke's) is a not-for-profit health system that

operates six hospitals in Idaho and employs hundreds of physicians, including 450 in the Treasure Valley. Saltzer Medical Group (Saltzer) is a for-profit, multispecialty physician group based in Nampa, Idaho, with additional clinics in Boise, Meridian and Caldwell. Saltzer includes 44 physicians, including a large number of primary care physicians (PCPs). In their own words, St. Luke's is the "dominant" health system in the Treasure Valley, and Saltzer is the "dominant" medical group in Nampa.

On December 31, 2012, St. Luke's acquired Saltzer's assets, and Saltzer's physicians entered into a five-year professional services agreement with St. Luke's.

After a rigorous investigation conducted jointly with the Federal Trade Commission (FTC), the Attorney General and the FTC concluded that the acquisition violated federal and state competition laws that prohibit acquisitions that may substantially lessen competition.

The primary market the Attorney General and the FTC were concerned about is for adult PCP services in Nampa. By combining the two largest providers of Adult PCP services in Nampa, the Attorney General and the FTC alleged that the acquisition gives the merged St. Luke's/Saltzer a nearly 80 percent share of the primary care physician market. Such a

concentration is more than double the level needed to create a presumption of competitive harm under established antitrust law.

The Attorney General's concerns with the acquisition are that it will enhance St. Luke's market power, allowing it to extract higher reimbursements from health plans at the expense of local employers and healthcare consumers. Indeed evidence was presented at trial showing that the Defendants expect the acquisition to increase their bargaining leverage with health plans and employers, giving St. Luke's the ability to demand higher payments. These health plans and employers agree that the acquisition further strengthens St. Luke's

already considerable market power and will likely result in higher healthcare costs for Idaho consumers.

After St Luke's and Saltzer declined the Attorney General's request to postpone closing on the acquisition, he and the FTC filed suit in federal court to unwind the deal.

A one month trial was held in federal district court and in January 2014 the Court ruled in the FTC and the Attorney General's favor, declaring that the acquisition did violate the law. The Court entered judgment ordering the deal to be undone. The Defendants have filed an appeal with the Ninth Circuit Court of Appeals where it is presently pending.

★ TELEPHONE SOLICITATIONS AND REGISTRATIONS ★

Recognizing the special risks and the potential for abuse of telephones for commercial solicitation, the Legislature enacted the Idaho Telephone Solicitations Act (ITSA), title 48, chapter 10, Idaho Code, in 1992. The ITSA safeguards the public against deceit and financial hardship, encourages competition and fair dealings among the telemarketing industry, and prohibits telemarketers from using representations that have the tendency or capacity to mislead purchasers.

Telephone solicitors must register with the Attorney General's Consumer Protection Division before soliciting in Idaho, and the telemarketer's failure to register renders any sales contract entered into during the unlawful telephone solicitation unenforceable by the telemarketer. Last year, the Division registered 15 telemarketers, a decrease from the previous year.

Idaho's Do Not Call law, which established the state's "no telephone solicitation contact list," predates the National Do Not Call Registry and subjects violators to civil penalties of up to \$5,000 per violation. When the National Registry was created in 2004 all Idaho numbers registered on the Idaho-only list were transferred to the Registry. As of the end of 2013, the National Registry contains 1,119,074 Idaho telephone numbers.

★ *CHARITABLE SOLICITATIONS AND TRUST ASSETS* ★

Idaho law assigns to the Attorney General the duty of enforcing the Idaho Charitable Solicitations Act (ICSA). The ICSA prohibits false, deceptive, and misleading charitable solicitations. This year, the Attorney General did not undertake any actions to enforce the ICSA.

In addition to overseeing charitable solicitations, the Attorney General has a statutory duty to ensure that charitable or public trust assets are utilized according to the charitable purpose of the organization, or, if applicable, according to the donor's specified instructions. The Attorney General's responsibility often includes reviewing requests to modify the terms of a charitable trust or to dissolve a trust that has become imprudent or impracticable. When necessary, the Attorney General intervenes in actions to prevent private parties from unlawfully dissipating charitable trust assets.

ESTATE OF DIANA K. TIBBETS

Early in 2012, the Attorney General intervened in a Washington County case involving the estate of Diana K. Tibbets. Ms. Tibbets executed a holographic will shortly before her death in July 2011, and devised 51% of the residue of her estate to a charitable trust to benefit Idaho's animals. Ms. Tibbets' brother objected to the validity of the charitable trust and filed an objection with the court.

The Washington County Magistrate Court ruled against the brother and found that Ms. Tibbets—through her holographic will—

established a valid charitable trust. The brother appealed the magistrate's decision to the Washington County District Court, but the court affirmed the magistrate's ruling.

The personal representative of Ms. Tibbets' estate and the Attorney General agreed to donate the charitable trust assets to the Idaho Humane Society's (IHS) Designed to Be Kind Campaign. On December 18, 2013, the Attorney General delivered a check in the amount of \$254,514.82 to the IHS.

TOBACCO

The Attorney General enforces Idaho's Tobacco Master Settlement Agreement (MSA Act), Tobacco Master Settlement Agreement Complementary (Complementary Act), Prevention of Minors' Access to Tobacco Act, and Reduced Cigarette Ignition Propensity Acts. Enforcement of these laws includes prosecuting violators and defending the laws against constitutional challenges in state and

federal court actions. In addition to his responsibilities under these state statutes, the Attorney General enforces and defends the State's Master Settlement Agreement (MSA) with various tobacco companies.

The MSA has had a substantial impact on cigarette consumption in the United States. Since the MSA was signed in 1998, cigarette consumption has dropped nationally more than 48%. Youth smoking rates also have declined nationally according to a study sponsored by the National Institute on Drug Abuse. In Idaho the smoking rate has decreased among adults from 20.3% in 1998 to 16.4% in 2012. In 1993 the youth smoking rate in Idaho was 27.3%. By 2011 that rate had decreased to 14.3%.

Attorney General Wasden served until recently as Chair of the American Legacy Foundation, which was created pursuant to the MSA to reduce youth tobacco smoking and to prevent smoking-related disease in the United States. The American Legacy Foundation developed, and continues to manage, the largest youth smoking prevention campaign in the country—truth[®]—with results that have proven successful.



MASTER SETTLEMENT AGREEMENT AND IDAHO TOBACCO LAWS

MASTER SETTLEMENT AGREEMENT

The 1998 MSA, the largest civil litigation settlement in U.S. history, resolved litigation brought by 46 states, including Idaho, in the mid-1990s against the largest U.S. cigarette manufacturers (Philip Morris, R.J. Reynolds, and Lorillard), along with the industry's trade associations and PR firms. The primary purposes of the MSA are to stop the tobacco industry's targeting of children and denials of the addictiveness of nicotine and the

negative health consequences of smoking, while also reimbursing the States for money spent on treating individuals with tobacco-related illnesses. Since the MSA was finalized in 1998, some 40 additional tobacco companies have joined the MSA and are bound by its terms.

As required by the MSA, each year the tobacco industry pays Idaho a sum of money, which is deposited into the Idaho Millennium Fund. During 2014, the tobacco industry paid \$27,450,592 to Idaho, bringing Idaho's total

payments since entry of the MSA to \$382,283,121. Additional information about the MSA, the specific advertising restrictions that the MSA places on the tobacco industry, and details about how Idaho's tobacco payments are allocated is available on the Attorney General's tobacco webpage at

www.ag.idaho.gov/tobacco/tobaccoIndex.html.

The Attorney General defends the MSA and Idaho's tobacco laws in state and federal lawsuits brought by tobacco manufacturers and distributors. The lawsuits assert that the MSA, as well as Idaho's related tobacco laws, 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.

Under Idaho's tobacco sales laws, the Attorney General maintains and administers a directory of tobacco manufacturers and brands that are in compliance with Idaho law. At

present, the Attorney General has certified 32 tobacco manufacturers and 142 tobacco brands. The directory is available on the tobacco webpage of the Attorney General's website.

The Attorney General has been successfully litigating with the tobacco industry over the State's enforcement of certain Idaho tobacco law. The industry had disputed the effectiveness of the State's efforts and sought to eliminate potentially tens of millions of dollars of Idaho's tobacco MSA payments. After several years of litigation, the tobacco companies dropped their challenge to Idaho's payment for one year. This litigation required the Attorney General's commitment of thousands of hours of staff time and tens of thousands of dollars of litigation expenses. Ultimately, Idaho demonstrated its assiduous enforcement and prevailed, thus protecting Idaho's MSA payments.

TOBACCO ENFORCEMENT

NATIVE WHOLESALE SUPPLY COMPANY

The Attorney General and the Idaho State Tax Commission filed a lawsuit against Native Wholesale Supply Company, a New York unlicensed cigarette wholesaler, alleging

the company illegally sold over 100 million cigarettes in Idaho.

The Attorney General and the Idaho State Tax Commission prevailed in their lawsuit before the District Court and obtained a permanent injunction against the company,

prohibiting it from selling cigarettes in Idaho that are not listed on the Idaho Directory. The Court also imposed a civil penalty of \$214,000.

Native Wholesale Supply appealed the case to the Idaho Supreme Court. On October 15, 2013, the Idaho Supreme Court upheld the

district court's order prohibiting Native Wholesale Supply from selling cigarettes not on the Idaho Directory. Native Wholesale Supply appealed to the United States Supreme Court, which denied review on June 19, 2014.

MEDIATION AND CONSUMER CONTACTS

The Attorney General's Consumer Protection Division accepts written complaints from consumers who wish to report an alleged violation of a consumer-related law the Attorney General enforces. The Division has three consumer specialists who process incoming complaints for the Division's informal dispute resolution program.

If appropriate, the complaint is sent to the identified business with a request for a written response. A member of the Division's legal staff reviews the response and decides whether to close the complaint as "resolved" or to refer the matter to the Division's enforcement team for further consideration, or to take some other action. While the Attorney General does not force a business to participate in the dispute resolution process, most businesses, understanding the benefits of addressing their customers' concerns, voluntarily respond to complaints.

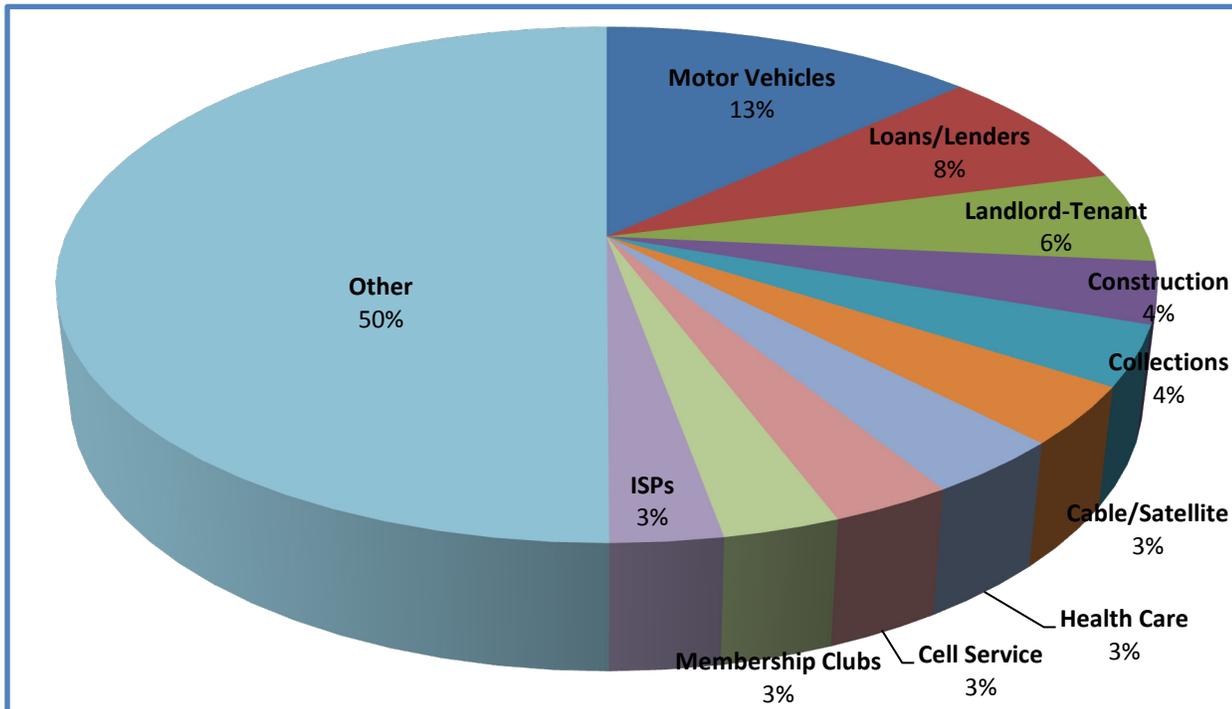
The Division provides its mediation services primarily to complaints from Idaho consumers. However, the Division may mediate out of state complaints if (a) the transaction occurred during the consumer's visit to Idaho; (b) the transaction involves a well-established Idaho company; or (c) the Attorney General already has an enforcement action pending against the business.

In FY 2014, the Division mediated 664 complaints, resulting in a recovery of \$116,186 for consumers. In addition, the Division processed 9,678 other consumer contacts, including more than 7,406 telephone calls and 871 emails. The Division also had hundreds of in-person visits from consumers and processed dozens of written requests for information.

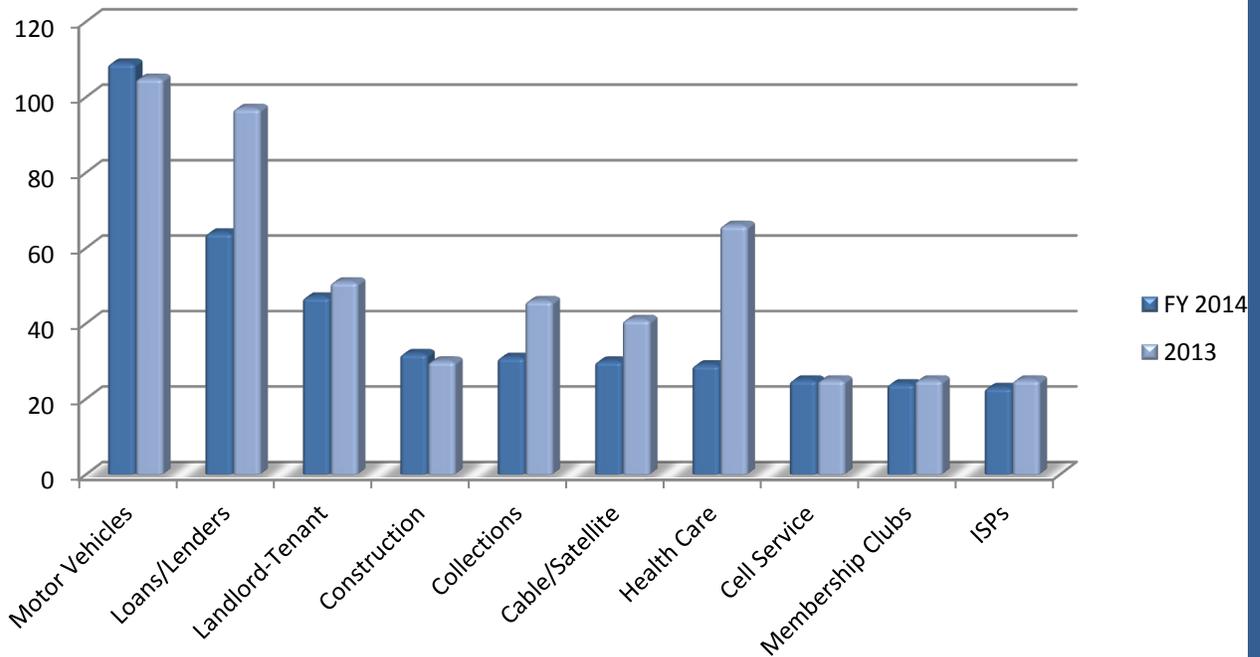
CONSUMER PROTECTION BY THE NUMBERS

The office categorizes each complaint by the primary “good” or “service” complained about. The top 10 goods or services that consumers filed complaints about in FY 2014 are listed below:

TOP 10 COMPLAINT CATEGORIES			
	CATEGORY	2013	FY 2014
1	MOTOR VEHICLES	105	109
2	LOANS & MORTGAGE LENDERS	97	64
3	LANDLORD/TENANT ISSUES	66	47
4	CONSTRUCTION & CONTRACTORS	51	32
5	COLLECTION ACTIVITIES & ISSUES	46	31
6	CABLE & SATELLITE TV ISSUES	41	30
7	HEALTH CARE: DENTAL/OPTICAL/MEDICAL	31	29
8	CELLULAR SERVICES & SALES	30	25
9	MEMBERSHIP CLUBS & PLANS	28	24
10	INTERNET SERVICE PROVIDERS	25	23
	ALL OTHER COMPLAINTS	479	415
	TOTAL COMPLAINTS RECEIVED	1024	829



Top 10 Complaint Categories



Consumer complaints decreased about 19 percent from the number filed in 2013. Complaints about motor vehicles surpassed the complaints about loans and mortgage lenders in 2013 and motor vehicle complaints continued to increase in FY 2014.

Consumers filed a number of complaints about the sales practices of Idaho car dealerships, extended service contract companies, vehicle repair problems, and issues implicating Idaho's Lemon Law. material increase in motor vehicle complaints.

Representing a 75% decrease, complaints against mortgage lenders have decreased substantially since their record high of 261 in 2010. However, despite this decrease, the primary issue of the 64 complaints filed in FY 2014 remains the same as in 2010—difficulties negotiating a financially sustainable loan modification with a loan servicer.

The number of health care complaints filed in FY 2014 decreased more than 50% from the number filed in 2013. The Division continues to receive complaints from consumers who dispute the amount of their medical bills.

EDUCATION AND OUTREACH

Public awareness and education remain the best defenses against consumer fraud. Providing Idaho's consumers with timely, accurate information about their rights under Idaho's consumer laws and warning consumers about pervasive scams encourages Idahoans to maintain their personal and financial vigilance. Educated consumers are better equipped to monitor and judge a business's practices, thereby promoting a more compliant and competitive marketplace.

The Attorney General provides consumer information through his website, public service announcements, pamphlets and

consumer tip sheets, consumer alerts, and public speaking engagements. Information and guidelines are available to companies operating in Idaho, and the Attorney General strives to continue his cooperative working relationship with Idaho's business community.

The Attorney General's educational and outreach 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, pursuant to legislative appropriation, pay for the Attorney General's educational activities.

ATTORNEY GENERAL'S WEBSITE

The Attorney General's website at www.ag.idaho.gov provides information for Idaho businesses and consumers. The site has pages dedicated to:

Consumer Protection

The page includes links to information about filing a consumer complaint, dealing with credit card debt, buying a new or used car, controlling junk mail and unsolicited telephone calls, and contacting a consumer specialist.

Telephone Solicitation Registration and Renewal

Visitors will find information about Idaho's telemarketing registration process, including an application.

Mortgage Servicing, Housing and Foreclosure

This page includes information about Idaho's housing-related laws, including the Idaho Deed of Trust Act. Mortgage servicers have access to form templates to ensure they comply with mortgage notice requirements and answers to frequently asked questions about the

forms and the laws' new requirements. Links to information about avoiding foreclosure and mortgage modification scams are listed on this page.

Tobacco

Visitors to this page will find a copy of Idaho's Master Settlement Agreement, links to Idaho's tobacco laws, forms for tobacco product manufacturers and distributors, and a database of tobacco manufacturers and their brands that have been approved for sale in Idaho.

PROTECTEENS

Developed by Attorney General Wasden and Secretary of State Ben Ysursa, *ProtectTeens* is a video presentation and a resource kit for educating parents and teens about using the Internet wisely and safely. Parental supervision and vigilance are the keys to protecting children from Internet predators, but adults often are unaware of the dangers or lack the knowledge or skills to utilize the technology available to them. *ProtectTeens* helps bridge the awareness, knowledge, and skills gap between parents and their children, while reminding teens of the potential risks associated with linking themselves to the rest of the world.

ProtectTeens is available for viewing on the Attorney General's website at www.ag.idaho.gov. Idahoans may use the

website contact form to request a mailed copy of the *ProtectTeens* DVD or to request a *ProtectTeens* presentation to a group or organization. The *ProtectTeens* program is the result of a partnership with Governor C.L. "Butch" Otter, First Lady Lori Otter, Superintendent of Public Instruction Tom Luna, and the following organizations: The State of Idaho Internet Crimes Against Children Task Force; the Idaho Association of School Administrators, the Idaho Parent Teachers Association, the Idaho Prosecuting Attorneys Association, the Idaho Medical Association, the Idaho Sheriffs Association, the Idaho School Boards Association, and the Idaho Chiefs of Police Association.

CONSUMER EDUCATION PUBLICATIONS

Eighteen consumer manuals are available to download from the Attorney General's website or by requesting copies from the Consumer Protection Division. The manuals are free and produced

without cost to Idaho’s taxpayers. Funds obtained as the result of enforcement actions, with legislative approval, pay for the manuals.

TOPIC	PUBLICATION TITLE
Automobiles	Guidelines for Motor Vehicle Advertising in Idaho Idaho Lemon Law
Charities & Non-Profits	Charitable Giving Service on an Idaho Non-Profit Board of Directors
Credit & Debt	Credit and Debt
General Consumer Issues	Consumer Protection Manual Senior Citizens Manual Young Adult Handbook
Housing & Home Improvement	Buying a Home Foreclosure Prevention: A Workbook Landlord Tenant Guidelines Residential Construction
Identity Theft & Privacy	Identity Theft Manual
Internet Safety	Internet Safety Manual
Telephone & Mail Schemes	Telephone Solicitation Manual Pyramids, Gift Schemes & Network Marketing

The Attorney General also provides tip sheets about preventing unwanted telephone solicitations, finding a credit or debt counselor, avoiding mail fraud, and other topics.

CONSUMER OUTREACH PRESENTATIONS

Consumer Protection Division personnel spoke throughout Idaho about identity theft, health care fraud, Internet safety, and current scams in FY 2014. The three consumer specialists visited fairs, senior centers, universities, and high schools in all parts of Idaho and participated in other education events with other consumer organizations. At each event, the specialists answered questions from audiences and distributed consumer education manuals. The map on the next page shows the Idaho towns and events where consumer staff members visited in FY 2014.

Locations visited by Consumer and Housing Specialists in FY 2014

North and Central Idaho

- High Schools:
Moscow
- Scam Jam:
Lewiston
- Senior Centers:
Moscow
- Universities:
Lewis and Clark
University of Idaho

Southwest Idaho

- Financial Literacy:
Boise
Caldwell
Nampa
- High Schools:
Boise
- Senior Centers:
Boise
Eagle
Meridian
Nampa
- Universities:
Northwest Nazarene

South Central Idaho

- Financial Literacy:
Burley
Twin Falls
- High Schools:
Twin Falls
- Scam Jam:
Rupert
- Senior Centers:
Gooding
Jerome
Twin Falls

LEGISLATIVE INITIATIVES

The Attorney General did not propose any legislation in 2014 regarding consumer protection matters.

SEVEN YEAR CONSUMER PROTECTION SUMMARY

ACTIVITY	FY 2014	2013	2012	2011	2010	2009	2008	2007
Complaints Received	829	1,024	1,131	1,028	1,312	1,896	1,676	1,614
Other Consumer Contacts	9,678	10,107	10,562	10,756	12,422	14,255	4,997	3,384
Dollars Claimed Lost	\$1,615,847	\$2,623,417	\$2,271,658	\$2,074,981	\$2,715,622	\$2,227,203	\$9,800,077	\$3,641,859
Restitution Recovered	\$1,956,582	\$4,993,571	\$8,497,948	\$8,151,956	\$5,920,578	\$7,431,388	\$932,134	\$662,253
Penalties & Costs Recovered	\$404,373	\$2,361,927	\$16,468,334	\$2,530,829	\$536,237	\$5,944,188	\$2,988,047	\$1,772,175
Enforcement Actions Completed	13	16	29	18	22	18	39	19
Registered Telemarketers	15	15	76	80	75	62	53	71
Numbers on DNC Registry	1,119,074	1,119,074	1,088,730	1,048,897	1,019,030	939,958	855,696	702,513

For more information about this report or to file a consumer complaint:

**Office of Attorney General
Consumer Protection Division
954 W. Jefferson St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0010**

(208) 334-2424 (or) (800) 432-3545 (toll free)

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