



2018 FISCAL YEAR REPORT

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



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Annual Highlights

Consumer Complaints and Contacts

<i>Top Complaint Category</i>	<i>Motor Vehicles</i>	<i>All Contacts Received</i>	<i>13,036</i>
<i>All Complaints Filed</i>	<i>1,223</i>	<i>All Complaints Mediated</i>	<i>883</i>

Accomplishments

- Completed **12 enforcement actions** concerning unfair competition, false advertising, charitable solicitations, and other consumer-related issues.
- Facilitated the transfer of **\$23,000,000** in charitable trust funds from Ascension Health to the newly-established Lewis Clark Valley Healthcare Foundation in Lewiston, Idaho.
- Continued defending **Idaho's tobacco Master Settlement Agreement (MSA)** payments.

Recovered Money and Payments Received

- Recovered **\$7,673,015 in consumer restitution**—\$8.65 for each taxpayer dollar appropriated for consumer operations in FY 2018 (\$887,443). This is the **26th 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 **\$1,784,791 in civil penalties, fees, and costs**.
- **Transferred \$1,435,004** in unspent consumer protection account funds to the general fund. **Since 2000** the Consumer Protection Division has **transferred \$34,378,802** in unspent consumer protection account funds to the general fund.
- **Received \$23,639,053 in payments** pursuant to the MSA. Since the MSA was finalized in 1998, tobacco companies have paid \$478,369,501 to Idaho.

Laws 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
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 Trust Assets (Idaho Code)	
<i>Idaho's deceptive charitable contributions law and statutes to protect charitable trust assets.</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

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 2018. This section summarizes the office's consumer protection settlements and actions during the past fiscal year.

Lenovo

North Carolina technology company Lenovo signed a settlement in August 2017 with the Attorney General and 31 other states to resolve allegations that the company violated state consumer protection laws by pre-installing software on laptops that made users' personal information vulnerable to hackers. Lenovo paid the states \$3.5 million with Idaho receiving \$57,739.

In addition to the monetary payment, the settlement requires Lenovo to change its consumer disclosures about pre-installed advertising software, obtain a consumer's affirmative consent to using the software on their device, and to provide a reasonable and effective means for consumers to opt-out, disable or remove the software. Lenovo also must implement and maintain a software security compliance program and obtain regular assessments for the next 20 years from a qualified, independent, third-party professional.

Four Seasons Window and Blind Cleaning & Eric Biebuyck

In September 2017, the Attorney General resolved a consumer protection lawsuit against Four Seasons Window and Blind Cleaning and its owner Eric Biebuyck. The defendants signed a consent judgment agreeing to refund all consumers who paid for window cleaning services that defendants never provided.

Under the settlement, defendants must perform all future window or blind cleaning services within a reasonable timeframe. If they cannot perform a prepaid service within the agreed upon time, they must refund a customer's money. In addition to paying restitution to consumers, Biebuyck agreed to pay the Office of the Attorney General \$1,000 for investigative fees.

General Motors Company

In October 2017, the Attorney General, along with attorneys general of 49 other states and the District of Columbia, announced a \$120 million settlement with General Motors Company over allegations the company concealed vehicle ignition safety problems. Idaho's share of the settlement is just over \$1,247,000.

In 2014, GM issued seven vehicle recalls in response to unintended key rotation-related and ignition switch-related issues, which affected more than nine million vehicles in the United States. The recalls involved a defective ignition switch which, under certain conditions, could move out of the "Run" position to the "Accessory" or "Off" position. When this occurred, drivers experienced a loss of electrical systems, including power steering and power brakes. The problem could also result in a vehicle's airbags failing to deploy.

State investigators allege that some GM employees knew as early as 2004 that the ignition switch posed a safety defect. However, GM personnel delayed issuing a recall.

The settlement requires GM to instruct its dealers that all applicable recall repairs must be completed before a U.S.-sold and recalled GM motor vehicle is eligible for certification. If there is a recall on any certified pre-owned vehicle sold in the U.S., the required repair must be completed before the vehicle is delivered to a customer.

JKC Nampa Automotive

In November 2017, JKC Nampa Automotive, d/b/a Team Mazda Subaru, signed a settlement with the Attorney General to address alleged motor vehicle advertising violations. The settlement centered on the motor vehicle dealer's use of match-3 promotions, which have generated consumer complaints to the Attorney General.

A typical match-3 promotion presents lines of 3 matches that correspond with a specific prize. Most cards reveal the same match and lead the consumer to believe he has won between \$2,000 and \$5,000 in cash. But when the consumer subsequently attempts to collect his prize at the dealership, he learns he did not win the advertised prize.

The Attorney General alleged JKC Nampa Automotive's advertising was deceptive and misleading. The Attorney General also alleged that JKC Nampa Automotive advertised unlawful dealer rebates.

JKC Nampa Automotive paid the Attorney General's investigative costs of \$1,050 and agreed to change its business practices to comply with the Idaho Consumer Protection Act and Idaho's Motor Vehicle Advertising Rules.

Boehringer Ingelheim Pharmaceuticals, Inc.

The Attorney General and 49 other states reached a \$13.5 million settlement with Boehringer Ingelheim Pharmaceuticals, Inc. (BIPI) in December 2017. The deal resolves off-label marketing and alleged deceptive and misleading representations that BIPI made in its promotion of four prescription drugs: Micardis®, Aggrenox®, Atrovent®, and Combivent®. Idaho's share of the settlement is \$150,761.

The attorneys general's investigation revealed that BIPI allegedly:

- misrepresented that its antiplatelet drug, Aggrenox®, was effective for conditions such as heart attacks and congestive heart failure and that it was superior to Plavix® without evidence to substantiate the claims;
- misrepresented that Micardis® protected patients from early morning strokes and heart attacks and treated metabolic syndrome;
- misrepresented that Combivent® could be used as a first-line treatment for bronchospasms associated with chronic obstructive pulmonary disease (COPD); and
- falsely stated that Atrovent® and Combivent® could be used at doses that exceeded the maximum dosage recommendation in the product labeling and that they were essential for treatment of COPD.

The settlement requires BIPI to follow lawful marketing practices when promoting these prescription drug products.

PHH Mortgage Corporation

In January 2018, the Attorney General and 48 other state attorneys general and the District of Columbia, along with mortgage regulators from Idaho and 46 other states, reached a \$45 million settlement with New Jersey-based mortgage lender and servicer PHH Mortgage Corporation. The settlement resolves allegations that PHH Mortgage, the nation's ninth largest non-bank residential mortgage servicer, improperly serviced mortgage loans from January 1, 2009, through December 31, 2012. PHH Mortgage's improper conduct allegedly caused home owners to lose their homes to foreclosure.

PHH Mortgage will pay \$30.4 million to borrowers nationwide, including \$112,590 to 212 Idaho customers who found themselves facing foreclosure. Payments to affected borrowers are expected to begin later this year.

Additionally, PHH Mortgage must adhere to comprehensive mortgage servicing standards, conduct audits, and provide audit results to a committee of states. The settlement does not release PHH Mortgage from liability for conduct that has occurred since 2013.

TK Holdings, Inc.

TK Holdings, Inc., the U.S. subsidiary of Japanese airbag maker Takata, settled with attorneys general of 44 states and the District of Columbia concerning the company's concealment of its unsafe motor vehicle airbags.

Worldwide, at least 20 people died from the defective airbags. More than 50 million airbags in more than 37 million vehicles have been recalled so far. By 2020, the number of recalled airbags could reach 65 million.

The states agreed to suspend a \$650 million civil penalty for the bankrupt company to maximize the amount of money available to victims of the airbag defects.

Steven J. Hernandez, d/b/a, Right on Time

Boise clock repairman Steven J. Hernandez signed a settlement with the Attorney General in May 2018, concluding the Attorney General's investigation of his Boise business—Right on Time. The Attorney General received a number of consumer complaints alleging that Hernandez accepted prepayments for clock repairs that he never completed. Consumers also alleged that Hernandez failed to return consumers' property upon request.

In 2017, Hernandez abruptly closed his business while still in possession of consumers' property. At one point, Hernandez allegedly possessed hundreds of clocks that were awaiting repair.

The settlement requires Hernandez to refund consumers' money, return their property, and change his business practices. Hernandez also must pay the Attorney General \$500 to cover a portion of the Attorney General's investigative costs.

COMPETITION ACTIONS

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

LIBOR Settlements

LIBOR—an acronym for London Interbank Offered Rate—is a benchmark interest rate that affects financial instruments worth trillions of dollars and has a global impact on markets and consumers. It is used to establish interest rates on all types of loans worldwide, which means the rate can impact municipal financial investments and bonds, adjustable rate loans, mortgages and student loans.

Forty-five state attorneys general are investigating several LIBOR-setting banks for alleged rate manipulation. State attorneys general settled with Barclays Bank in August 2016, and this fiscal year they reached settlements with Deutsche Bank and Citibank.

- **Deutsche Bank**

The attorneys general alleged Deutsche Bank employees improperly made internal requests for LIBOR submissions to benefit Deutsche Bank's trading positions. Employees also attempted to influence other banks' LIBOR submissions in a way meant to benefit Deutsche Bank's trading positions. Employees allegedly received communications from inter-dealer brokers and external traders attempting to influence Deutsche Bank's LIBOR submissions.

Given this conduct, Deutsche Bank's LIBOR submitters and management had reason to believe that Deutsche Bank's and other banks' LIBOR submissions did not reflect their true borrowing rates. They also had reason to believe the LIBOR rates submitted by the banks did not reflect their actual borrowing costs.

Deutsche Bank employees did not disclose these facts to the governmental and nonprofit entities with whom Deutsche Bank executed LIBOR-referenced transactions, even though these rates were key parts of the transactions. Government entities and nonprofit organizations throughout the United States, including in Idaho, lost millions of dollars when they entered into swaps and other investment instruments with Deutsche Bank, unaware of the LIBOR manipulation.

Under the October 2017 settlement, Deutsche Bank paid a total of \$220 million with \$213.35 million going into a restitution fund for eligible government and nonprofit entities. The remaining money helps to pay the costs and expenses of the investigation.

- **Citibank**

The attorneys general alleged Citibank misrepresented the integrity of the LIBOR benchmark to trading counterparties, including state and local governmental agencies and nonprofits. Citibank's U.S. Dollar (USD) LIBOR submitters also asked personnel in other units of the bank to avoid offering higher rates than Citibank's USD LIBOR submissions. Citibank expressed belief that other banks made USD LIBOR submissions inconsistent with their borrowing rates and contributed to inaccurate LIBORs. Additionally, Citibank made LIBOR submissions to avoid negative publicity and protect its reputation.

Given this conduct, the company had reason to believe that Citibank's and other banks' LIBOR submissions did not reflect their true borrowing rates. Citibank did not disclose this to the governmental and nonprofit counterparties. As a result, government entities and nonprofits in Idaho and throughout the U.S. were defrauded of millions of dollars when they entered into swaps and other investment instruments with Citibank without knowing about the manipulations. The bank, meanwhile, made millions of dollars in unjust gains.

Under the June 2018 settlement, Citibank paid \$95 million into a restitution fund for eligible government and nonprofits. The bank also paid \$5 million to the 42 participating states to cover their investigative and other expenses.

Teikoku Seiyaku / Teikoku Pharma USA

The Attorney General and 22 other state attorneys general and the District of Columbia reached an agreement in January 2018 with Teikoku Seiyaku and Teikoku Pharma USA on a 20-year injunction to prohibit anticompetitive practices. Teikoku Pharma is one of the largest pharmaceutical patch manufacturers in the world.

The agreement resolves allegations that Teikoku illegally participated in an agreement to protect a monopoly on Lidoderm—the brand-name for lidocaine pain-relief patches. The 20-year injunction prohibits Teikoku from paying or incentivizing a generic drug maker to delay entry into the drug market or from researching, developing, manufacturing, marketing or selling any drug product.

TELEPHONE SOLICITATION ACTIVITIES

Recognizing the potential for abuse that is inherent in telephone sales, 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.

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 Do Not Call Registry was created in 2004, all Idaho numbers registered on the Idaho-only list were transferred to the National Registry. The Federal Trade Commission last reported the National Do Not Call Registry contained 1,171,358 active Idaho telephone numbers.

Consumers filed 11 consumer complaints in FY 2018 about allegedly deceptive calls from telephone solicitors. The Consumer Protection Division also received 194 emails from consumers who reported receiving unwanted telephone calls from callers who are not "telephone solicitors" under Idaho law. Such individuals include appointment setters, debt collectors, survey companies, charities, and persons engaged in criminal conduct (e.g., government imposter scams, illegal lotteries/sweepstakes, grandparent scams).

Because it manages the Do Not Call Registry, the Federal Trade Commission receives the bulk of consumers' telephone call complaints. In its most recent Do Not Call report, the Commission reported it had received 33,157 complaints from Idahoans regarding unwanted

calls.¹ It is important to note that most of the complaints the Commission received concern imposter scams, not telephone solicitations.

In addition to prohibiting telephone solicitors from calling numbers on the National Do Not Call Registry, the Idaho Telephone Solicitation Act requires telephone solicitors to register with the Attorney General's Consumer Protection Division before they begin soliciting in Idaho. In FY 2018, the Consumer Protection Division received applications from 14 individuals seeking approval to telephone solicit in Idaho. Fifteen telephone solicitors presently are registered to telephone solicit in Idaho.

CHARITABLE SOLICITATION ACTIVITIES

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.

Veterans Relief Association, Inc., & Wayne Longmore

In April 2018, the Attorney General settled with Veterans Relief Association, Inc., and its owner Wayne Longmore, resolving allegations that the nonprofit organization engaged in deceptive charitable solicitations. Veterans Relief Association, located in Idaho Falls, paid the Attorney General \$500 to cover a portion of his investigative costs.

The Attorney General first became aware of Veterans Relief Association in 2013 and warned Longmore that he was misrepresenting the tax-exempt status of Veterans Relief Association and misrepresenting that Veterans Relief Association was a registered telephone solicitor.

In December 2017, the Attorney General opened a formal investigation of Veterans Relief Association based on a consumer complaint that the organization represented (a) it raised funds to "benefit local veterans," (b) its "donations are 100% tax deductible," and (c) its "Attorney General ID Number is T-00173." The Attorney General's investigation revealed Veterans Relief Association's representations were false.

The settlement prohibits Veterans Relief Association from misrepresenting the tax deductibility status of donations made to the organization and how Veterans Relief Association will use donations it receives. Veterans Relief Association also must maintain an accurate written record of all contributions it receives and provide a copy of the record to the Attorney General upon request.

If Veterans Relief Association engages in telephone solicitations wherein it calls consumers to offer goods or services for sale, Veterans Relief Association first must register with the Attorney General's Office. In the past, Veterans Relief Association sold discount trash bags, Christmas wreaths, calendars, and flag kits through telephone solicitations. However,

¹ Federal Trade Commission, National Do Not Call Registry Data Book FY 2017 (Dec. 2017).

Veterans Relief Association was not registered with the Attorney General's Office to lawfully conduct such sales.

CHARITABLE TRUST ASSET ACTIVITIES

Oftentimes a charitable organization or a citizen contacts the Attorney General about an issue or dispute involving the organization's charitable trust assets or a charitable trust instrument (e.g., will or trust agreement). Because the Attorney General has a [statutory](#) and common law duty to protect Idaho's charitable trust assets, he reviews charitable trust issues and disputes and, when appropriate, intervenes on behalf of the State.

In FY 2018, the Attorney General's Office reviewed a number of matters involving charitable trust assets. Most he resolved informally through communications with representatives of the trusts. Other matters required more comprehensive inquiries into the charitable trusts, their backgrounds, and the circumstances surrounding any issues or disputes. The following summaries are examples of these matters.

Henry Thomas Estate Rock Collection

At the time of his death, Henry Thomas gifted 2,500 pounds of Tempskya fossil material to Idaho State University's Geology Department. ISU contacted the Attorney General about the possibility of selling a portion of the material to help fund geology scholarships for the Department. The gift instrument, however, specified that the fossils "never be placed for sale or disposed of by [ISU]." The Consumer Protection Division received and reviewed all of the available historical documents regarding Mr. Thomas's relationship with ISU and his gift. Based on Mr. Thomas's intent and applicable law, the Attorney General informed ISU that if it followed through with the sale, the Attorney General would object. To the Attorney General's knowledge, ISU has not sold the fossils.

Owl Cave Artifacts

The Idaho Museum of Natural History, an Idaho nonprofit corporation, held prehistoric artifacts excavated from Owl Cave in Bonneville County. The Wasden² Archeological Association, a Utah nonprofit, asserted ownership of the artifacts and the research papers that the Idaho Museum held. The Idaho Museum, through its representatives, notified the Attorney General of the Wasden Archeological Association's claim. The Consumer Protection Division reviewed the historical documents relating to Owl Cave and its excavation. To conclude the matter, the Consumer Protection Division advised the Wasden Archeological Association that it must provide the Attorney General with proper notice if the Association pursues a court action to recover the artifacts from the Idaho Museum. To date, the Attorney General is unaware of any pending action.

George M. & Elvera V. Klein Memorial Trust

The Consumer Protection Division received a letter from a resident of Grangeville outlining his concerns about a timber harvest scheduled to occur on forest property gifted in 1989 to

² The name of the Association ("Wasden") derives from last name of the former owner of the land on which Owl Cave is located. Attorney General Wasden is unaware of any familial relationship to this individual.

the City of Grangeville by George and Elvera Klein. The City of Grangeville planned to sell the harvested timber and use the money for City purposes. The trust instrument, however, restricted the harvesting and sale of timber on the property unless removal was necessary to control insect infestation. Any money realized from the sale had to be invested in property improvements. The Attorney General contacted the City of Grangeville to obtain information and documents regarding the proposed harvest and sale. Later, the City of Grangeville amended its planned harvest to conform to the trust terms and agreed that any money received from the sale would benefit the property.

Lewis Clark Valley Healthcare Foundation

The [Lewis Clark Valley Healthcare Foundation](#) (“LCVH Foundation”) was established following the sale of St. Joseph Regional Medical Center, a Lewiston nonprofit hospital, to a for-profit subsidiary of Tennessee-based RCCH HealthCare Partners. In August 2017, Ascension Health, the sole Sponsor of St. Joseph Regional Medical Center, contributed \$23 million to LCVH Foundation, which was in addition to the \$2 million that RCCH HealthCare Partners donated to LCVH Foundation.

LCVH Foundation is an I.R.C. § 501(c)(3) organization that provides grants to healthcare-related organizations and governmental entities located within nine Idaho, Oregon, and Washington counties. In May 2018, the LCVH Foundation announced it was accepting letters of inquiry from community leaders to apply for over \$250,000 in grant funds. Those funds will be awarded to eligible applicants later this year.

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 FY 2018, the tobacco industry paid \$22,963,291 to Idaho, which was deposited into the Millennium Fund. Since the MSA was entered into in 1998, Idaho has received payments totaling \$478,369,501.

Under Idaho’s tobacco sales laws, the Attorney General maintains and administers a [directory of tobacco manufacturers and brands](#) (Idaho Directory) that are in compliance with Idaho law. At present, the Attorney General has certified 31 tobacco manufacturers and 137 tobacco brands. The directory is available on the tobacco webpage of the Attorney General’s website. In the past year, the Office of the Attorney General has received and reviewed 34 certifications from tobacco manufacturers seeking to add or remove brand families to the directory. In addition, in the past year the Attorney General has received and reviewed over 600 monthly and quarterly reports from Idaho-permitted cigarette distributors and tobacco wholesalers detailing wholesale shipments of cigarettes and roll-your-own tobacco in Idaho. Finally, 16 notices were disseminated regarding changes and updates to the Idaho Directory.

The Attorney General continues to litigate with the tobacco industry over the State's enforcement of certain Idaho tobacco laws. Tobacco companies who are parties to the State's Master Settlement Agreement have disputed the effectiveness of Idaho's enforcement of its Master Settlement Agreement Act (MSA Act) for certain specific years and as a result, are seeking to eliminate potentially tens of millions of dollars of Idaho's tobacco MSA payments used to fund Idaho public health endeavors.

The present dispute is now being litigated in an arbitration before a panel of three arbitrators. The dispute has required the Office of the Attorney General to commit significant resources to defend Idaho's payments. In the present dispute, discovery and pre-trial motion practice commenced in 2016. An initial two-week hearing was held in Chicago in 2017. Idaho's state-specific evidentiary hearing was held in February 2018 in Washington D.C. A decision is not expected until 2019.

The Attorney General does not expect that the anticipated 2019 decision will end the tobacco companies' efforts to reduce or eliminate future Idaho MSA payments. Rather, the Attorney General expects the tobacco companies to advance additional challenges to Idaho's receipt of its MSA payments and anticipates further litigation with the tobacco companies to defend receipt of these payments.

UPDATES AND PENDING MATTERS

Volkswagen Aktiengesellschaft, d/b/a Volkswagen AG; Audi AG; Volkswagen Group of America, Inc., d/b/a Volkswagen of America, Inc.; Audi of America, LLC; Volkswagen Group of America Chattanooga Operations LLC; Dr. Ing. H.C. F. Porsche AG; & Porsche Cars North America, Inc.

In FY 2017, the Attorney General reported a multi-million dollar consumer protection settlement with Volkswagen for selling and leasing vehicles equipped with technology designed to circumvent environmental laws and regulations. The settlement requires Volkswagen to make cash payments to eligible Volkswagen owners and either buy back or modify certain Volkswagen and Audi 2.0-liter diesel vehicles sold in Idaho.

The Attorney General originally reported estimated restitution to Idaho consumers of at least \$12 million. The actual amount paid to date, however, is \$21,442,390 with \$15,537,982 paid in FY 2017 and an additional \$5,904,408 paid as of June 30, 2018. The total restitution number reported at the conclusion of this Annual Report includes the updated Volkswagen restitution payments.

Hathaway Homes Group, LLC & Paul J. Hathaway Investigation

In early March 2017, the Attorney General opened a formal investigation regarding the business practices of Hathaway Homes Group, LLC, and its sole owner Paul J. Hathaway (collectively "Hathaway"). Hathaway advertised and sold manufactured and modular homes through the Internet and from his business location in St. Anthony, Idaho. The Attorney

General had received a number of complaints from consumers who alleged they paid Hathaway large sums of money for homes they never received. Rather, Hathaway allegedly failed to order the consumers' homes from the manufacturers and instead pocketed consumers' money.

Hathaway filed three Chapter 11 bankruptcies in November 2017—a personal bankruptcy, a business bankruptcy for Hathaway Homes Group, LLC, and a business bankruptcy for a third company he operated. The Chapter 11 for Hathaway Homes Group later was converted to a Chapter 7. All three bankruptcies remain pending before the U.S. District Bankruptcy Court for the District of Idaho.

As a courtesy to those involved in the bankruptcy, in December 2017, the Attorney General filed a motion in the personal bankruptcy and in Hathaway Homes Group's bankruptcy to lift the automatic stays. The Attorney General is not required under the U.S. Bankruptcy Code to obtain a stay lift before he files a consumer protection action and, in the past, has filed these motions purely as a courtesy to the parties and the court.

Hathaway filed objections to the Attorney General's motions in both cases. A preliminary hearing on the motions was held April 23, 2018, and the Court lifted the stay as to Hathaway Homes Group. The Court, however, continued the stay in Hathaway's personal bankruptcy and scheduled an evidentiary hearing for July 16, 2018.

Following the evidentiary hearing, the Court granted the Attorney General's motion to lift the stay. With both bankruptcy stays now lifted, the Attorney General may proceed with his state consumer protection action against Hathaway.

Crissie and Scott Fields, d/b/a Scriver Creek Notebook Co., Litigation

The Attorney General, on behalf of the State of Idaho, filed a Complaint in Boise County District Court on May 11, 2018, alleging multiple violations of the Idaho Consumer Protection Act. Crissie and Scott Fields operate an Internet-based business that advertises and sells handcrafted leather notebooks.

In January 2017, the Attorney General began receiving consumer complaints about the Fieldses accepting payments for notebooks they delivered. Consumers also reported the Fieldses had conducted an unlawful raffle in August 2017.

The Complaint seeks to stop the Fieldses from advertising and selling homemade goods through the Internet, pay restitution to consumers, pay a \$5,000 civil penalty for each consumer complaint, and pay the Attorney General's fees and costs. The Fieldses failed to answer the Complaint, and the Attorney General filed his Application for Order of Entry of Default in July 2018.

Suboxone Multistate Antitrust Litigation

Idaho is part of an ongoing multistate (42 states and the District of Columbia) antitrust lawsuit against the makers of Suboxone, a brand-name prescription drug used to treat opioid addictions by easing addiction cravings. Reckitt Benckiser Pharmaceuticals, Inc., now known as Indivior Inc., is accused of conspiring with MonoSol Rx, LLC, now known as Aquestive Therapeutic, Inc., to switch Suboxone from a tablet version to a film version (that dissolves in the mouth) in order to prevent or delay generic alternatives and maintain monopoly profits. The lawsuit alleges that the companies engaged in a scheme to block generic competitors, which caused purchasers to pay artificially high prices. The companies are accused of violating state and federal antitrust laws.

When Reckitt introduced Suboxone in 2002 (in tablet form), it had exclusivity protection that lasted for seven years, meaning no generic version could enter the market during that time. Before that period ended, however, Reckitt worked with MonoSol to create a new version of Suboxone—a dissolvable film, similar in size to a breath strip. Over time, Reckitt allegedly converted the market away from the tablet to the film through marketing, price adjustments, and other methods. Ultimately, after the majority of Suboxone prescriptions were written for the film, Reckitt removed the tablet from the U.S. market.

The attorneys general allege this conduct was illegal “product hopping,” where a company makes modest changes to its product to extend patent protections so that other companies cannot enter the market and offer cheaper generic alternatives. According to the suit, the Suboxone film provided no real benefit over the tablet, and Reckitt continued to sell the tablet in other countries even after removing it from the U.S. market. Reckitt also allegedly expressed unfounded safety concerns about the tablet version and intentionally delayed FDA approval of generic versions of Suboxone. As a result, consumers and purchasers have allegedly paid artificially high monopoly prices since late 2009, when generic alternatives of Suboxone might otherwise have become available. During that time, annual sales of Suboxone topped \$1 billion.

The lawsuit, filed in the U.S. District Court for the Eastern District of Pennsylvania, accuses the companies of violating the federal Sherman Act and state laws. Counts include conspiracy to monopolize and illegal restraint of trade. In the suit, the attorneys general ask the court to stop the companies from engaging in anticompetitive conduct, to restore competition, and to order appropriate relief for consumers and the states, plus costs and fees.

The case is currently in the discovery phase, with trial expected in late 2019 or 2020.

Generic Drugs Multistate Antitrust Litigation and Investigation

Idaho is part of an ongoing multistate (47 states, the District of Columbia, and Puerto Rico) antitrust lawsuit against numerous manufacturers of generics pharmaceuticals. The current lawsuit involves 18 generic drug manufacturers, two senior executives at two generic drug companies, and 15 generic drugs. The lawsuit, which is in the early stage of discovery, is

pending as part of a multidistrict litigation in the U.S. District Court for the Eastern District of Pennsylvania.

The states allege a number of specific illegal agreements among the defendants to fix prices and allocate customers for a number of generic drugs. The states further allege that these conspiracies were part of a much broader, overarching industry code of conduct that enabled the defendant manufacturers to divvy up the market for specific generic drugs in accordance with an established, agreed-upon understanding for assigning each competitor their share of the market.

Defendants allegedly coordinated their schemes through direct interaction with their competitors at industry trade shows, customer conferences, and other events, as well as through direct email, phone, and text message communications. The alleged anticompetitive conduct—including efforts to fix and maintain prices, allocate customers, and otherwise thwart competition—has resulted in artificially increased prices for generic drugs reimbursed by federal and state healthcare programs, such as Medicaid, and raised the coverage costs for employer-sponsored health plans and out-of-pocket costs for consumers. The states allege that the conduct caused significant, harmful, and continuing effects in the country's healthcare system.

Attorneys general also are engaged in an ongoing and wide-ranging antitrust investigation of the generic drug industry. The investigation extends well-beyond the scope of this lawsuit.

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.

COMMUNITY EDUCATION AND OUTREACH

Each year the Attorney General and the Consumer Protection Division's attorneys and consumer specialists give educational presentations to Idaho's consumers, businesses, organizations, and agencies. At outreach events, attendees learn about current scams, identity theft, financial fraud, nonprofit board service, and other consumer issues. This year the Consumer Protection Division participated in 17 outreach events in southwest and south central Idaho. The graphic below identifies some of the **consumer education events** the office attended in FY 2018:

<u>Western Idaho</u>	<u>South Central Idaho</u>
Boise <ul style="list-style-type: none">• Justice Alliance for Vulnerable Adults• Smart Women Smart Money• Financial Day at the Legislature• Military Saves Week• Incredible Age Expo	Twin Falls <ul style="list-style-type: none">• Scam Jam• Twin Falls High School Financial Fair
Nampa <ul style="list-style-type: none">• Consumer Presentation at St. Paul's Baptist Church• NNU Orientation Fair• Golden Glow Tower	<u>Eastern Idaho</u>
Caldwell <ul style="list-style-type: none">• TVCRC Information Fair	Pocatello <ul style="list-style-type: none">• Scam Jam• Pocatello Sr. Center• Southern Idaho Council of Governments
	Idaho Falls <ul style="list-style-type: none">• Scam Jam• Idaho Falls Sr. Center• Lincoln Alternative High School Presentation

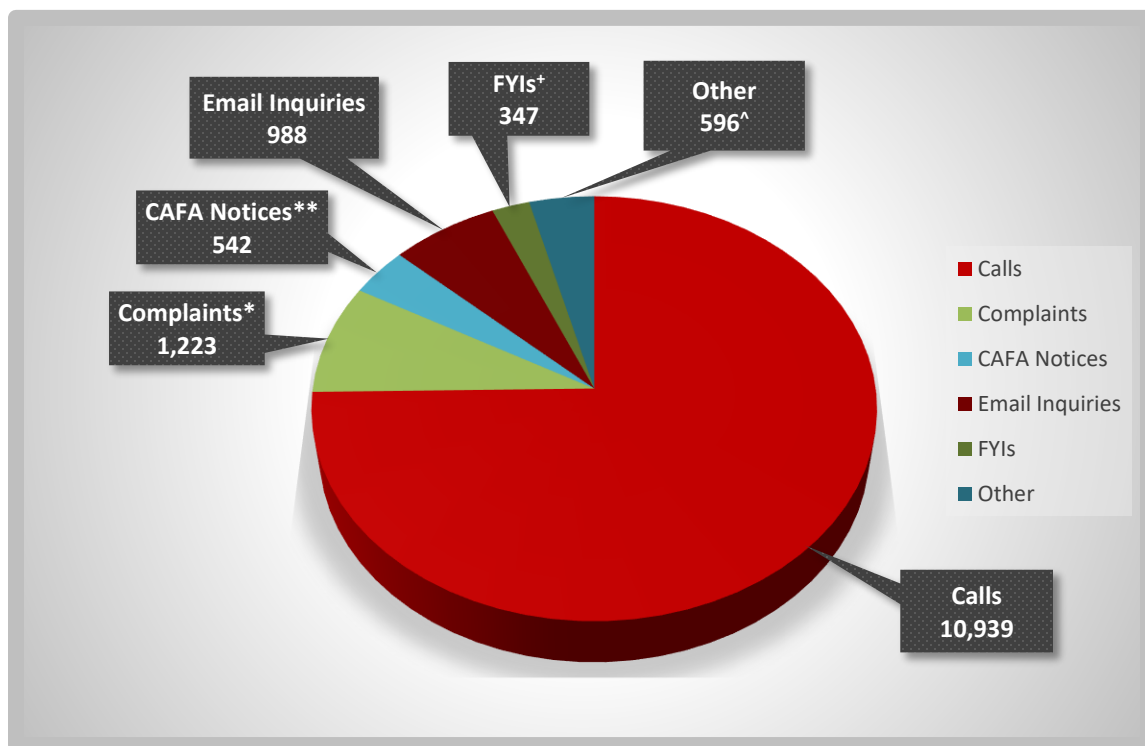
Complaints and Other Contacts

Each year, the Consumer Protection Division's consumer specialists, telemarketing and housing specialist, and receptionist 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.

In FY 2018, the Consumer Protection Division processed 13,036 contacts, including telephone calls, email inquiries, consumer complaints and FYIs, class action settlement notices, private foundation filings, and other contact types.

FY 2018 Consumer Contacts



**Includes mediated and unmediated consumer complaints filed with the Consumer Protection Division.*

***Includes private federal class action settlement notices copied to the Attorney General pursuant to the 2005 Class Action Fairness Act.*

+Includes informational reports regarding consumer and other issues provided to the Consumer Protection Division.

^Includes bankruptcy notices (21), charitable trust accountings (38), do-not-call emails & complaints (205), inquiries (4), IRS 990-PF filings (242), miscellaneous correspondence (10), public record requests (56), telephone solicitor registrations (14), and unsolicited fax complaints (6).

CONSUMER COMPLAINT DATA

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. In FY 2018, the Division received 1,223 consumer complaints. This is a 35% increase from FY 2017.

New Online Complaint Submission Procedure

On April 28, 2017, the Consumer Protection Division began accepting consumer complaints filed through the Attorney General's website. Consumers previously filed complaints only by mail, fax, and hand-delivery.

Consumers' ability to file online complaints significantly increased the number of complaints filed with the Consumer Protection Division in FY 2018. We expect this trend to continue as the Attorney General improves and expands consumers' online filing experience in FY 2019.

Complaint Review Procedure

The Division's three 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.

Not every complaint is appropriate for the Division's mediation process. Such complaints include those involving businesses licensed by government agencies or boards (e.g., the Idaho Department of Finance or Idaho State Bar) or complaints involving issues beyond the Division's scope of authority (e.g., criminal matters). The Division attempts to refer complaints to other agencies that may be able to assist the consumer.

Every complaint the Division receives is categorized into one of over 100 categories that reflects the subject of the complaint. The categories range from "Adoption Services" to "Work-at-Home Offers" and, for the most part, cover subjects that fall directly or indirectly within the Division's enforcement authority. In some instances, a complaint is subcategorized into an even more specific topic, such as a type of good or service (e.g., household appliances or ticketing services). By categorizing incoming complaints and analyzing trends, the Division can better determine where to focus its limited enforcement resources.

Top 10 Complaint Categories

For comparison purposes each year, the Consumer Protection Division lists the top 10 categories in which it classified a majority of the year's complaints. The following table summarizes this year's complaint data.

TOP 10 COMPLAINT CATEGORIES			
RANK	COMPLAINT CATEGORY	FY 2018 TOTAL	FY 2017 TOTAL
1	MOTOR VEHICLES	157	88
2	INTERNET SALES	88	32
3	HEALTH CARE: DENTAL/OPTICAL/MEDICAL	71	36
4	CONSTRUCTION & CONTRACTORS	69	44
5	LANDLORD & TENANT ISSUES	55	59
6	INTERNET SERVICE PROVIDERS	50	29
7	CABLE & SATELLITE TV & RADIO	49	32
8	CELLULAR TELEPHONES & SERVICES	34	23
9	COLLECTION ACTIVITIES & ISSUES	31	21
10	LOANS & MORTGAGE LENDERS	25	21
	ALL OTHER COMPLAINT CATEGORIES	594	414
	TOTAL COMPLAINTS RECEIVED	1,223	792

Comments Regarding the Top Five Categories

Motor Vehicles

The number one complaint category—motor vehicles—has remained the same since 2013. Complaints involve new and used car sales and repairs, manufacturer defects, and dealer advertising. Consumers continue to express frustration with (a) dealers allegedly misrepresenting the quality, condition, or benefits of their advertised cars, (b) dealers allegedly selling cars with branded titles or rolled-back odometers, (c) dealers allegedly distributing misleading or deceptive car advertisements, (d) sellers allegedly misrepresenting the terms of extended service contracts, and, among other issues, (e) car repair persons allegedly misrepresenting the work they performed.

Internet Sales

The category “Internet Sales” includes complaints about problems consumers experienced before, during, or after an online purchase. Common complaints include allegations of deceptive advertising and misrepresenting the type or quality of merchandise, overbilling, and failure to deliver purchased goods or perform purchased services.

Health Care: Dental/Optical/Medical

The Consumer Protection Division experienced almost a 50% increase in consumer complaints regarding healthcare services. In FY 2018, Idaho hospitals, dentists, and healthcare clinics generated complaints about them allegedly (a) billing errors, (b) incorrectly estimating or disclosing procedure costs, (c) failing to pay refunds, (d) abandoning patients, and (e) misrepresenting a patient’s insurance coverage.

Construction & Contractors

Disputes involving the work of registered and unregistered contractors continues to concern Idaho consumers. Complaints about construction and contractors increased 36% in FY 2018 from FY 2017, but the issues about which consumers complained remained consistent. Complaints alleged unfinished projects, shoddy workmanship, subcontractor liens, and contractors failing to provide consumers with their pre-purchased services.

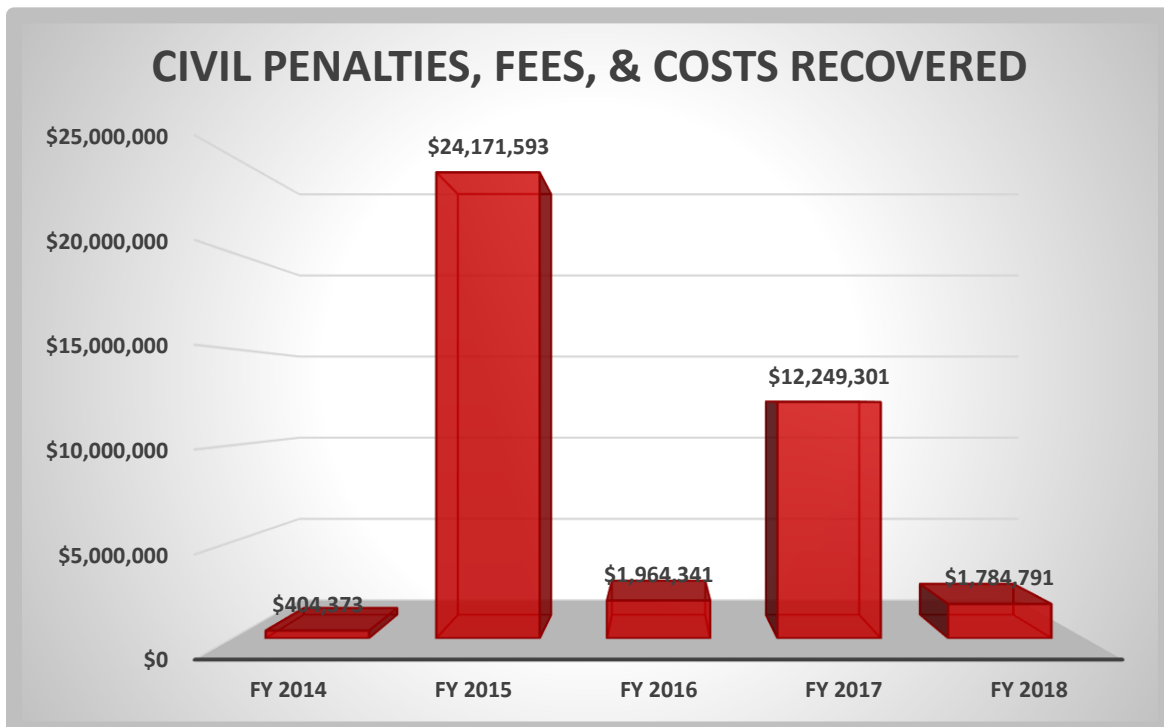
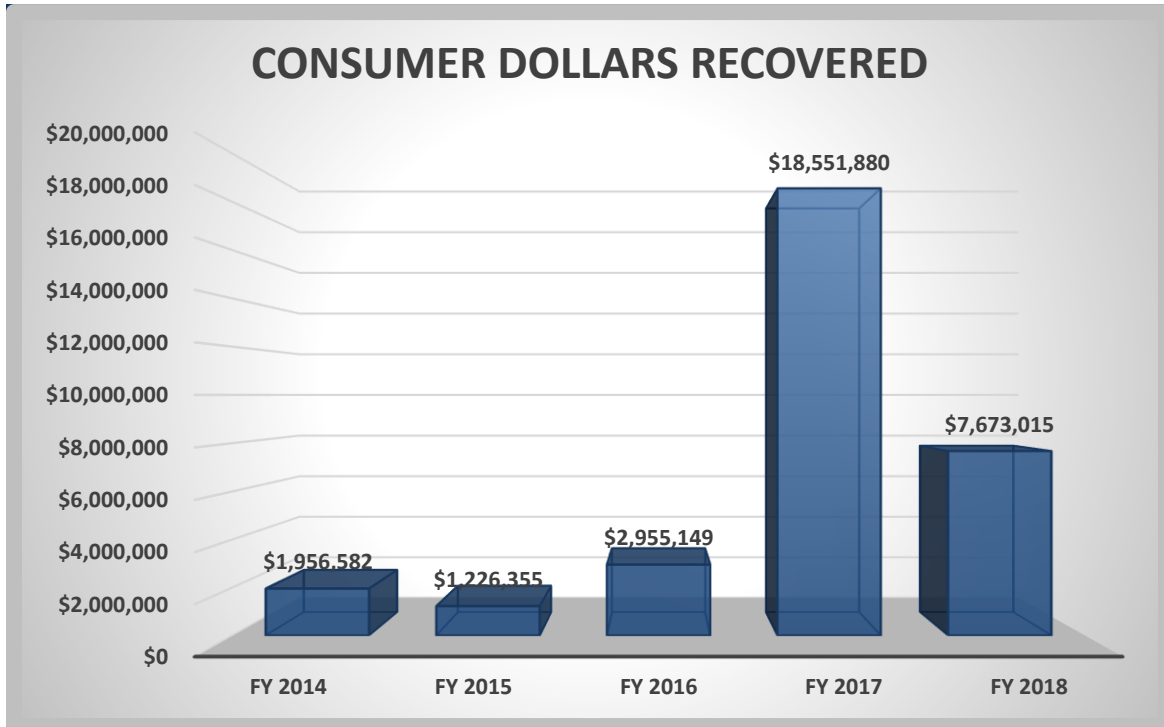
The Consumer Protection Division attempts to mediate construction-related complaints and refers complaints about registered contractors to the Idaho Contractors Board for its information. Consumers should file a complaint with the Consumer Protection Division if their disputes involve (a) a contractor engaging in unfair, misleading, or deceptive acts or practices, (b) a subcontractor filing a lien against the consumer’s property because the contractor failed to pay the subcontractor, or (c) a contractor failing to provide the written disclosures required under Idaho Code § 48-525.

Landlord & Tenant Issues

Although the number of complaints regarding landlord-tenant issues decreased this year, the Consumer Protection Division continued to receive an extraordinary number of calls and emails from tenants, property managers, and others expressing problems about landlord-tenant relationships. Complaints about deposit returns and landlords failing to provide safe housing top the list of tenant complaints.

The Attorney General does not enforce Idaho’s limited landlord-tenant laws, but does mediate tenant complaints alleging deceptive business practices. 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.

FIVE-YEAR COMPARISON CHARTS: RECOVERED RESTITUTION, PENALTIES, & FEES



CONSUMER PROTECTION NUMBERS: FIVE YEARS AT A GLANCE

ACTIVITY	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014
Complaints Received	1,223	792	791	869	829
All Consumer Contacts	13,036	13,650	12,861	11,754	9,678
Consumer Dollars Recovered	\$7,673,015	\$18,551,880*	\$2,955,149	\$1,226,355	\$1,956,582
Penalties & Costs Recovered	\$1,784,791	\$12,249,301	\$1,964,341	\$24,171,593	\$404,373
Enforcement Actions	12	13	22	26	13
Registered Telemarketers	15	14	16	18	15

**This amount has changed from the Attorney General's FY 2017 Annual Report. The amount now includes the actual restitution amount (\$15,537,982) that Idaho consumers received as of June 30, 2017, from the Attorney General's settlement with Volkswagen. We are updating the FY 2017 number now to maintain an accurate report into the future.*

**For more information about this report, to file a consumer complaint, or
to request a consumer education presentation, please:**

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

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ATTORNEY GENERAL
STATE OF IDAHO

