

LAWRENCE G. WASDEN
ATTORNEY GENERAL
STATE OF IDAHO



2016 FISCAL YEAR REPORT

CONSUMER PROTECTION, COMPETITION, CHARITIES, TELEPHONE SOLICITATIONS, AND TOBACCO ENFORCEMENT



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STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

Dear Idahoans:

I have the privilege of being Idaho's longest serving Attorney General. Each fiscal year, I issue a report to the public summarizing the activities of my Consumer Protection Division and discussing a variety of consumer-related issues facing our state. This is my 15th Annual Report to you as your Attorney General.

Idaho's consumer laws protect consumers, businesses and the marketplace from unfair or deceptive acts and practices, as well as unreasonable restraints of trade. My office seeks to fulfill this charge efficiently and economically through consumer education, mediation of consumer complaints, and, where appropriate, enforcement actions.

This year we had a number of successes. We obtained \$2 million from Apple for Idaho consumers, resolving our lawsuit alleging the company engaged in price fixing in the sale of eBooks. We stopped deceptive telemarketers. We addressed anti-competitive mergers. We resolved constitutional problems involving hospital districts and the St. Luke's Health System.

We also experienced challenges during FY 2016. Several Idaho businesses took money from consumers for goods or services and subsequently closed their doors without offering refunds to, or notifying, their customers. Consumers also continued to report receiving telephone calls from criminals posing as representatives of the Internal Revenue Service or other governmental agency.

The Consumer Protection Division received 791 complaints and handled more than 12,861 other consumer-related contacts in FY 2016. The Division completed 22 enforcement actions, which resulted in more than \$2.96 million in consumer restitution. Of note, this is the **24th consecutive year** the Division has recovered more for Idahoans than the Legislature appropriated to the Division.

This report highlights these, and other, significant consumer-related issues and activities in FY 2016. I welcome comments and questions from the public and media about the information presented in this report, and, as Idaho's Attorney General, I look forward to continuing my commitment to protecting the integrity of Idaho's marketplace.

Sincerely,

LAWRENCE G. WASDEN
Attorney General

Annual Highlights

Consumer Complaints and Contacts

- Top Consumer Complaint Category: **Motor Vehicles**
- Total Consumer Complaints Filed: **791 down from 869 in FY 2015)**
- Total Mediated Complaints: **603 down from 648 in FY 2015)**
- Total Consumer Contacts Logged: **12,861 up from 11,754 in FY 2015)**

Enforcement Actions

- Completed 22 **consumer-related** enforcement actions in a variety of areas, including misuse of charitable assets, improper advertising by drug companies, the sale and conversion of a nonprofit ski resort to a for-profit venture, deceptive charitable solicitations, anti-competitive price fixing and mergers, data security breaches, improper telemarketing, and debt collection.
- The Division also continued the State's defense of Idaho's tobacco Master Settlement Agreement (MSA) payments and enforced provisions of the Idaho Constitution relating to arrangements between a hospital system and hospital district as well as daily fantasy sports gambling operations.

Restitution, Civil Penalties, and Other Payments

- Recovered **\$2,955,149 in consumer restitution**—\$3.79 for each taxpayer dollar appropriated for consumer operations in FY 2016 (\$780,713). This is the **24th consecutive year** the Consumer Protection Division has recovered more for residents and businesses than the Legislature appropriated to the Division.
- Recovered and deposited into the consumer protection account **\$1,964,341 in civil penalties, fees, and costs.**
- **Transferred \$1,664,409** in unspent consumer protection account funds to the general fund. **Since 2000** the Consumer Protection Division has **transferred \$28,476,550** in unspent consumer protection account funds to the general fund.
- **Received \$25,297,269 in payments** pursuant to the MSA. Since the MSA was finalized in 1998, tobacco companies have paid \$431,767,158 to Idaho.

State Consumer Statutes Enforced

Consumer Protection Statutes (Idaho Code)	
<i>Idaho's unfair or deceptive acts or practices law, as well as protections and disclosures covering specific seller-purchaser transactions or consumer issues.</i>	
Idaho Consumer Protection Act	Title 48, chapter 6
Idaho Lemon Law	Title 48, chapter 9
Bad Faith Assertions of Patent Infringement	Title 48, chapter 17
Idaho Motor Vehicle Service Contract Act	Title 49, chapter 28
General Contractor Disclosure Law	§ 45-525
Consumer Foreclosure Protection Act	Title 45, chapter 16
Home Loan Modification Review Notice Law	§ 45-1506C
Credit Report Protection Act	Title 28, chapter 52
Loan Broker Law	Title 26, chapter 25
Security Breaches	Title 28, chapter 51
Pyramid Promotional Schemes	§ 18-3101
Service Repair Contracts & Legal Expense Plans	§§ 41-114A & 41-114B
Competition (Idaho Code)	
<i>Idaho's antitrust law.</i>	
Idaho Competition Act	Title 48, chapter 1
Charitable Solicitations and Charitable Assets (Idaho Code)	
<i>Idaho's deceptive charitable contributions law and statutes designed to protect assets subject to charitable trusts.</i>	
Idaho Charitable Solicitation Act	Title 48, chapter 12
Idaho Nonprofit Hospital Sale or Conversion Act	Title 48, chapter 15
Prudent Management of Institutional Funds Act	Title 33, chapter 50
Supervision of Charitable Trust Assets	§ 67-1401(5)
Modification of Charitable Trusts	Title 68, chapter 12
Telephone Solicitations (Idaho Code)	
<i>Idaho's deceptive telephone solicitation and telephone solicitor registration statute, as well as its law governing 1-900 calls.</i>	
Idaho Telephone Solicitation Act	Title 48, chapter 10
Idaho Pay-Per-Telephone Call Act	Title 48, chapter 11
Tobacco (Idaho Code)	
<i>Idaho's Master Settlement Agreement and laws regulating the importation, distribution, sale, and use of tobacco and tobacco-related products.</i>	
Prevention of Minors' Access to Tobacco Act	Title 39, chapter 57
Idaho Tobacco Master Settlement Agreement Act	Title 39, chapter 79
Idaho Tobacco Master Settlement Agreement Complementary Act	Title 39, chapter 84
Reduced Cigarette Ignition Propensity Act	Title 39, chapter 89

Enforcement Actions

For additional information about the matters discussed in the following sections, click on the links provided or on the [i](#) at the end of each description.

CONSUMER PROTECTION ACTIONS

Enforcement of Idaho's consumer laws protects and promotes a free and competitive marketplace and ensures a level playing field for all businesses. A marketplace unfettered by false, deceptive, and misleading practices and void of unreasonable restraints of trade yields the best allocation of Idaho's economic resources, the lowest prices, the highest quality, and the greatest innovative and material progress.

The Attorney General, acting on behalf of the state of Idaho and pursuant to his authority under the [Idaho Consumer Protection Act](#), initiated and concluded a number of noteworthy enforcement actions in FY 2016. This section summarizes many of the office's consumer protection settlements and actions during the past fiscal year.

Liberty Publishers Service Inc., and Orbital Publishing Group Inc. – Magazine Subscriptions | July 2015

The Attorney General reached a settlement that requires Liberty Publishers Service, Inc. and Orbital Publishing Group, Inc., two Oregon companies, to cease doing business in Idaho. Both companies operated under a variety of business names, advertising magazine subscriptions to Idaho consumers. Under the settlement's terms, the companies have agreed to end the practice of mailing renewal offers to subscribers, making it look as if the renewal offers were coming from the magazine publishers themselves. The companies also agreed to pay the Attorney General to offset his office's fees and investigative costs. [i](#)

Chase Bank -- Debt Collection Practices | July 2015

The Attorney General settled with Chase Bank USA N.A. and Chase Bankcard Services, Inc., regarding their credit card debt collection practices as part of a \$136 million joint state-federal settlement with Idaho and other states. The settlement followed an investigation regarding Chase's alleged misidentification of debtors in its collections actions and trying to collect on wrong amounts and time-barred debts. As part of the settlement, Idaho received \$290,000. About 30 Idaho consumers harmed by Chase's practices also received about \$25,500 in restitution. Chase also agreed to cease all collection efforts on an estimated 715 other Idahoans. [i](#)

Amgen – Drug Advertising

August 2015

Amgen reached a settlement with Idaho and 48 other state attorneys general, resolving allegations that Amgen had unlawfully promoted two medications, Aranesp and Enbrel. Aranesp is used to treat certain types of anemia. Enbrel is used to treat a number of conditions, including plaque psoriasis. In addition to agreeing to change its marketing and promotional practices, Idaho received \$818,541. ⓘ

Education Management Corporation – For-Profit Education

November 2015

For-profit education company Education Management Corporation agreed to reform its recruiting and enrollment practices and forgive loans to more than 500 former Idaho students in a settlement with the Attorney General. EDMC, based in Pittsburgh, Pa., operates 110 schools in 32 states through four education systems, including Argosy University, The Art Institutes, Brown Mackie College and South University. Under the settlement terms, EDMC forgave \$504,000 in outstanding debt to 519 former students from Idaho. The agreement also requires EDMC to make additional disclosures to students, including a new interactive online financial disclosure tool; bars misrepresentations to prospective students and prohibits enrollment in unaccredited programs. ⓘ

Annual Business Services LLC – Corporate Compliance Certifications

November 2015

The Attorney General settled a dispute with Annual Business Services LLC, which had charged dozens of Idaho business owners for bogus compliance certificates. The settlement requires the company to pay more than \$5,700 to 80 small business owners who paid up to \$72 for certificates in 2015. The agreement also prohibits the company, which operated in Idaho as Business Compliance Division, from advertising in the state under a name that could make a consumer believe the solicitation originated from a government agency. ⓘ

Five Hour Energy Products – Product Advertising

January 2016

Attorney General Wasden settled a lawsuit with Living Essentials, LLC, and Innovation Ventures, LLC, the companies that manufacture and market 5-hour Energy products. The settlement resolved a lawsuit filed by the Attorney General, alleging that defendants misrepresented their energy shot products, including whether consumers experience a “crash” after consumption and claims the products are recommended by doctors. Living Essentials and Innovation Ventures denied any violations of Idaho law. Under terms of the agreement, the companies agreed to make changes to how they promote their products. The companies also paid \$9,000 to the Attorney General for fees and costs of the investigation and litigation. ⓘ

The Attorney General settled a dispute with MoneyGram Payment Systems, Inc. as part of a multistate investigation into third-party scammers' use of MoneyGram's wire-transfer service to defraud consumers. MoneyGram agreed in the settlement to maintain and continue to improve an anti-fraud program designed to help detect and prevent consumers from losing money from fraud-induced wire transfers. MoneyGram also agreed to pay Idaho \$20,000 for the Attorney General's costs and fees. [i](#)

Activities Related to Security Breaches

Ongoing

In June 2016, the [Privacy Rights Clearinghouse](#), a consumer advocacy organization, reported nearly 500 security breaches at for-profit and nonprofit businesses, healthcare providers, educational institutions, and governmental agencies nationwide in 2015 and through mid-2016. Included in this number are intentional breaches (e.g. fraud or hacking) and unintentional breaches (e.g. lost equipment or inadvertent disclosure). The [Identity Theft Resource Center](#) reported in a June 2016 statement that it identified more than 130 intentional security breaches in 2015. These breaches, caused primarily by criminal hacks and security shortfalls, exposed millions of personal, medical, financial, employment, and other records.

[Idaho law](#) defines a security breach as “the illegal acquisition of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of personal information for one or more persons maintained by an agency, individual or commercial entity.” Personal information, which excludes publicly available information, means an Idaho consumer's name and the consumer's unencrypted Social Security number, driver's license number, or financial account and PIN/password.

Only governmental agencies must report security breaches to the Attorney General. Idaho law does not require businesses to report security breaches to the Attorney General. Thus, the Attorney General only becomes aware of a commercial security breach if a business voluntarily notifies the Attorney General or if information about the breach is made public.

The Attorney General is concerned about the pervasive exposure of consumers' personal and financial information. To help educate consumers about security breaches, in FY 2016, the Attorney General issued [consumer alerts](#) through the media and his Twitter account—[@lawrencewasden](#). Additionally, the Attorney General joined multistate investigations involving a number of security breaches that involved Idahoans' personal information.

COMPETITION ACT MATTERS

A marketplace free of unreasonable restraints of trade yields the best allocation of economic resources, the lowest prices, the highest quality, and the greatest material and innovative

progress. The [Idaho Competition Protection Act](#), title 48, chapter 1, Idaho Code, promotes economic competition in Idaho's marketplace.

The Attorney General successfully pursued a number of state competition and federal antitrust matters in FY 2016. Significantly, after the Ninth Circuit upheld the trial court's decision that St. Luke's acquisition of Saltzer Medical Center violated the Idaho Competition Act in February 2015, the Attorney General continues to work on implementing the Court's divestiture order. Other important actions included resolution of several price-fixing lawsuits and anti-competitive acquisitions.

American Express Company, MasterCard, & Visa Litigation | Pending

Along with the United States Department of Justice and other state attorneys general, the Attorney General filed a [civil antitrust lawsuit](#) against Visa, MasterCard, and American Express. The lawsuit alleged 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. 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 [settled](#) with Visa and MasterCard in 2011. American Express, however, chose to proceed with a court trial. In February 2015, the court [ruled](#) that American Express's rules unfairly prevented millions of American Express merchants from offering their customers the same cost-saving incentives that other credit card companies offered. American Express's appeal to the U.S. Second Circuit Court of Appeals is pending. ⓘ

Dynamic Random Access Memory Manufacturer Litigation | Pending

The Dynamic Random Access Memory Manufacturer (DRAM) multistate litigation involved 13 manufacturers of computer memory chips and represents millions of dollars in damages to Idaho's consumers, including businesses and government agencies. The multistate litigation, which the [Attorney General joined in 2006](#), stems from allegations that the manufacturers violated the Idaho Competition Act and federal antitrust law by coordinating the sales prices of their memory chips. As a result of the manufacturers' alleged price fixing, Idahoans paid higher prices for computers and other electronics. The Attorney General, along with other state attorneys general, entered into [settlement agreements](#) with the manufacturers. The settlements collectively total \$310 million and include consumer restitution for Idahoans. In May 2016, the trial court formally (and finally) approved the settlements' distribution plan. The Attorney General expects the Settlement Administrator to begin issuing settlement checks to all eligible individual and business class members in July, 2016. Information about the settlements, including the status of payments, is available on the settlement administrator's website at: <http://dramclaims.com>.

E-Books Price Fixing Litigation (Apple, Inc.)

| Pending

The Attorney General joined with other state attorneys general in an antitrust lawsuit against Apple, Inc., and five of the largest U.S. book publishers. The lawsuit alleged a conspiracy between Apple and the publishers to raise e-book retail prices by controlling retail price negotiations with distribution outlets and by delaying the availability of front-list e-books.

The publishers settled in mid-2013, but Apple opted to litigate its liability. After trial, the court ruled that Apple's conduct violated state and federal antitrust laws. Apple appealed the judgment, but the appellate court upheld it. Apple thus paid \$400 million to consumers and that restitution commenced being distributed June 2016. ⓘ

St. Luke's Health System, Ltd. & Saltzer Medical Group, P.A.

| Pending

The Attorney General and Federal Trade Commission filed a lawsuit against St. Luke's and Saltzer Medical Group in March 2013, alleging that St. Luke's acquisition of Saltzer violated federal and state antitrust and competition law. Specifically, the Attorney General and the Commission argued the acquisition substantially lessened competition for the healthcare industry in and around Nampa, Idaho. Following a four-week trial, the court ruled in favor of the Attorney General and the Commission and ordered St. Luke's complete divestiture of Saltzer. St. Luke's and Saltzer appealed to the Ninth Circuit Court of Appeals, but that court upheld the lower court's decision. The Attorney General and the Commission have since been working to implement the Court's Judgment, obtaining court orders appointing a Divestiture Trustee and a Monitor to oversee the Defendants' compliance with the Judgment and divestiture of Saltzer. ⓘ

Springleaf -- OneMain Merger

| November 2015

The Attorney General, along with six other states and the federal government, settled antitrust concerns with a proposed merger between Springleaf Holdings Inc., and OneMain Financial Holdings, LLC, companies that provide loans, credit services and other financial products to consumers nationwide. The agreement requires Springleaf and OneMain to address anti-competitive issues related to the merger, including divesting four branches in Idaho. The Idaho branches subject to divestiture are located in Boise, Twin Falls, Pocatello and Coeur d'Alene. Requiring these companies to sell these stores to another company ensures Idaho's marketplace will remain competitive. ⓘ

Natixis and Societe Generale Price Fixing Settlements

| February 2016

The Attorney General reached multimillion dollar settlements with Natixis Funding Corp. and Societe Generale for alleged fraudulent and anticompetitive conduct in municipal bond transactions involving governments and nonprofits across the country. Natixis and Societe

Generale collectively paid \$56 million as part of the settlements. Under the settlements' terms, the money will be applied to restitution for municipalities, counties, government agencies, school districts and nonprofits that entered into municipal derivatives contracts with the two businesses. The settlements are the sixth and seventh to be resolved in the wake of a multistate investigation that included the U.S. Department of Justice and other federal regulatory agencies. In the municipal bond derivatives market, tax exempt entities like governments and nonprofit organizations issue municipal bonds and reinvest the proceeds until the funds are needed or enter into contracts to hedge interest rate risk. Investigation revealed anticompetitive and fraudulent conduct involving individuals at a number of large financial institutions, among them Natixis and Societe Generale, and certain brokers with whom they had worked, leading local and state governments, as well as nonprofits, to enter into municipal derivatives contracts on less advantageous terms than they would have otherwise. Information concerning the claims process for entities affected by these settlements will be made available later this year. ⓘ

TELEPHONE SOLICITATIONS & REGISTRATIONS

Recognizing the special risks and the potential for abuse of telephones for commercial solicitation, the Legislature enacted the [Idaho Telephone Solicitation 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. A sales contract between an unregistered telephone solicitor and a consumer is null and void and unenforceable.

In FY 2016, the Consumer Protection Division registered 16 telemarketers.

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 National Registry. The Federal Trade Commission reports that the National Registry presently has 1.13 million active Idaho telephone numbers. The Commission accepts complaints regarding unwanted telephone calls and alleged violations of the National Do Not Call Registry. In its most recent Do Not Call report, the Commission reported it had received 20,251 complaints from Idahoans regarding unwanted calls.

In FY 2016, the Attorney General's Consumer Protection Division received 297 contacts from consumers about unwanted telephone calls. Consumers primarily expressed concerns about

calls received from persons engaging in criminal conduct (e.g., foreign lotteries or imposter scams) or from persons who are not “telephone solicitors” under the ITSA (e.g., appointment setters, debt collectors, or survey companies).

The Attorney General resolved several cases with telemarketers, as follows.

The Travel Council, LLC – State Agency Affiliation | November 2015

The Attorney General negotiated a settlement with The Travel Council, LLC, which allegedly misrepresented its affiliation with the Idaho Department of Commerce and other agencies. The company agreed clearly and conspicuously to disclose on its website and in ads that it is a private commercial business and unrelated to the State of Idaho. The company also agreed to pay the Attorney General’s Office to cover costs and attorney fees. ⓘ

DTC Group and Drug Testing Compliance Group LLC – Federal Agency Affiliation | January 2016

The Attorney General settled with Vurv, LLC, and its fulfillment partner, Drug Testing Compliance Group LLC. The two companies operated nationwide as DTC Group. The Attorney General alleged that the telemarketer made unsolicited calls selling drug testing and other compliance services to newly-registered commercial drivers. Complaints from consumers stated they were led to believe that DTC Group was affiliated with the U.S. Department of Transportation and were told they had to buy the drug testing services or face federal penalties. When some consumers tried to cancel their purchases within three business days, as allowed by law, the company refused full reimbursement.

The settlement requires the company to provide refunds to eligible consumers and also pay \$1,500 to the Attorney General for costs of the investigation. ⓘ

CHARITABLE SOLICITATIONS & TRUSTS

The Attorney General enforces a number of statutes related to charitable organizations and the management of their assets. The [Idaho Charitable Solicitation Act](#) (ICSA) prohibits persons from using any false or deceptive acts or practices to solicit charitable contributions. The Idaho Consumer Protection Act provides the Attorney General’s investigatory and enforcement authorities under the ICSA.

This year the Attorney General participated in a multistate settlement agreement with two organizations that purportedly solicited charitable donations to benefit cancer patients. Similar organizations are defendants in a lawsuit involving all state attorneys general and the Federal Trade Commission.

Additionally, 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 intent. The Attorney General's responsibility often includes reviewing requests to modify the terms of a charitable 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.

In FY 2016, the Attorney General reviewed several significant proposals to ensure protection of charitable assets.

Bingham Memorial Hospital, Inc.

| August 2015

The Attorney General investigated and settled allegations executives from non-profit Bingham Memorial Hospital, Inc. (BMH), misused and misappropriated charitable assets of the Hospital. The three-year investigation and settlement addresses BMH's policies and procedures with regards to the nonprofit's charitable assets. BMH also agreed to reimburse the Attorney General \$50,000 for legal fees and investigative costs. As part of the investigation, attorneys with the Attorney General's Consumer Protection Division and a fraud examiner pored over thousands of BMH records, credit card statements, receipts, reimbursement forms and travel and conference-related documents. The settlement requires BMH's Board of Directors to review its financial records and provide the Attorney General with a board resolution verifying that BMH received reimbursements for any unauthorized personal charges. The BMH Board also agreed to review, and, if necessary, revise policies and procedures to prohibit the use of charitable assets for purposes that are not in the best interest of the hospital. ⓘ

Soldier Mountain Ski Resort

| February 2016

After investigation, the Attorney General reached agreement with the non-profit Soldier Mountain Ski Area, Inc. following the ski area's transition to new, for-profit ownership. Under terms of the deal, Matthew and Diane McFerran, the new owners of the Resort, will distribute charitable goods and services worth \$13,400 over the next four years. Those goods and services can include discounts on ski passes and equipment for children, seniors, veterans or special needs customers, according to the agreement. Last year, the Soldier Mountain Ski Area board sold the property for \$149,000. In October, the Attorney General's Consumer Protection Division launched an investigation focused on whether Soldier Mountain's charitable assets were adequately valued and marketed at fair market value. As part of his investigation, the Attorney General retained an independent consulting firm to appraise the assets and evaluate the ski resort market. In the settlement, the parties agreed that the Resort's fair market value was \$162,402, an amount \$13,402 higher than the sale price. Accordingly, the McFerrans agreed to distribute charitable goods and services worth \$13,402. ⓘ

Pursuant to a settlement agreement, Attorney General Wasden, along with federal officials and Attorneys General from 49 states, obtained a permanent injunction that dissolved two sham cancer charities and imposes restrictions on the president of these organizations. The permanent injunction applies to Cancer Fund of America Inc. (CFA), and Cancer Support Services Inc. (CSS). These organizations, along with their President James Reynolds, Sr. agreed to settle charges that they spent an overwhelming majority of donations purported to help cancer patients on operators, families, friends and fundraisers. Idaho and other state and federal officials filed a complaint in May 2015 focused on four sham charities run by Reynolds and his family members. Idaho alleged Reynolds bilked more than \$187 million from donors. Two other sham charities operated by Reynolds settled last year. Under the settlement, CFA and CSS will be permanently closed and their assets liquidated. Reynolds will be banned from profiting from charity fundraising or other nonprofit work. He is also banned from making misrepresentations about goods or services. The settlement also imposes a judgment against CFA, CSS and Reynolds of \$75.8 million, a sum equal to the amount consumers donated between 2008 and 2012. The judgment against the organizations will be partially satisfied through the liquidation of assets. ⓘ

TOBACCO ENFORCEMENT

The Attorney General enforces [Idaho's Tobacco Master Settlement Agreement](#), [Tobacco Master Settlement Agreement Complementary](#), [Prevention of Minors' Access to Tobacco](#), 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.

Each year the tobacco industry makes a payment to the state to help it cover costs related to treating tobacco-related illnesses. In 2016, the tobacco industry paid \$25,297,289 to Idaho, which was deposited into the Millennium Fund. Since the MSA was entered into in 1998, Idaho has received payments totaling \$431,767,158.

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 33 tobacco manufacturers and 135 tobacco brands. The directory is available on the tobacco webpage of the Attorney General's website.

The Attorney General continues to litigate with the tobacco industry over the state's enforcement of certain Idaho tobacco laws. The industry disputes the effectiveness of the state's enforcement efforts and seeks to eliminate potentially tens of millions of dollars of Idaho's tobacco MSA payments. ⓘ

CONSTITUTIONAL ENFORCEMENT

The Attorney General assigned the Consumer Protection Division two matters involving enforcement of Idaho's Constitution. Both matters, as spelled out below, upheld applicable provisions of Idaho's Constitution.

St. Luke's Health System, McCall and Elmore Hospital Districts

February 2016

After a detailed investigation, Attorney General Wasden reached agreement with St. Luke's Health System and two governmental hospital districts over St. Luke's ownership and operation of the McCall Memorial Hospital and the Elmore Medical Center in Mountain Home.

Several years ago, the districts transferred their hospitals to St. Luke's. In both cases, the districts also agreed to remit tax revenues to help fund operations at St. Luke's hospitals. The McCall hospital district in 2010 and the Elmore Medical Center in 2013 each agreed to give their respective hospitals, including all real estate, to St. Luke's. In return, St. Luke's promised to maintain and improve the hospitals on the condition the districts helped fund operations with annual property tax revenues. If the districts declined to remit tax money, they would lose their right to repurchase the hospitals back from St. Luke's.

The Idaho Constitution prohibits a government entity like a hospital district from donating assets or transmitting tax revenues to help support the operations of a private entity. Accordingly, the agreements raised several questions regarding the viability of these property transfers. The concerns included the legality of giving public assets to private entities, tax revenues benefiting private enterprises and whether the districts were incurring financial liabilities that exceeded their annual revenues. The agreements also raised concerns of whether the districts were acting within and pursuant to their grants of authority.

To resolve the Attorney General's concerns, St. Luke's agreed to transfer ownership of the hospitals' real and personal property back to the districts. St. Luke's will now lease the hospitals and pay operational costs. The districts may use tax dollars to fulfill funding requests from St. Luke's, but the districts retain ownership of all purchased items. The districts will also maintain ultimate control over the services provided by St. Luke's and any changes it wants to make to the facilities. St. Luke's has agreed to include capital campaigns to improve or expand the existing facilities and has an option to purchase the hospital facilities in the future. [i](#)

Daily Paid Fantasy Sports

May 2016

Attorney General Wasden negotiated agreements with DraftKings Inc., and FanDuel Inc., two of the nation's biggest companies offering paid fantasy sports contests, to cease providing those contests to consumers in Idaho.

The reason for the agreements is that the paid daily sports offerings provided by these companies constitute gambling under Idaho law and the Idaho Constitution strictly prohibits gambling except for the state lottery, pari-mutuel betting, and bingo and raffle games done for charitable purposes. Idaho law defines gambling, in part, as risking money or other thing of value for gain that is contingent in whole or part upon chance or the outcome of an event, including a sporting event. After reviewing the matter in detail, the Attorney General concluded that the daily fantasy sports offerings of the two companies meets these requirements: participants are required to risk money for a cash prize contingent upon individual athletes' collective performances in various future sporting events. The companies' agreements provide a path to resume offering paid fantasy sports contests to Idaho consumers, including the Idaho Legislature changing the law to allow for and regulate such contests. ⓘ

CONSUMER 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, social media, 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. Civil penalty payments and reimbursements for the Attorney General's fees and investigative costs are 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 educational information and resources to help businesses and consumers better understand their rights, obligations, and remedies under Idaho's consumer-related laws. The following consumer webpages are of particular interest to Idahoans and out-of-state businesses looking to operate in Idaho:

Consumer Alerts	Informs the public of current scams and how to avoid them.
Consumer Topics	Find information about buying a car, credit and debt issues, housing, charities, identity theft, Internet safety, contractors, travel scams, and work-at-home offers.
Pending Actions	Updated information about the Attorney General's ongoing consumer- and competition-related litigation
Settlement Information	Explains how eligible consumers can apply for restitution under the terms of recent state and multistate settlements.
Telephone Solicitations	Provides information about Idaho's telemarketing registration process and a downloadable registration application.

NEW CONSUMER LEGISLATION

The Attorney General did not propose any consumer protection-related legislation in FY 2016.

CONSUMER OUTREACH

Each year consumer specialists from the Attorney General’s Consumer Protection Division visit and give educational presentations to Idaho’s consumers and businesses. In FY 2016, the consumer specialists visited a number of Idaho locales to make presentations and to distribute consumer education materials.

- Southwest Idaho***
- Boise Outreach**
- Military Saves 2016
 - Financial Literacy Displays
 - Home owner associations
- Caldwell Outreach**
- Information Fair
- Kuna Outreach**
- Senior Center
- Mountain Home Outreach**
- Mountain Home Air Force Base
- Nampa Outreach**
- Northwest Nazarene University



- North and Central Idaho***
- Coeur d’Alene Outreach**
- Scam Jam Presentation
- McCall Outreach**
- Scam Jam Presentation

- South and Eastern Idaho***
- Idaho Falls Outreach**
- Senior Center
- Pocatello Outreach**
- Local High Schools
 - Senior Center
- Rexburg Outreach**
- Senior Center
 - BYU Idaho
- Twin Falls Outreach**
- High School

In FY 2016, the Attorney General's Consumer Protection Division participated in a number of outreach events. The office made consumer education presentations to senior centers, high school and college students, and military personnel. The Division makes presentations where consumers can learn about current scams, identity theft, guardianships and living trusts, investment and financial fraud, and other consumer fraud issues. The Attorney General, over the years, has also made numerous consumer protection related presentations.



CONTACT AND COMPLAINT DATA: WHAT DO THE NUMBERS SHOW?

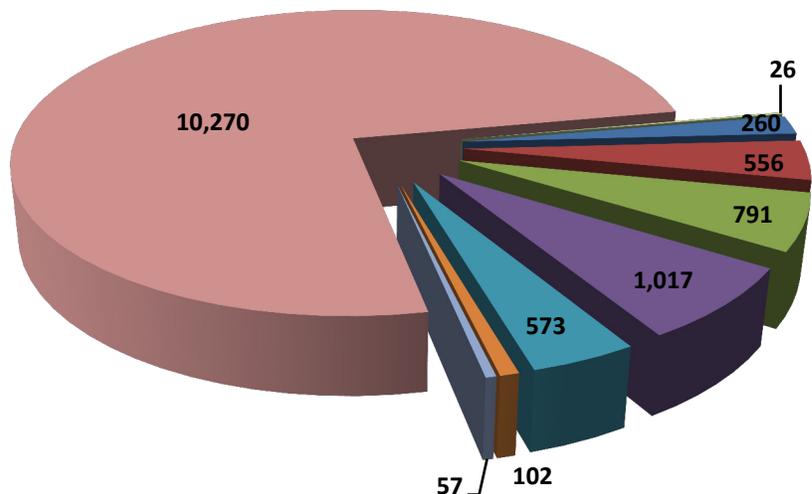
This section provides a snapshot of the Consumer Protection Division's contacts and complaints during FY 2016. Each year, the Division's consumer specialists, telemarketing and housing specialist, receptionist, and deputy attorneys general have thousands of contacts with the public, the media, other government agencies, and law enforcement. The Division logs each of these contacts so it can:

- identify patterns of law violations;
- evaluate areas where additional resources are required;
- account for the Division's annual budgetary expenditures; and
- report the data to the public each year.

CONSUMER PROTECTION DIVISION CONTACTS

The Consumer Protection Division processed more than 12,861 consumer-related contacts in FY 2016. The Division received telephone calls and emails from inquiring consumers and business owners, responded to public record requests, and processed legal filings.

- I.R.S. 990s (Idaho Foundations)
- Class Action Fairness Notices
- Consumer Complaints
- Email Inquiries
- For Informational Purposes Only
- Miscellaneous Communication
- Public Record Requests
- Telephone Calls
- Telephone Solicitor Applications



CONSUMER COMPLAINTS FILED AND MEDIATED

The Attorney General's Consumer Protection Division accepts written complaints from consumers who wish to report an alleged violation of a law the Attorney General enforces. Consumers may download a complaint form from the Attorney General's website and mail or email it to the Division.

The Division's two consumer specialists and one telemarketing and housing specialist process incoming complaints for the investigator's review. If a complaint is appropriate for the Division's informal dispute resolution program, the complaint is sent to the identified business with a request for a written response. The investigator reviews the business's response and determines what further action, if any, is appropriate. Most businesses understand the benefits of addressing their customers' concerns and voluntarily respond to complaints.

In FY 2016, the Division received 791 consumer complaints. The number one complaint category was Motor Vehicles, which primarily includes complaints about which primarily includes complaints about new and used car sales, repairs, manufacturer defects, and advertising. Allegations related to Internet advertising have increased, including claims about a lack of pricing and other disclosures, unavailability of advertised inventory, and discrepancies between advertised and actual prices. The Attorney General sent warning letters to the dealers who had complaints and encouraged them to review their advertising with the dealerships' attorneys to ensure compliance with Idaho's Motor Vehicle Advertising Rule.

Complaints regarding health care and construction represented the most dramatic growth, with each reporting increases of about 50 percent compared to FY 2015 totals.

The number of landlord tenant complaints filed with the Attorney General in FY 2016 increased to 55, an increase of four over FY 2015 numbers. The category is still the third highest complaint category. A number of the complaints were filed against property management companies rather than individual landlords and expressed problems with:

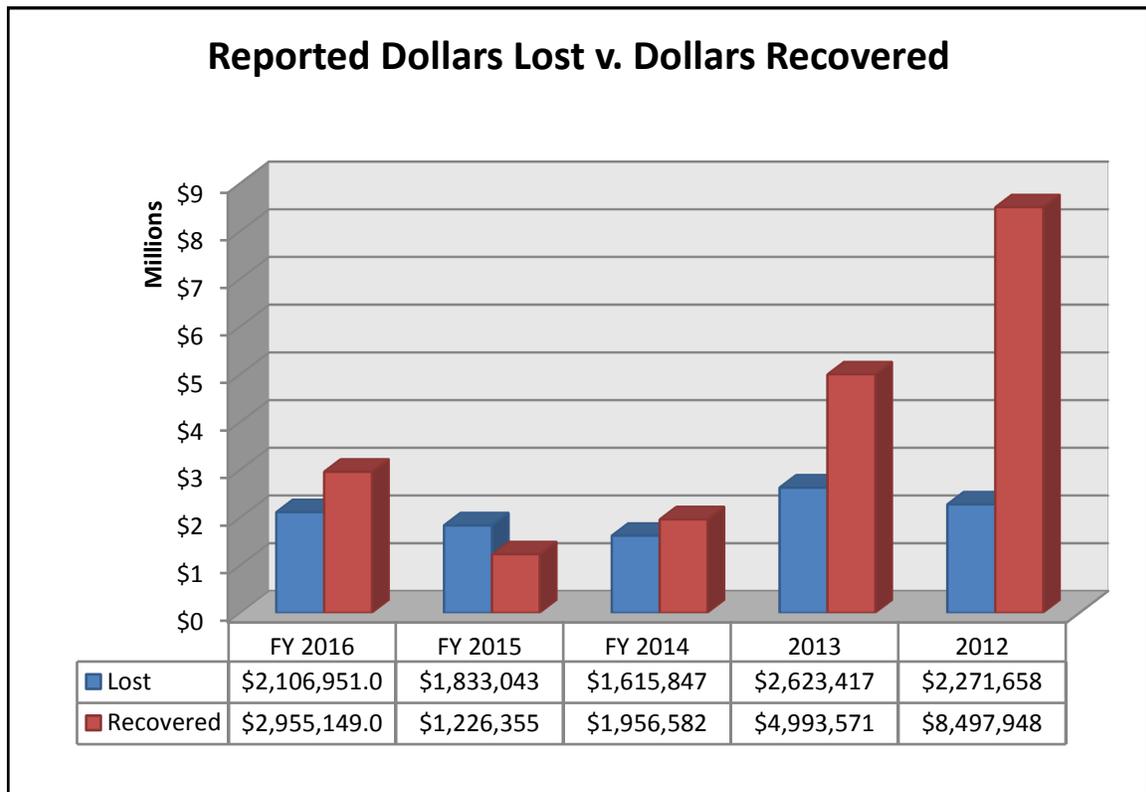
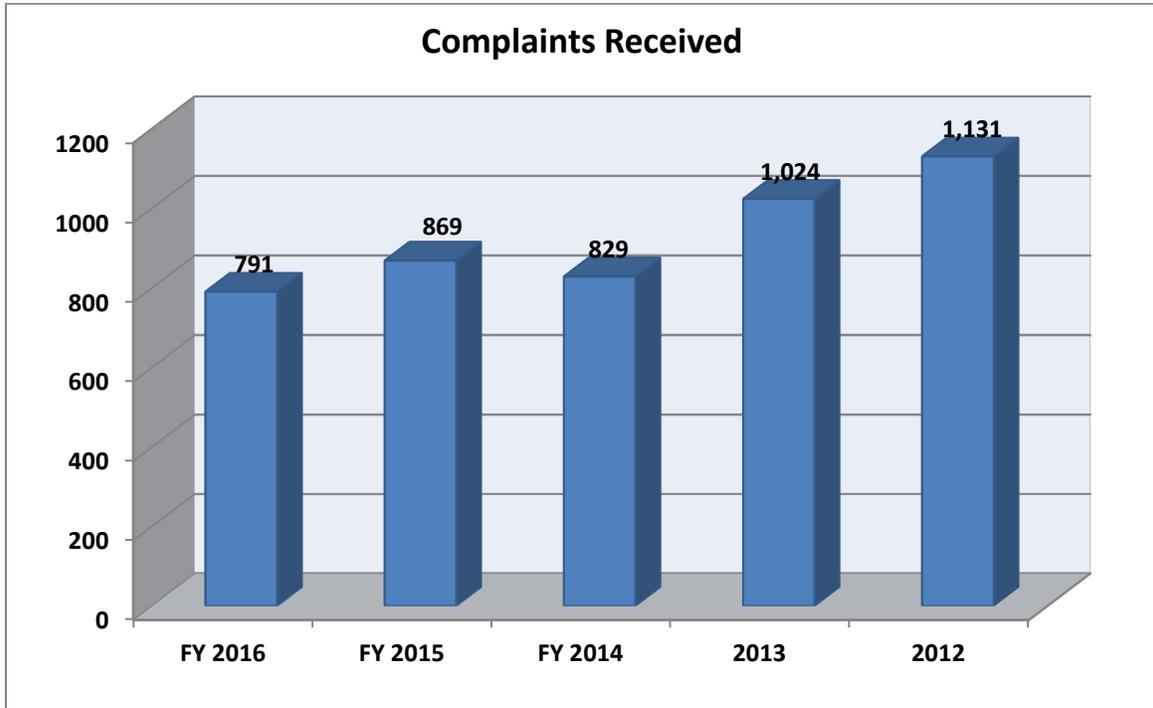
- what constitutes "normal wear and tear;"
- a landlord's failure to make prompt repairs;
- a landlord conducting a move-out inspection without the tenant being present;
- increases in rent without sufficient notice; or
- a landlord's refusal to return the tenant's security deposit.

The Attorney General does not enforce Idaho's landlord tenant laws, but does mediate landlord tenant related complaints that allege violations of the Idaho Consumer Protection Act. Additionally, the Attorney General publishes on his website the [Landlord and Tenant Guidelines](#), a reference manual that explains the parties' rights and obligations under Idaho's relevant laws.

TOP 10 COMPLAINT CATEGORIES				
RANK	COMPLAINT CATEGORY	FY 2016 TOTAL	↑ ↓	FY 2015 TOTAL
1	MOTOR VEHICLES	132	↑	100
2	HEALTH CARE: DENTAL/OPTICAL/MEDICAL	56	↑	36
3	LANDLORD/TENANT ISSUES	55	↑	51
4	LOANS & MORTGAGE LENDERS	44	↑	37
5	CONSTRUCTION & CONTRACTORS	43	↑	28
6	INTERNET SERVICE PROVIDERS	38	↑	30
7	COLLECTION ACTIVITIES & ISSUES	35	↑	32
8	INTERNET SALES & SERVICES	31	↑	NOT LISTED
9	CABLE & SATELLITE TV ISSUES (TIE)	30	↓	34
9	CELLULAR SERVICES & SALES (TIE)	30	↓	37
10	BANKING SERVICES (NOT LOANS)	25	↑	NOT LISTED
	ALL OTHER COMPLAINT CATEGORIES*	272	↓	415
	TOTAL COMPLAINTS RECEIVED	791	↓	829

*The Consumer Protection Division has over 100 complaint categories and subcategories for retail goods and services. The "All Other" category is a compilation of categories or subcategories that registered less than 24 complaints.

FIVE YEAR COMPARISON



FEDERAL TRADE COMMISSION DATA: IDAHO CONSUMERS

The Federal Trade Commission maintains a database of consumer complaints submitted directly from consumers, as well as from state and local agencies and consumer advocacy organizations. Each quarter the Consumer Protection Division submits an electronic summary of its complaints. With access to combined state, federal, and other complaint data, the Attorney General is better able to identify patterns of deception and determine where to commit his limited investigatory and enforcement resources.

At the beginning of each year, the Federal Trade Commission publishes a report about the consumer complaints it received during the prior year. The report provides data for each state and identifies the top 10 complaint categories for that year.

In 2015, the Federal Trade Commission received 3 million consumer complaints. Presently, the Commission's electronic complaint database contains more than 12 million fraud complaints for the years 2010 through 2015.

Idahoans filed 7,002 fraud complaints and 1,676 identity theft complaints in 2015. This number excludes the complaints submitted to the Federal Trade Commission by the Attorney General. The following illustration shows the top 10 categories for the 7,002 filed complaints.

Fraud and Other Complaints Count from Idaho Consumers = 7,002

Top 10 Fraud and Other Complaint Categories Reported by Idaho Consumers

Rank	Top Categories	Complaints	Percentage ¹
1	Impostor Scams	1,519	22%
2	Debt Collection	937	13%
3	Prizes, Sweepstakes and Lotteries	653	9%
4	Telephone and Mobile Services	554	8%
5	Banks and Lenders	445	6%
6	Shop-at-Home and Catalog Sales	364	5%
7	Auto-Related Complaints	322	5%
8	Internet Services	201	3%
9	Credit Bureaus, Information Furnishers and Report Users	193	3%
10	Television and Electronic Media	188	3%

¹Percentages are based on the total number of CSN fraud and other complaints from Idaho consumers (7,002).
Note: These figures exclude complaints provided by the Idaho Office of Attorney General.

(Courtesy of the Federal Trade Commission)

CONSUMER PROTECTION ACTIVITIES 2012 ~ FY 2016 SNAPSHOT

ACTIVITY	FY 2016	FY 2015	FY 2014	2013	2012
Complaints Received	791	869	829	1,024	1,131
Other Consumer Contacts	12,861	11,754	9,678	10,107	10,562
Consumers Claimed Loss	2,106,951	\$1,833,043	\$1,615,847	\$2,623,417	\$2,271,658
Consumer Dollars Recovered	2,955,149	\$1,226,355	\$1,956,582	\$4,993,571	\$8,497,948
Penalties & Costs Recovered	1,964,341	\$24,171,593	\$404,373	\$2,361,927	\$16,468,334
Enforcement Actions	22	26	13	16	29
Registered Telemarketers	16	18	15	15	76
Numbers on DNC Registry	1,129,590	1,101,598	1,119,074	1,119,074	1,088,730

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

VISIT:	Consumer Protection Division 954 W. Jefferson St., 2 nd Floor Boise, ID 83702
WRITE:	Consumer Protection Division P.O. Box 83720 Boise, ID 83720-0010
CALL:	(208) 334-2424 (or) (800) 432-3545 (toll free in Idaho)
EMAIL:	consumer_protection@ag.idaho.gov www.ag.idaho.gov

LAWRENCE G. WASDEN

ATTORNEY GENERAL

STATE OF IDAHO

