STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

CONSUMER PROTECTION, COMPETITION, AND TOBACCO ENFORCEMENT 2011 ANNUAL REPORT

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Mission Statement

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

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 delegated to the Attorney General the duty of enforcing the Tobacco Master Settlement Agreement Act, the Tobacco Master Settlement Agreement Complementary Act, and the Prevention of Minors' Access to Tobacco Act. The Master Settlement Agreement and its 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, telephone solicitations, charitable solicitations, competition, and tobacco enforcement. This report highlights the legislative initiatives and enforcement actions that the Attorney General concluded in 2011 and provides updates of the office's significant and ongoing litigation. In addition, the report identifies and discusses the top 10 categories of goods and services about which consumers filed complaints in 2011. The report also summarizes the office's 2011 consumer outreach and education efforts.



Last year marked the 40th anniversary of the Idaho Consumer Protection Act (ICPA). Enacted on July 1, 1971, the ICPA protects consumers, businesses, and Idaho's marketplace from unfair competition and deceptive practices in trade and commerce. Over the years, the ICPA has undergone changes and additions, most recently the codification of section 48-603F, banning for-profit mortgage modification companies. The Attorney General is committed to preserving the integrity of Idaho's business environment, and his proactive enforcement and consumer education efforts will ensure the continuing success of the ICPA in the coming years.

ANNUAL ACTIVITIES SUMMARY

Consumer Complaints & Contacts

- Top Consumer Complaints: Loans and Mortgage Lenders & Motor Vehicles
- Number of Consumer Complaints Filed: 1,028
- Number of Other Consumer Contacts Logged: 10,756
- Total Dollar Losses Reported by Consumers: $2,074,981.77

Enforcement Actions & Legislative Initiatives

- Published the Attorney General's Housing Crisis Report
- Supported enactment of House Bill 331 to better protect homeowners in default on their mortgage loans
- Litigated and settled cases involving drug manufacturers' average wholesale prices
- Continued defense of Idaho's tobacco Master Settlement Agreement payments and its constitutionality
- Litigated cases against cigarette wholesalers violating Idaho's tobacco sales laws
- Resolved investigations of a work-at-home company, a pay-day lender, and an unregistered telemarketer
- Continued litigation of price-fixing claims and accomplished a significant price-fixing settlement involving DRAM memory chips

Consumer Restitution & Financial Issues

- Recovered more consumer restitution--$8,151,956--than in any previous year. This amount equals $14.41 for each taxpayer dollar appropriated for consumer operations in FY 2011 ($585,200)
- Recovered--for the 20th straight year--more money for residents and businesses than the Legislature has appropriated from the general fund for consumer protection operations
- Recovered $2,530,829.09 in civil penalties, fees, and costs
- Received $24,444,484 under the MSA, totaling $305,013,857 received since the MSA was finalized in 1998
- Transferred $1,568,904 in unspent consumer protection account funds to the general fund in FY 2011. Since 2000 the office has transferred $16,108,033 in consumer funds to the general fund

APPLICABLE 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 48, 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

Telephone Solicitations

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

Charities & Charitable Assets

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

Competition

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

Tobacco

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

LEGISLATIVE INITIATIVES

In February 2011, the Attorney General released a comprehensive housing report detailing the condition of Idaho's housing market and outlining suggestions for legislative, educational, and remedial actions for stakeholders to consider with respect to foreclosures in Idaho. Three significant recommendations in the report led to enactment of House Bill 331 (HB 331), which became effective on September 1.

Specifically, House Bill 331, cosponsored by the Attorney General and the Idaho Bankers Association, amended Idaho's foreclosure statutes[1] to require lenders to: (1) notify borrowers in writing of their opportunity to request a mortgage loan modification review; and (2) notify borrowers in writing of postponed trustee's sales. HB 331 also prohibits, under the Idaho Consumer Protection Act,[2] for-profit mortgage modification companies from operating in Idaho unless the company is licensed by the Idaho Department of Finance or exempt from such licensing, or is an Idaho-licensed attorney, licensed mortgage broker, or licensed real estate agent.

The Attorney General enforces Idaho Code § 45-1506C, the section requiring lenders to notify borrowers about modification reviews. This section prohibits lenders from foreclosing on borrowers while lenders are reviewing borrowers for modifications and requires lenders to meet with borrowers, if requested, in person or via telephone to discuss borrowers' options. Failure to comply with Idaho Code § 45-1506C constitutes a violation of the Idaho Consumer Protection Act, title 48, chapter 6, Idaho Code.

To assist lenders in complying with HB 331 and to help homeowners better understand their rights, the Attorney General developed a webpage devoted to mortgage servicing issues. The webpage includes model forms, answers to frequently asked questions, and educational materials for servicers and homeowners. The page is available on the Attorney General's website at www.ag.idaho.gov.



[1] HB 331 amended Idaho Code § 45-1506(8) and added section 45-1506C.
[2] HB 331 added section 48-603F to the Idaho Consumer Protection Act, title 48, chapter 6, Idaho Code.

CONSUMER ENFORCEMENT ACTIVITIES

✶ *CONSUMER PROTECTION* ✶

Enforcement of Idaho's consumer laws protects the free and competitive market 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 material progress. Pursuant to his authority under the Idaho Consumer Protection Act and the Telephone Solicitations Act, the Attorney General undertook a variety of consumer protection matters in 2011 that are noteworthy in scope and impact.

MULTISTATE MORTGAGE SERVICING INVESTIGATION

In October 2010, the Attorney General joined the multistate mortgage servicing investigation that formed when allegations arose about loan servicers filing forged foreclosure documents with courts in judicial foreclosure states. Commonly referred to as "robosigning," the servicers and their agents allegedly had employees sign thousands of affidavits and other foreclosure documents every day, using fictitious names, and while outside the presence of a notary. In addition, servicers allegedly pursued foreclosures without having documentation to establish the servicers' authority to foreclose.

Idaho has a nonjudicial foreclosure process, also known as foreclosure by advertisement and sale. Consequently foreclosures do not occur under a court's supervision. This does not mean, however, that servicers can abuse Idaho's homeowners by foreclosing on their homes in violation of Idaho law. The Attorney General's participation in the multistate group represents his continued commitment to ensuring the integrity of Idaho's foreclosure process.

At the close of 2011, the states' investigation of the five largest servicers—Ally Financial, Bank of America, Chase, Citi, and Wells Fargo—continued. Attorney General Wasden continues to work closely with his fellow attorneys general toward an amicable settlement that will be of the greatest benefit to Idaho's citizens and the housing market. Important facets of a settlement will need to

include significant changes to mortgage servicing standards, restitution to victims of unwarranted foreclosures, and a loan refinancing program. A viable settlement will also need a release of liability that is narrowly crafted to include only the issues relevant to the investigation.

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 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. As a basis for determining the estimated acquisition cost of a drug, Idaho Medicaid primarily uses the drug's "average wholesale price" as reported by the drug's manufacturer. The Attorney General alleges 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 2011, the Attorney General settled with 10 drug manufacturers and recovered over $8.5 million to reimburse the State and its taxpayers for the inflated prices. The settlements also reimbursed the Attorney General's fees and costs for prosecuting the cases. In addition to the financial component of the settlements, the settling manufacturers also must report confidential pricing information for their drugs, which helps Idaho Medicaid more accurately reimburse Idaho's health care providers.

Since 2007, the Attorney General has recovered $15.7 million from similar settlements with manufacturers.

The chart on the following page summarizes the amount of money each settling defendant manufacturer paid in 2011:

DRUG MANUFACTURERS (DEFENDANTS)	SETTLEMENT
Johnson & Johnson, Janssen Pharmaceutical Products LP Ortho-McNeil Pharmaceutical, Inc. Ortho Biotech Products LP, McNeil-PPC, Inc. Centocor, Inc.	$ 2,000,000
Merck Sharp & Dohme Corp. (f/k/a Merck & Co., Inc.)	$ 1,600,000
AstraZeneca Pharmaceuticals LP AstraZeneca LP	$ 2,500,000
Par Pharmaceutical Cos., Inc.	$ 1,700,000
Schering-Plough Warrick Pharmaceuticals Corporation	$ 750,000
2011 TOTAL	**$8,550,000.00**

The Attorney General continues to represent the State of Idaho in other average wholesale drug-pricing lawsuits. At the end of 2011, lawsuits were pending against the following manufacturers relating to their reporting of allegedly false "average wholesale prices":

Abbott Laboratories	Pfizer, Inc.
Aventis Pharmaceuticals, Inc.	Pharmacia Corp.
Forest Laboratories, Inc.	SmithKline Beecham Corp., d/b/a GlaxoSmithKline
Mylan, Inc.	Watson Pharma, Inc., f/k/a Schein Pharmaceuticals, Inc.
Mylan Pharmaceuticals, Inc.	Watson Pharmaceuticals, Inc.
Novartis Pharmaceuticals Corp.	

PHARMACEUTICAL MARKETING & MANUFACTURING

In addition to his average wholesale price cases, the Attorney General reached two settlements in 2011 with drug manufacturers related to the marketing and manufacturing of their products.

ASTRAZENECA PHARMACEUTICALS LP AND ASTRAZENECA LP

AstraZeneca Pharmaceuticals LP and AstraZeneca LP manufacture the prescription drug Seroquel, an anti-psychotic medication originally developed to treat schizophrenia and bipolar disorder. AstraZeneca allegedly marketed the drug for unapproved or "off label" uses, including for the management of Alzheimer's disease and dementia, as well as for anxiety, depression, sleep disorders, and post traumatic stress disorder. Additionally, AstraZeneca allegedly failed to adequately disclose to health care providers the drug's potential side effects and withheld negative information contained in scientific studies concerning the drug's safety and efficacy.

The Attorney General entered into a multistate settlement with AstraZeneca Pharmaceuticals LP and AstraZeneca LP in March 2011. The settlement requires AstraZeneca to cease promotion of Seroquel in a false, misleading, or deceptive manner. AstraZeneca also paid the states $68.5 million, of which the State of Idaho received $997,000.

GLAXOSMITHKLINE, LLC AND SB PHARMCO PUERTO RICO, INC.

In June 2011, the Attorney General entered into a multistate settlement with GlaxoSmithKline and SB Pharmco, manufacturers of multiple prescription drugs. Before the companies closed their manufacturing plant in Cidra, Puerto Rico, they allegedly produced and distributed adulterated lots of Kytril, an anti-nausea drug for cancer patients, Bactroban, an antibiotic ointment, Paxil CR, an extended release antidepressant, and Avandamet, a drug used to treat Type II diabetes. The settlement resolved allegations that GlaxoSmithKline and SB Pharmco's substandard manufacturing processes and subsequent distribution of the drugs constituted unfair or deceptive acts or practices. The companies paid the multistate group $40.75 million, with Idaho receiving $602,000.

OTHER CONSUMER PROTECTION CASES

ACTION INTEGRATED MARKETING

In a March 2011 multistate settlement, the Attorney General obtained an Assurance of Voluntary Compliance from Action Integrated Marketing (AIM), a Georgia company that provides promotional materials for auto dealers' sale events. The company—known for its use of the fictional character "Repo Joe"—entered into agreements with dealers to provide marketing materials and inventory for sales events. The ads used language suggesting the cars available at the events were repossessions, government vehicles, or other cars that were not a part of the dealer's normal inventory.

During the multistate investigation, however, attorneys general discovered that, in many instances, the used cars offered for sale allegedly were already in dealers' inventory. The Attorney General alleged that AIM's advertising practices, if true, violated the Idaho Consumer Protection Act. AIM agreed, as a part of the settlement, to stop using deceptive language in its marketing materials. The company paid the multistate group $150,000, with Idaho receiving $13,000.

FLOBRIDGE GROUP, LLC

The Idaho Consumer Protection Act prohibits creditors from engaging in deceptive debt collection practices and, except in limited circumstances, a creditor must have a court order to garnish a debtor's wages. After receiving complaints from Idaho consumers alleging their wages were being garnished unlawfully by Flobridge Group, LLC, an unlicensed Utah payday lender, the Attorney General opened an investigation into the company. The Attorney General found that when borrowers missed a payment, Flobridge Group repeatedly called, e-mailed, and texted borrowers and their employers, threatening legal actions that the company had no authority to take. The company also contacted borrowers' employers and told them that state law allowed Flobridge Group to garnish borrowers' wages without a court order, sending employers false documentation in attempts to garnish the borrowers' wages.

The Attorney General obtained an Assurance of Voluntary Compliance from Flobridge Group in July 2011. The company may not lend in Idaho and paid restitution to damaged consumers. The Attorney General also obtained $2,200 to reimburse him for his fees and costs.

INTERNET SALES INSTITUTE, LLC, A/K/A ACCELERATED MENTORING, LLC

Between January 2010 and March 2011 the Attorney General's Consumer Protection Division received 18 consumer complaints from out-of-state consumers who alleged that Internet Sales Institute, a Boise, Idaho company, deceptively advertised a program to assist consumers in developing their own work-at-home Internet businesses. Consumers paid up to $18,000 for the online educational program, which Internet Sales Institute represented as tax deductible and "eBay approved."

In the summer of 2010, the Attorney General initiated an investigation into Internet Sales Institute's claims that consumers could earn thousands of dollars in a short amount of time by working 10 to 15 hours a week. According to consumers, they rarely earned any money and were left with credit card debts for coaching services that were ineffective or never received.

Internet Sales Institute and its owner, Clancey Braxton Yohman, signed an Assurance of Voluntary Compliance in March 2011, concluding the Attorney General's lengthy investigation. The company agreed to strict advertising constraints, to register to telemarket, and not to collect on any outstanding contracts. In addition, Internet Sales Institute registered to telemarket in February 2011, paid the Attorney General $10,000, and agreed to comply with strict advertising restraints. The business stopped soliciting new clients in August 2011.

CELIA PEREZ D/B/A PEREZ INTERNATIONAL

Celia Perez, who operated an immigration documentation scam in Jerome, is prohibited from doing business in Idaho under a September 2011 court judgment. The judgment is the result of a lawsuit the Attorney General filed in 2010 after receiving reports that Perez accepted large sums of money from consumers to help them complete and submit United States citizenship paperwork. Perez never submitted the consumers' documents to the government and, instead, collected more money from her victims and allowed them to be arrested and deported. The court ordered Perez to pay restitution to the consumers who filed complaints with the Attorney General's Office and to pay civil penalties, fees, and costs to the Attorney General.

THE DANNON COMPANY, INC.

Without scientific support, Dannon allegedly made misrepresentations about the health benefits of its products, including Activia yogurt. Under the terms of a 2010 multistate settlement, the company agreed to stop advertising that its products provided consumers with unsubstantiated health benefits. The State of Idaho also received payment from Dannon for $425,000 in January 2011 to reimburse the Attorney General for his fees and costs and to refund consumers.

DIRECTV, INC.

The Attorney General's settlement with DirecTV was the result of a multistate investigation of allegations that DirecTV engaged in deceptive advertising of its satellite subscription services. The court approved the parties' Stipulation, Consent Judgment and Order in late 2010. The State of Idaho received payment of $185,000 from DirecTV in January 2011.

✶ *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. In 2011 the Division registered 80 telemarketers, a slight increase from 2010.

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. Presently, the Registry contains 1,048,897 Idaho telephone numbers.

COMMERCIAL MAINTENANCE CHEMICAL CORPORATION

In the fall of 2010, the Attorney General's Consumer Protection Division learned that New York-based Commercial Maintenance Chemical Corporation, an unregistered telemarketer, sent an invoice to an Idaho business claiming the business owed Commercial Maintenance for industrial equipment that the Idaho business allegedly ordered via a phone solicitation. The Consumer Protection Division contacted Commercial Maintenance and informed the company that, because it was not registered, the sales transaction with the Idaho business was void, and Commercial Maintenance could not collect from the Idaho business. Despite this warning, the Consumer Protection Division continued to receive complaints from Idaho businesses about receiving invoices for goods they supposedly ordered during a telephone solicitation.

The Attorney General took action against Commercial Maintenance, subsequently entering into an Assurance of Voluntary Compliance with the company. Commercial Maintenance agreed to change its telephone solicitation practices and paid the Attorney General $1,000 in fees and costs. If the company violates the Assurance, it is subject to a $5,000 civil penalty.

✶ *CHARITABLE SOLICITATIONS AND TRUST ASSETS* ✶

Idaho law assigns to the Attorney General the duty of enforcing charitable trusts and protecting charitable trust assets. The Idaho Charitable Solicitation Act, also prohibits false, deceptive, and misleading charitable solicitations and assigns the Attorney General the duty of enforcing its provisions.

In 2011, the Attorney General reviewed charitable trust inquiries and complaints concerning non-profit corporate governance. He also participated in investigations of allegedly deceptive charitable solicitations. The Attorney General does not have any public enforcement actions to report.

✶ *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. Throughout 2011, the Attorney General exercised his enforcement responsibilities under the Competition Act and

continued to litigate several matters relative to claims brought under the Competition Act. He also announced three settlements.

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 dynamic random access memory (DRAM). DRAM holds temporary instructions and data available for quick access while the device is in use. Electronic products with DRAM are purchased by a consumers, businesses, schools and government bodies throughout the world.

Around 1998 the defendant DRAM manufacturers allegedly began discussing and coordinating the prices they charged to consumers and to the large computer manufacturers, commonly known as Original Equipment Manufacturers (OEMs). In June 2002, the United States Department of Justice launched a criminal investigation into the manufacturers.

To recover restitution and damages for the State of Idaho, in 2006 the Attorney General joined a multistate lawsuit against 13 DRAM manufacturers and their subsidiaries, claiming violations of the Competition Act, the Sherman Act, 15 U.S.C. §1, and the Clayton Act, 15 U.S.C. §§ 12–27, 29 U.S.C. §§ 52–53. The lawsuit alleges that, as a result of the manufacturers' price fixing, Idaho consumers, businesses, and governmental agencies, both state and local, paid more for their computers, servers, and other electronic devices than they would have paid had there not been any price fixing.

While he continues to negotiate separate settlements with nonparties, the Attorney General and the defendant DRAM manufacturers have entered into settlements that include restitution of $260 million in the participating jurisdictions. The restitution is on behalf of consumers, businesses, the state and certain local governmental agencies that paid more for computers, servers and other electronic devices because of the alleged price-fixing of DRAM chips. A claims process, which is being implemented, will determine the amounts to be distributed to Idaho consumers, businesses, the State of Idaho and local governments.

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 the Eastern District of 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 in the fall of 2010. The court approved the settlement in 2011. 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 remains pending. 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.

MUNICIPAL BOND DERIVATIVES INVESTIGATION

The Attorney General has participated in an ongoing nationwide investigation of alleged anticompetitive and fraudulent conduct in the municipal bond derivatives industry. Municipal bond derivatives are contracts that tax-exempt issuers use to reinvest proceeds of bond sales until the funds are needed, or to hedge interest-rate risk. The Attorney General settled five matters in 2010 and 2011 involving Bank of America, UBS AG, JP Morgan, GE Funding

Capital Market Services, Inc., and Wachovia. To date, the multistate working group has obtained settlements worth almost $350 million. Various Idaho entities are receiving, or are set to receive, hundreds of thousands of dollars in restitution as a result of these settlements.

TOBACCO

The Attorney General enforces Idaho's Tobacco Master Settlement Agreement Act, the Tobacco Master Settlement Agreement Complementary Act, the Prevention of Minors' Access to Tobacco Act, and the Reduced Cigarette Ignition Propensity Act. 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 the state statutes, the Attorney General enforces and defends the State's Master Settlement Agreement (MSA).

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 37%. 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 15.7% in 2010. In 1993 the youth smoking rate in Idaho was 27.3%. By 2009 that rate had decreased to 14.5%.

In May 2011, Attorney General Wasden was elected 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 Board of Directors consists of 11 members, including six elected officials and four experts in medicine, education, and public health. The American Legacy Foundation developed, and continues to manage, the largest youth smoking prevention campaign in the country—truth®—with results that have have proven successful and effective.





MASTER SETTLEMENT AGREEMENT AND IDAHO TOBACCO LAWS

MASTER SETTLEMENT AGREEMENT

The 1998 Tobacco Master Settlement Agreement (MSA), the largest civil litigation settlement in U.S. history, resolved litigation brought by 46 states in the mid-1990s against the four largest U.S. cigarette manufacturers (Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard), along with the industry's trade associations and PR firms. The primary purposes of the MSA are to reduce the adult smoking rate and eliminate youth smoking, while also reimbursing the states for money spent on treating individuals with tobacco-related illnesses. Since the MSA was finalized in 1998, approximately 40 additional tobacco companies have joined the settlement and are bound by its terms.

As required by the MSA, each year the tobacco industry pays the State of Idaho a sum of money, which is deposited into the Idaho Millennium Fund. During 2011, the tobacco industry paid $24,444,484 to Idaho, bringing Idaho's total payments since entry of the MSA to $305,013,857. 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 continues to defend 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 MSA and Complementary Acts, violate constitutional provisions or are preempted by federal law. To date, the Attorney General has defeated challenges to these Idaho laws in actions arising in Idaho, California, Washington, D.C., Oregon, Kentucky, and New York. One matter remains pending.

Under Idaho's Complementary Act, the Attorney General maintains and administers a directory of tobacco manufacturers and brands that are in compliance with Idaho's MSA and Complementary Acts. At present, the Attorney General has certified 36 tobacco manufacturers and 167 tobacco brands. The directory is available on the tobacco webpage of the Attorney General's website.

The Attorney General successfully concluded litigation with the tobacco industry over the state's enforcement of Idaho's MSA Act. The industry had disputed the effectiveness of the state's efforts and sought to eliminate tens

of millions of dollars of Idaho's tobacco MSA payment. In December 2011, the tobacco companies announced that they had decided to drop their challenge to Idaho's payment. This victory over the tobacco industry required the Attorney General's commitment of thousands of hours of staff time and tens of thousands of dollars. Ultimately, Idaho demonstrated its assiduous enforcement efforts by producing thousands of documents and by filing multiple pleadings with the arbitration panel, all of which evidenced and thoroughly explained the state's diligent enforcement activities. Idaho is one of only 12 states to be dismissed from the litigation by the tobacco companies. Because of the Attorney General's commitment to enforcing the MSA, Idaho's MSA payments at issue are protected and will not be reduced.

Prevention of Minors' Access to Tobacco

The Attorney General is part of an ongoing multistate enforcement effort related to the retail sale of cigarettes and tobacco products to minors. Settlements with retail and convenience stores help accomplish this goal. The Attorney General has entered into such agreements with Kroger, Wal-Mart, Walgreens, and RiteAid stores and with gas station and convenience store chains operating under the Chevron, ConocoPhillips, ExxonMobil, and BP brand names. Preliminary research indicates that Idaho youths' access to cigarettes and use of tobacco products has decreased because of the retail store settlements, as well as the Attorney General's ongoing monitoring of the stores' compliance and the Attorney General's continued enforcement of Idaho's tobacco sales laws. As additional data about youth smoking becomes available, the Attorney General will evaluate and focus the office's enforcement and education efforts.

Tobacco Enforcement

Native Wholesale Supply Company

The Attorney General and the Idaho State Tax Commission filed a lawsuit against Native Wholesale Supply Company, an unlicensed cigarette wholesaler in Perrysburg, New York, alleging Native Wholesale Supply illegally sold Seneca and Opal brand cigarettes in Idaho and sold cigarettes at wholesale without the required Idaho wholesale tax

permits. The sale of Seneca and Opal brand cigarettes in Idaho was prohibited when a judgment was entered against the brands' manufacturer—Grand River Enterprises—in 2002. (Grand River Enterprises recently became an Idaho compliant manufacturer.) Despite its knowledge of the 2002 prohibition against the selling of Seneca and Opal brand cigarettes, Native Wholesale Supply sold more than 100 million illegal cigarettes in Idaho.

Ultimately, the Attorney General and the Tax Commission prevailed in their lawsuit and obtained a permanent injunction against Native Wholesale Supply, prohibiting the company from selling unlawful cigarettes in Idaho. Since entry of the Amended Judgment in August 2011, Native Wholesale Supply has appealed the case to the Idaho Supreme Court.

RJR Reynolds Tobacco Company v. Food and Drug Administration

Under the 2009 Family Smoking Prevention and Tobacco Control Act, the Food and Drug Administration issued regulations requiring cigarette manufacturers to display on their cigarette packages "color graphics depicting the negative health consequences of smoking" and to include one of several textual warnings. Congress mandated in the Act that the graphics had to occupy 50% of the package's front and back. The FDA's final rule requires packages to include strong images and textual warnings designed to truthfully inform consumers about the dangerous, and often fatal, consequences of smoking. Packages also must display a telephone number (1-800-QUIT-NOW) for consumers to call to obtain information about smoking cessation.

Based on alleged violations of their First Amendment rights, several tobacco manufacturers brought a motion to enjoin the FDA from enforcing the new regulations. In early November 2011, the United States District Court for the District of Columbia granted the manufacturers' motion, and the FDA appealed the court's decision to the U.S. Court of Appeals for the District of Columbia Circuit. The Attorney General lead 24 states on an amicus curiae brief that refutes the tobacco industry's arguments in the case. The court has scheduled oral argument of the appeal for April 12, 2012.

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 Consumer Protection Division has three consumer specialists and a housing specialist 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 within 21 days. 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. While the Attorney General cannot force a business to participate in the dispute resolution process, most businesses, understanding the benefits of addressing their customers' concerns, voluntarily respond to complaints.

Before 2009, the Division considered all complaints for the office's informal dispute resolution program. Increasingly limited resources required the Division to revise its policies and procedures for its complaint intake, review, and mediation process in late 2009. The Division now limits its mediation services primarily to complaints received 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.

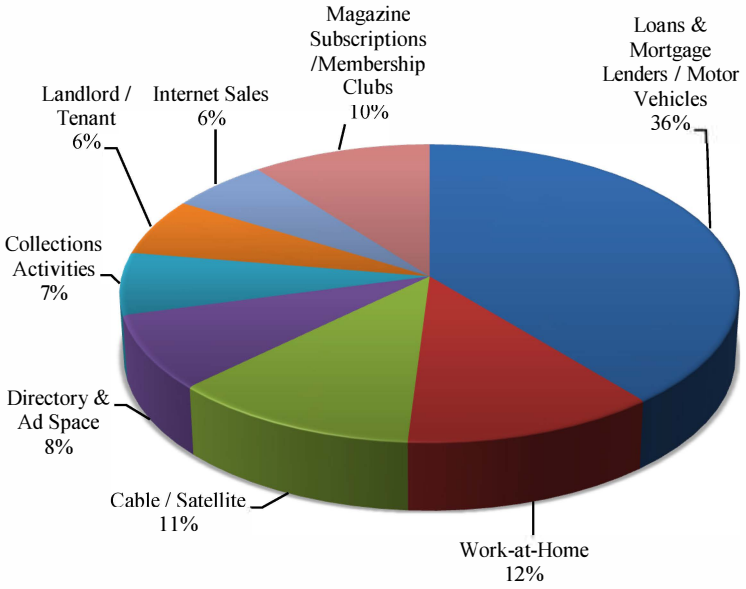
In 2011, the Consumer Protection Division mediated 1,028 complaints, resulting in a recovery of $233,087.62 for consumers. In addition, the Division processed 10,756 other consumer contacts in 2011, including more than 8,000 telephone calls and 1,400 emails. The Division also had hundreds of in-person visits from consumers and processed dozens of written requests for information.

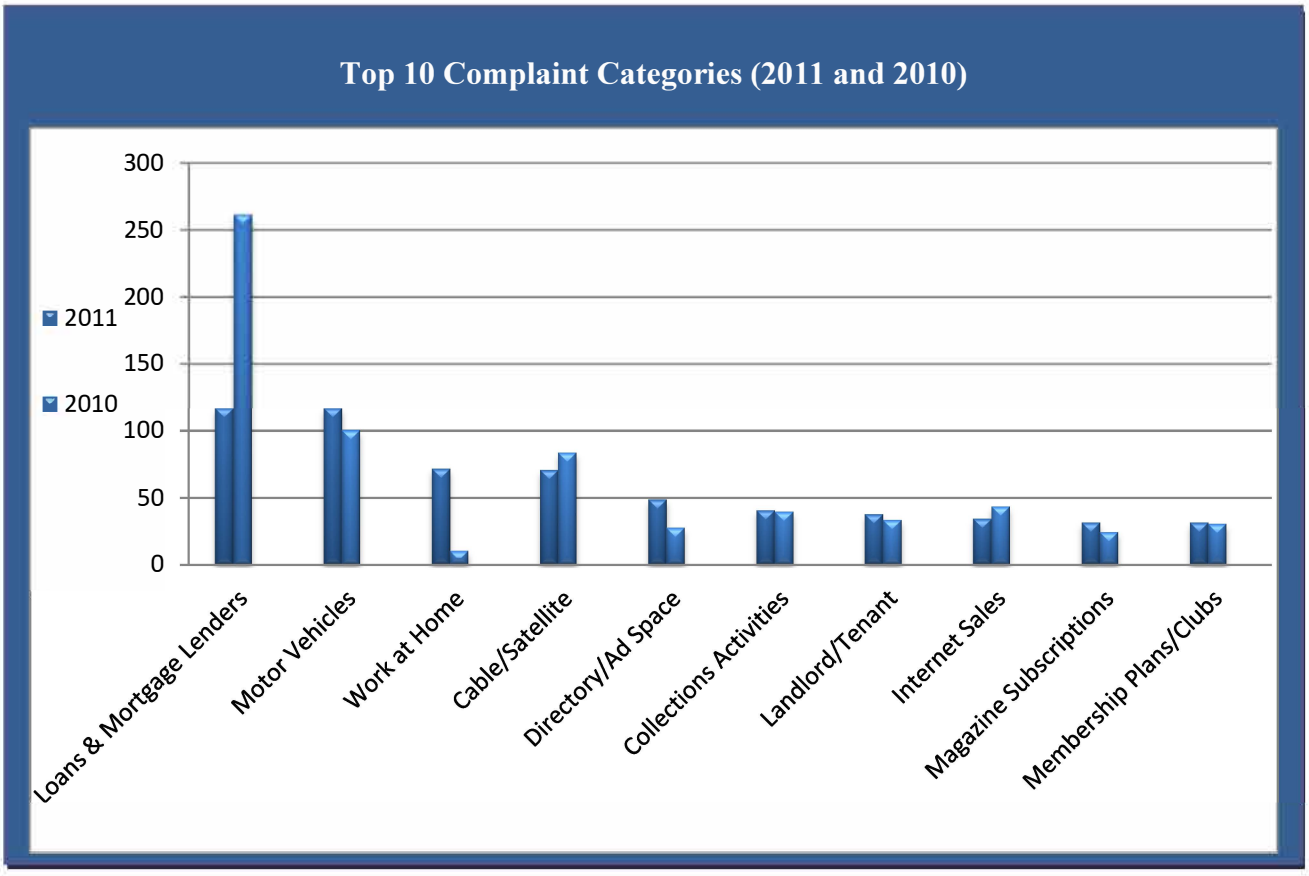
CONSUMER PROTECTION BY THE NUMBERS

Non-mediated complaints, which include most complaints received from out-of-state consumers, are classified as "FYIs" and, therefore, are excluded from the Division's complaint statistics. 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 2011 are listed below:

TOP 10 COMPLAINT CATEGORIES

	Category	2011	2010
1	LOANS & MORTGAGE LENDERS MOTOR VEHICLES	116 116	261 100
3	WORK-AT-HOME PROGRAMS	71	27
4	CABLE/SATELLITE SERVICES	70	83
5	DIRECTORY & AD SPACE	48	27
6	COLLECTION ACTIVITIES & ISSUES	40	39
7	LANDLORD/TENANT ISSUES	37	33
8	INTERNET SALES	34	43
9	MAGAZINE SUBSCRIPTIONS MEMBERSHIP PLANS & CLUBS	31 31	24 30
	ALL OTHER COMPLAINTS	435	705
	TOTAL COMPLAINTS RECEIVED	**1,028**	**1,312**





Complaints about loans and mortgage lenders decreased more than 120% in 2011. This change may be attributable to procedural improvements made to the federal Making Home Affordable Program, greater public awareness of mortgage modification options, a decrease in foreclosure filings during 2011, and the proactive steps that the Attorney General has taken in developing a productive working relationship with industry stakeholders. The new notice requirements that House Bill 331 added to Idaho's Deed of Trust Act did not generate any complaints to the Attorney General in 2011.

In 2010 complaints against mortgage modification companies ranked number six in the Top 10 List of Complaints. This year the category did not generate enough complaints to make it into the Top 10. The Attorney General's commitment to protecting Idahoans from loan modification scams and his consumer education efforts through written materials and public service announcements have been successful in keeping for-profit modification companies from operating in Idaho. Amending the Idaho Consumer Protection Act to ban most for-profit loan modification companies provides the Attorney General with an additional tool to stop these financially and emotionally destructive entities from harming Idahoans.

The motor vehicle category typically ranks in the top five every year. In 2011, a large proportion of motor vehicle complaints that the Attorney General received involved consumers who purchased high-cost vehicle service contracts from Idaho auto dealers. These service contracts are sold in conjunction with used cars and are advertised as covering any repairs that may be necessary during the contract period. The contracts are administered and underwritten by third-party companies. It is not unusual for these companies to go bankrupt or to simply disappear, which one large corporation did in 2011. Understandably, consumers are aggrieved about the loss of both their premium and their service contract coverage.

There also was a substantial increase in the number of complaints regarding work-at-home programs. In times of economic downturns and increased unemployment rates, consumers may turn to work-at-home offers to supplement their income. Most of these offers falsely claim that consumers can earn $5,000 or more per week by working a few hours on the Internet. The programs, which come with Internet-based training and telephone coaching sessions, cost thousands of dollars and, providing consumers with little to no benefits, leave consumers with large credit card debts. Business opportunity and secret shopper scams advertised via mass emails, fake news websites, and unsolicited telephone calls also boast large rewards designed to steal consumers' money.

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

A bastion of information awaits consumers and business owners who visit the Attorney General's website at www.ag.idaho.gov. 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**
  Launched in August 2011, this page includes a variety of 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 House Bill 331 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, and a database of tobacco manufacturers that have signed onto the MSA and their MSA-compliant brands.

PUBLIC SERVICE ANNOUNCEMENTS

Public service announcements—broadcast via television and radio in the spring of 2011—increased consumer awareness of issues involving foreclosure, mortgage modification fraud, and home buying. In 2011, the Consumer Protection Division observed a marked decrease in the number of mortgage lending complaints from the number filed in 2010. Complaints regarding mortgage modification scams also dropped significantly in 2011. The announcements continue to run on the Attorney General's mortgage servicing, housing, and foreclosure webpage.

PROTECTEENS

Developed by Attorney General Wasden and Secretary of State Ben Ysursa, *ProtecTeens* 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. *ProtecTeens* helps bridge the awareness, knowledge, and skills gap between parents and their children, while also reminding teens of the potential risks associated with linking themselves to the rest of the world.

ProtecTeens is available for viewing on the Attorney General's website at www.ag.idaho.gov. Idahoans may use the website contact form or call the Attorney General's Office to request a mailed copy of the *ProtecTeens* DVD or to request a *ProtecTeens* presentation to a group or organization. The *ProtecTeens* 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:

CONSUMER EDUCATION PUBLICATIONS

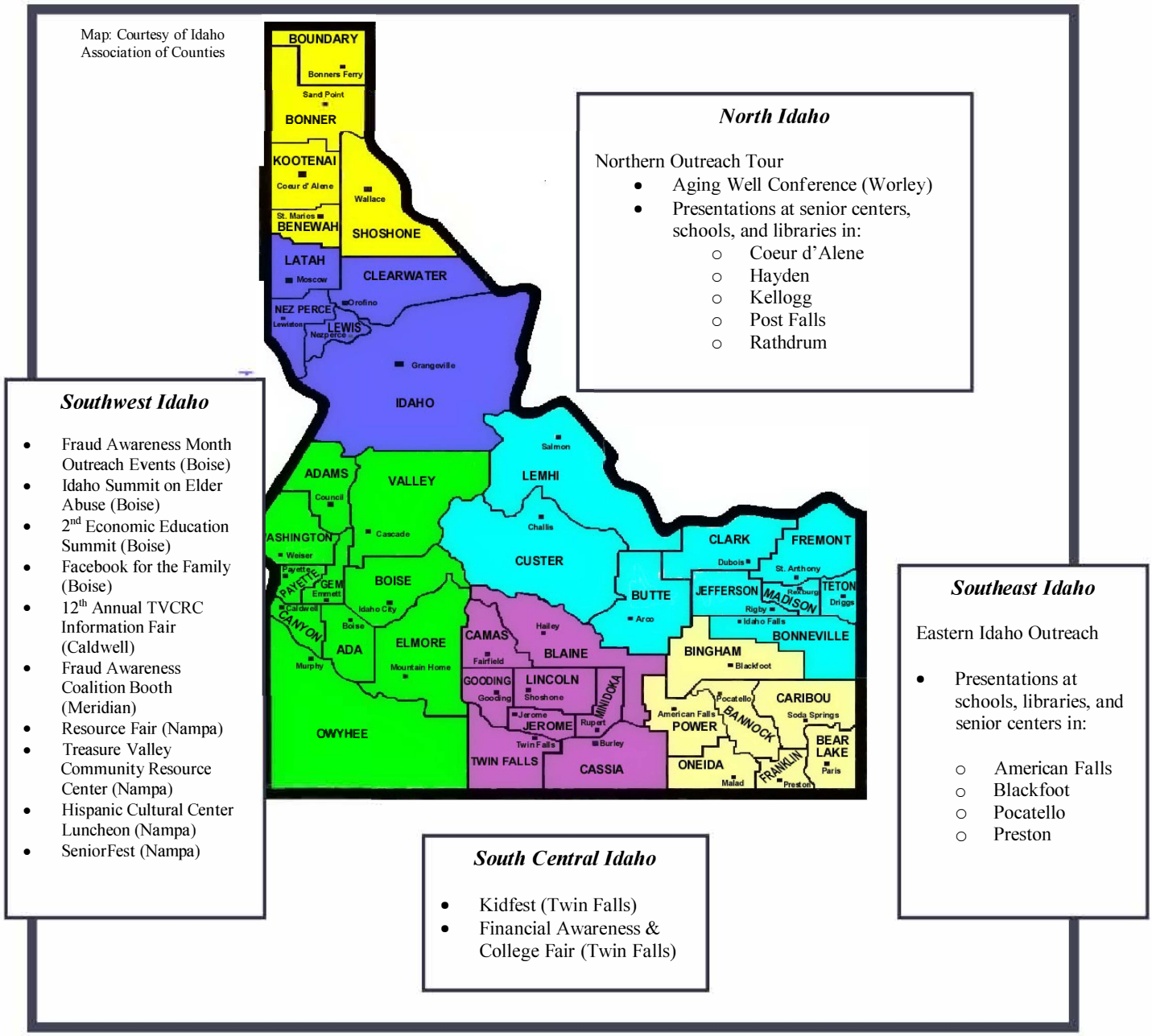
Nineteen consumer manuals are available to download from the Attorney General's website or by requesting copies from the Consumer Protection Division. The manuals are free and produced without cost to Idaho's taxpayers. A grant to the Attorney General also allowed the office to produce Spanish language versions of the publications.

The office updated the Foreclosure Prevention manual in August 2011 to include revisions to Idaho's Deed of Trust Law. In addition to the following list, the Attorney General provides tip sheets about preventing unwanted telephone solicitations, finding a credit or debt counselor, avoiding mail fraud, and other topics.

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 and Foreclosure Scams: How to Tell the Difference Landlord Tenant Guidelines Residential Construction
Identity Theft & Privacy	Identity Theft Manual
Internet Safety	Internet Lingo Dictionary Internet Safety Manual A Parent's Guide to Social Networking Websites
Telephone & Mail Schemes	Telephone Solicitation Manual Pyramids, Gift Schemes & Network Marketing

CONSUMER OUTREACH PRESENTATIONS

The Consumer Protection Division spoke throughout Idaho about identity theft, health care fraud, Internet safety, foreclosure prevention, and current scams. The three consumer specialists visited fairs, senior centers, universities, and high schools in all parts of Idaho and participated in Scam Jams and Shred-a-Thons with other consumer organizations. At each event, the specialists answered questions from audiences and distributed consumer education manuals. The following is a sample of the Idaho towns and events where consumer staff members visited in 2011:



TEN YEAR CONSUMER PROTECTION SUMMARY

ACTIVITY	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Complaints Received	1,028	1,312	1,896	1,676	1,614	2,051	1,875	4,079	2,259	3,076
Other Consumer Contacts	10,756	12,422	14,255	4,997	3,384	3,226	5,236	2,762	7,635	11,998
Dollars Claimed Lost	$2,074,981	$2,715,622	$2,227,203	$9,800,077	$3,641,859	$2,622,263	$1,380,717	N/A	$967,673	$860,542
Restitution Recovered	$8,151,956	$5,920,578	$7,431,388	$932,134	$662,253	$1,692,089	$603,089	$5,777,643	$1,671,078	$1,147,339
Penalties & Costs Recovered	$2,530,829	$536,237	$5,944,188	$2,988,047	$1,772,175	$281,678	$252,777	$528,138	$566,486	$1,569,232
Enforcement Actions Completed	18	22	18	39	19	12	22	15	30	45
Registered Telemarketers	80	75	62	53	71	66	52	76	76	45
Numbers on DNC Registry	1,048,897	1,019,030	939,958	855,696	702,513	624,222	434,382	362,061	256,182	45,968

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

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Consumer Protection Division
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P.O. Box 83720
Boise, ID 83720-0010

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