



Consumer Protection Programs

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Consumer Protection Programs

This paper describes the consumer protection activities carried out by the Department of Agriculture, Trade and Consumer Protection (DATCP) and the Department of Justice (DOJ). The two agencies provide services that relate to individual consumer complaints and consumer education. Other state regulatory programs also assist consumers. However, this paper focuses primarily on consumer protection programs that address unfair or unlawful treatment or that provide information and education to assist consumers in future transactions.

The paper is divided into four sections: (1) the statutory authority governing consumer protection activities of DATCP and DOJ; (2) the consumer protection program and operations of DATCP; (3) the consumer protection program and operations of DOJ; and (4) appendices that briefly describe the consumer protection activities of other state agencies (Appendix I), the trade and consumer protection administrative rules of DATCP (Appendix II), a description of Wisconsin's minimum markup law (Appendix III), select court cases closed in 2014 to 2016 through June 30 following DATCP investigations or referrals for prosecution (Appendix IV), and select consumer protection cases prosecuted by DOJ (Appendix V).

Consumer Protection Statutory Authority

Prior to the 1995 biennial budget act, both DATCP and DOJ were provided broad authority under state trade practice statutes to regulate and prosecute fraudulent advertising and representations and unfair trade practices. DATCP was also provided authority to regulate product safety. On

July 1, 1996, most of the state's consumer protection authority was consolidated in DATCP.

Prior to 1996, the statutes authorized one or both of the Departments to enforce violations of many consumer protection laws, including those related to: (1) fraudulent drug and food advertising; (2) the substantiation of energy savings or safety claims; (3) fitness center, weight reduction, dating service, and other future service contracts; (4) unfair mail order sales practices; (5) motor vehicle parts and vehicle rust-proofing warranties; (6) time share and campground ownership; (7) prepaid maintenance liens; (8) unsolicited prize notices or sales under pretense of a prize; (9) pay-per-call or "900" telephone number abuses; (10) ticket refunds; (11) cable television subscriber rights; (12) charitable solicitation; and (13) telecommunications services. Rule-making authority, enforcement authority or both now generally rests with DATCP for most of these sections. The Department can bring actions in state courts for alleged violations under its own authority or by referring cases to local district attorneys or DOJ. The sections under which DOJ and other agencies have enforcement authority include those pertaining to pay-per-call abuses, charitable solicitation and telecommunications services.

DATCP has rule-making authority, enforcement authority or both under other consumer protection provisions added since 1996, including: (1) the telemarketer no-call program; (2) prohibitions against using consumer loan information for solicitation; (3) allowing consumers via security freezes to restrict access to personal credit reports; (4) provisions concerning the privacy of certain consumer information; (5) requiring businesses with a statewide franchise for video services to provide sufficient consumer access; (6)

soliciting contracts using checks or money orders; (7) regulation of foreclosure consultants; (8) a prohibition on using bisphenol A [BPA] in certain children's products; (9) various prohibitions on unfair billing for consumer goods or services; and (10) regulation of residential contractors.

The Department of Justice retains much of its concurrent authority to determine violations of, and initiate prosecutorial proceedings on, cases relating to fraudulent representation, unfair trade practices and telecommunications trade practices. However, DOJ can only commence an action in circuit court under these authorities after consulting with or petitioning DATCP. As the state's attorney, DOJ can also represent the state in court on consumer protection cases referred for adjudication by DATCP or other state agencies.

DATCP's consumer protection activities rely significantly on administrative rules adopted under the statutory authorities described in the following paragraphs. The administrative rules are intended to reduce the possibility of arbitrary or inconsistent state regulation of businesses by providing detailed, industry-wide standards of conduct for specific consumer protection issues. Generally, rules have been adopted for those consumer issues in which unfair business activities had at one time become common. The Department adopts new rules and modifies current rules in response to new practices.

In addition to enforcing state consumer protection law, a significant part of DATCP's consumer protection role is educating consumers about potential fraudulent or unfair activity periodically reported to DATCP, law enforcement agencies or other regulatory entities. Consumer awareness, both of ongoing suspicious practices and of consumers' rights in certain dealings with businesses, is therefore intended to prevent violations of consumer protection law from occurring. (The following sections also note provisions under which private parties may pursue legal action against alleged violations of consumer protec-

tions laws.) In response to violations, however, DATCP generally uses dispute mediation and progressively more stringent enforcement of violations to ensure compliance with the state's consumer protection laws. Education, mediation and enforcement efforts are discussed in a separate section in greater detail.

The sections following discuss the broad statutory authorities that form the basis for much of DATCP's consumer protection programming. Certain other sections of the statutes identify industry- or product-specific activities that have been deemed fraudulent representations or unfair methods of conducting business, and the statutes may ban such activities, require certain disclosures or attestations by sellers to protect consumer well-being, or both. Examples of these provisions are laws pertaining to food labeling and marketing, and to the substantiation of a product's energy efficiency or safety. Although these laws may be considered part of DATCP's consumer protection responsibilities, they are not discussed in significant detail in this paper.

Fraudulent Advertising and Representations

DATCP, and DOJ after consulting with DATCP, may commence an action in circuit court under s. 100.18 of the statutes, to prohibit advertising and other representations that are "untrue, deceptive or misleading." This statute, originally adopted in 1913 and often referred to as the Fraudulent Representations Law, prohibits fraudulent advertising or representations made by businesses. Specific actions prohibited under this statute include: (1) inadequate price or condition-of-sale disclosures related to combination sales, which are sales conditioned upon the purchase of another product or service; (2) false representation by a business to be a private party; (3) deceptive close-out sales; (4) failure of business owners to properly identify their business; (5) inadequate gasoline price disclosures; (6) advertising made without a good or service being offered to the consumer, known as bait-and-switch

advertising; (7) misrepresentation of local energy resource systems such as wind or solar power; (8) deception in the use of terms such as wholesaler or manufacturer for price advertising; and (9) misrepresentation as a local business if a business operates outside a community or region.

DATCP, district attorneys and DOJ, after consulting with DATCP, may commence actions in circuit court on behalf of the state to receive a temporary or permanent injunction. An injunction is an order issued by a circuit court to restrain a business' untrue, deceptive or misleading practices. Persons alleging a pecuniary loss due to a fraudulent representation also may bring suit for recovery of the loss and certain allowable court costs. In addition to halting the fraudulent actions for most infringements, the court can impose a civil forfeiture of not less than \$50 nor more than \$200 for each violation and require restitution be paid to the victim of the business' fraudulent activities. Businesses found to be misrepresenting themselves as local or regional may be ordered to forfeit not less than \$100 and not more than \$10,000. Bait-and-switch advertising is punishable by up to \$10,000 in fines and up to nine months in jail.

DATCP, any district attorney, and DOJ, after consulting with DATCP, have authority to commence an action to recover a civil forfeiture to the state for each violation of a court-ordered injunction issued under the state's fraudulent advertising statutes. For each violation of an injunction, the DOJ or a district attorney may bring an action to recover additional civil forfeitures of not less than \$100 and not more than \$10,000. Victims of an injunction violation also may sue for restitution of double their pecuniary loss.

In lieu of an injunction, DATCP or any district attorney may attempt to obtain a voluntary assurance of discontinuance of fraudulent or deceptive consumer practices from the businesses involved in such activities. Such assurances are made in writing as a letter or a contract. The as-

urance specifies that, from that point forward, the conduct in question will be stopped. A voluntary assurance differs from an injunction in that such agreements are not filed in court and are not admissible as evidence of a previous violation should the business later be brought to court on the same charges of fraudulent representation. However, a violation of the assurance is treated as a violation of state fraudulent representation statutes and is subject to the remedies and penalties associated with such violations. Violations of voluntary assurances, however, do not carry possible additional civil penalties as injunction violations do.

Although DATCP has authority to bring actions, DATCP requests that court actions be taken by district attorneys or the Department of Justice due to the general role both offices have in representing the state in court.

Unfair Trade Practices

Under s. 100.20 of the statutes, adopted in 1921, DATCP requires business methods of competition and trade practices to be "fair." The statutes give DATCP broad authority to define fair methods and practices, including the authority to: (1) specify, by administrative rule, unfair business methods and practices; and (2) issue special orders halting unfair business practices.

The statutory requirement for businesses to use fair methods and practices is intended to promote free and open competition. Under the unfair trade statute, the Department also regulates many forms of advertising and sales claims. This law is often termed the "Little FTC Act," in reference to its similarity to the Federal Trade Commission Act, on which it was based.

Administrative Rules

Generally, DATCP exercises its rulemaking authority to govern unfair business practices that have become common. Appendix II lists DATCP

rules, many of which were promulgated under the general unfair trade practices statute. The DATCP Consumer Protection Bureau administers these rules.

The 1995-97 budget act eliminated DOJ's rulemaking authority in the area of consumer protection. However, in areas related to unfair business practices where no DATCP rule exists, DOJ may: (1) file a written complaint with DATCP relating to allegations of unfair methods of competition in business or unfair trade practices in business or both; (2) require DATCP to proceed, after proper notice, to the hearing and adjudication of the allegations; (3) permit a representative of DOJ, designated by the Attorney General, to appear before DATCP in such proceedings; and (4) entitle DOJ to judicial review of the decisions and orders of DATCP.

Special Orders and Injunctions

The unfair trade practices statute also authorizes DATCP to issue special orders enjoining unfair practices and requiring a business to adopt business practices specified by the Department. The special order authority represents significant administrative power to prohibit business practices not otherwise regulated by specific statutes or rules. A special order applies to a single party named in the order. However, the Department may follow special orders with the adoption of administrative rules affecting the entire industry if the unfair practice is found to be common.

Penalties

DATCP or any district attorney has authority to commence an action in the name of the state to recover civil forfeitures for each violation of a DATCP rule or order issued under the state unfair trade practices statutes. DOJ, after consulting DATCP or at the request of DATCP, has authority to commence an action to recover a civil forfeiture for each violation of a court-ordered injunction issued under the state's unfair trade practices statutes.

Violators of the unfair trade practices statute are subject to: (1) criminal penalties for each violation of not less than \$25 nor more than \$5,000 and imprisonment in a county jail for not more than one year, or both; or (2) civil penalties of not less than \$100 nor more than \$10,000 per violation of a special order or injunction, in addition to the potential for an order to be issued requiring restitution to be paid to the consumer. Criminal prosecutions are brought by district attorneys; civil prosecutions have generally been brought by DOJ for cases having statewide impact.

In addition, the statutes provide authority to private parties to take legal actions in any court with jurisdiction to recover losses due to violations of administrative rules or special orders. Private parties may recover twice the amount of damages plus costs, including attorney fees.

Telecommunications Services

DATCP, DOJ and district attorneys regulate the advertising, sales representations and practices related to telecommunication services. Telecommunication service, as defined by s. 196.01 of the statutes, includes the sale of services conveying voice communication, including service for the collection, storage, forwarding and switching of the regulated service as well as any needed equipment. A telecommunications service does not include cable television or broadcast services.

The statutes specifically prohibit advertising and sales representations that in any manner make false, misleading or deceptive statements or representations in regard to the provision of telecommunication services, including the rates, terms or conditions for service. In addition, persons may not engage in "negative option billing" or negative enrollment for telecommunication services. That is, a person may not bill anyone for any telecommunication service that was not affirmatively ordered, unless the service is required

to be provided by law, by the Federal Communication Commission or by the state Public Service Commission (PSC). Further, it is not considered an affirmative request if a person fails to refuse a proposal to provide a telecommunication service. Lastly, a person must provide written confirmation of any services ordered through oral solicitation and a person may not charge a customer for any services a customer has canceled.

DATCP, in consultation with DOJ and the PSC, has the authority to promulgate rules related to the provision of electronic communications services in the state. ATCP 123 regulates subscription and billing practices related to electronic communication services provided to consumers primarily for personal, household or family use. DOJ is required to consult with DATCP prior to commencing a court action to restrain, by temporary or permanent injunction, any violation of consumer protection statutes related to electronic communications services. A district attorney, upon informing DATCP, may also commence such actions.

Any person who violates the consumer protection statutes related to electronic communications services shall be required to forfeit not less than \$25 nor more than \$5,000 for each offense. Such forfeitures are enforced by DOJ, only after consulting DATCP, or by any district attorney, after informing DATCP. Also, persons adversely affected by such violations have claims to appropriate relief and to the recovery of costs and disbursements related to such violations.

Telemarketing No-Call List

2001 Act 16 created a program to register telemarketers and prohibit them from calling consumers who had their residential phone number listed on a do-not-call registry. Aside from several exceptions listed in statute and administrative rule, such as solicitations by nonprofit organizations or solicitations to clients or persons who have specifically opted to receive phone solicitations, the do-not-call registry prohibits most tele-

phone solicitations to numbers on the list. Violations are punishable by forfeitures of up to \$100 per violation. 2007 Act 226 made mobile-phone numbers eligible for the no-call list beginning in June, 2008, and 2011 Act 197 also expanded prohibited telemarketing practices to include unsolicited text messages.

The first no-call list was published on December 1, 2002, and took effect on January 1, 2003. This list contained over one million residential telephone numbers. The most numbers ever included on the Wisconsin list was 2,310,300 on July 1, 2011, while the fewest included since the list's creation was 779,700 on July 1, 2007.

Beginning August 1, 2014, the state do-not-call registry ceased to be administered solely by DATCP. Instead, under 2013 Act 234, the state no-call list consists of those landline and cellular phone numbers originating from Wisconsin area codes and appearing on the national do-not-call registry, which is administered by the Federal Trade Commission (FTC). Act 234 effectively allows Wisconsin residents to register once for the national do-not-call registry and have the registration be permanent; the federal registry considers registrations permanent, whereas state statutes previously provided a phone number was to be deleted two years after listing unless subsequently renewed. The federal registry also updates daily, as opposed to quarterly updates of the state registry. With the state do-not-call list being administered by the FTC, DATCP will no longer distribute to telemarketers the list of Wisconsin phone lines registered under the program. Most other state telemarketing provisions continue to apply, however, including more stringent limits on continued contacts after do-not-call registration and on solicitations by subsidiaries and affiliates.

The FTC reports approximately 4.66 million active and registered Wisconsin phone lines on the federal do-not-call list as of August 1, 2016.

As of late 2016, no information was available as to the proportions of all Wisconsin lines on the federal do-not-call list that were landlines or mobile numbers.

Product Safety

DATCP is responsible for administering multiple product-safety laws regulating hazardous substances and other consumer products that may present an unreasonable risk of injury to the public. DATCP has general authority to ban the sale or distribution of hazardous substances (s. 100.37 of the statutes) or of any consumer product determined to present an unreasonable risk or imminent hazard to the public health, welfare or safety (s. 100.42). In addition, DATCP is responsible for administering several laws intended to address products or packages that, though not necessarily immediately toxic or dangerous to consumers, if at all, may have cumulative detrimental impacts on the environment. These various product-safety laws include the following:

- Labeling and Content of Bedding (s. 100.2095)
- Mercury-Containing Dry Cell Batteries (s. 100.27)
- Sale of Detergents Containing Phosphorus (s. 100.28)
- Reductions of Toxics in Packaging (s. 100.285)
- Labeling of Recycled, Recyclable or Degradable Consumer Products (s. 100.295)
- Plastic Container Recycled Content and Labeling (s. 100.297 and s. 100.33)
- BPA Prohibitions in Children's Products (s. 100.335)
- Antifreeze Content (s. 100.38)
- Flammable Fabrics (s. 100.41)
- Poison Prevention in Packaging (s. 100.43)
- Energy Efficiency Standards (s. 100.46)
- Products Containing or Made with Ozone-Depleting Substances (s. 100.50)

Security of Personal Information

In recent biennia, a number of statutory provisions have been created to address the ability of

consumers to secure personal information. These provisions intend to address and mitigate potential harm to consumers, as the proliferation of electronically stored personal information in recent years generally has been associated with thefts of such data and the misappropriation of personal information, commonly referred to as identity theft.

Among the provisions limiting distribution of personal information are allowances for persons to restrict access to their credit reports, also known as a "security freeze." Security freezes may also be requested for protected individuals, meaning those under age 16 or a person for whom a guardian or conservator has been appointed. Other provisions limit the release of personal information: (1) in "trigger leads," which may be provided by credit reporting agencies to third parties following consumer applications for credit; (2) by tax preparers; and (3) contained in records of telephone calls generated by telephone service providers. For most of these provisions, DATCP, DOJ or both have authority to commence court actions in response to violations of the law. DATCP also has rule-making authority with regard to clarifying the procedure for placing security freezes. However, the agencies' administrative responsibilities for these statutes are otherwise fewer than for other consumer protection subject areas. These laws generally allow persons incurring losses due to violations of the provisions to file court actions to recover losses and certain other amounts.

Further, to provide ongoing support in response to identity theft, two consumer protection investigators in the mediation and enforcement section are focused on identity theft assistance. It should be noted that the Department does not have statutory authority to conduct its own investigations of identity theft. However, the statutes contain general requirements that entities operating in the state notify any state resident that may be the subject of a data breach or other unauthorized access to personal information, provided the

access presents a material risk of identity theft or fraud to the subject. Although no state agency is directly responsible for administering the statute, DATCP reports it assists entities in complying with the requirement. The Department also conducts other education campaigns and outreach to law enforcement agencies investigating identity theft, and to consumers seeking to recoup financial losses or restore credit histories following suspected identity theft.

DATCP Consumer Protection Program

The Bureau of Consumer Protection operates alongside two other bureaus in the Division of Trade and Consumer Protection. All three broadly address allowable conduct in commercial transactions or the quantity, quality and purity of certain products marketed in the state. Although other programs throughout the Division may regulate "business-to-business" transactions more so than "business-to-consumer" transactions, programs generally are intended to ensure efficiency in markets to the benefit of all commerce in the state.

The following paragraphs primarily describe the structure and operations of the Bureau of Consumer Protection. Brief descriptions are provided for additional programs relating to business trade practice regulation, weights and measures inspections, and petroleum products and storage systems regulation.

Consumer Protection Program Funding

Funding for the Bureau of Consumer Protection is provided primarily from general purpose revenues (GPR) and program revenues (PR). In 2016-17, the Bureau is authorized 32.0 positions. Total funding budgeted for consumer protection programming in 2016-17 is approximately \$3.3

million, consisting of \$1,526,600 GPR with 17.65 positions and \$1,754,300 PR with 18.9 positions. This funding includes staffing and support costs of Division-level administrative positions for the portion of this staff's workload attributable to consumer protection programs. Division-level administrative staff account for 4.55 positions with \$189,800 GPR and \$160,100 PR. The Bureau also customarily receives revenues from purchase orders made by the United States Consumer Product Safety Commission (CPSC) for consumer protection staff to conduct investigations or monitor Wisconsin businesses' compliance with CPSC regulations. In fiscal years 2015 and 2016 respectively, the Bureau received \$5,300 and \$7,400 for these purposes. Activities under federal contract are described later in detail.

Bureau of Consumer Protection program revenue consists of various fees: (1) telemarketer licensing and other fees under the no-call program; (2) assessments on telecommunications utilities levied by the Public Service Commission and transferred to DATCP; (3) a 25% surcharge on fines and forfeitures for consumer protection violations; (4) sale of supplies and other materials; and (5) surcharges for violations of the state prohibition on BPA use in children's products, although this appropriation has not received any deposits as of June 30, 2016.

Consumer Protection Bureau Organization

The Bureau of Consumer Protection operates from a centralized office in Madison. Prior to 2010, the Bureau operated with a central office in Madison and regional offices in Madison, Wauwatosa, Eau Claire and Green Bay. However, regional offices were closed in December, 2009, due in part to program staffing and funding reductions under 2009 Act 28, the 2009-2011 biennial budget act. The current organizational structure is described in the following paragraphs, and the number of positions assigned to each area is shown in Table 1.

Table 1: DATCP Consumer Protection Staff (2016-17)

Work Unit/Area	Positions
Administration and Outreach	2.00
Consumer Information and Education	7.00
Mediation and Enforcement Section	
Section Chief	1.00
Mediation Unit	12.00
Investigation Unit	<u>10.00</u>
Total	32.00

Administration and Outreach

The Bureau of Consumer Protection is administered by a director. Also included is an identity theft assistance liaison who reports to the director. The liaison provides outreach and support activities related to identity theft as part of a team focused on identity theft issues. In addition to staff identified in Table 1, GPR and PR funding budgeted for consumer protection supports 4.55 other Division of Trade and Consumer Protection positions for: (1) program, policy and budget analysis; (2) administrative assistance; and (3) a public information officer, which has primary responsibilities of issuing press releases and disseminating information to consumers via mass media for questionable business practices of which the Bureau is aware. Duties of these staff persons include, but are not necessarily limited to, support of DATCP consumer protection programs. As a result, the positions are partially supported by funds appropriated for consumer protection programs, but they are not considered part of the Bureau of Consumer Protection and do not appear in Table 1.

Consumer Information and Education

The consumer information and education unit is often the first point of contact between the Bureau and consumers. This unit also administers the telemarketer no-call program. The unit includes 5.0 positions for the consumer protection hotline, a licensing associate to process telemarketer registrations and no-call program admin-

istration, and a supervisor of the unit. The primary responsibility of the hotline staff is to receive phone calls and e-mails from individuals reporting potential violations of consumer protection laws. In addition to live assistance offered through the hotline, the Bureau also responds to inquiries through an automated answering service known as interactive voice response (IVR). All contacts are cataloged in a database kept by the Bureau to identify trends and emerging issues in the state and to establish program priorities and direction. The database also helps hotline staff persons answer consumer inquiries as to whether complaints have been filed against particular businesses.

Mediation and Enforcement Section

The Bureau addresses formal complaints through the Mediation and Enforcement Section, which consists of: (1) a mediation unit with 12.0 positions, including 1.0 unit manager and 11.0 consumer protection investigators; and (2) an investigation unit that consists of 10.0 consumer protection investigators. The Mediation and Enforcement Section is headed by a section chief for a total of 23.0 positions.

Investigation Unit. The investigation unit consists of 10.0 investigators and is responsible for gathering further information on complaints and assessing whether violations of law have occurred and require further enforcement action. Investigators work with DATCP's attorneys and DOJ in developing investigative methods and evidence for cases and determining the appropriateness of potential enforcement actions. The procedures for investigating and closing cases are discussed later in greater detail.

Mediation Unit. The Bureau has allocated a unit manager and 11.0 consumer protection investigators under its mediation unit for receiving, processing and initiating responses to formal, written complaints. Whereas the consumer information and education unit receives and re-

sponds to consumers' initial inquiries, the mediation unit is responsible for resolving disputes for which consumers have submitted a formal complaint. As opposed to the more general questions received on the hotline or IVR, formal complaints describe an alleged improper business action, and include detailed information on the alleged violation. Complaints may result in further investigation, mediation or one or more types of enforcement, which are discussed later in greater detail. Duties of the mediation unit include responding to complaints made against businesses headquartered outside Wisconsin but whose operations within the state are alleged to have violated state laws.

The complaint mediation unit also holds statutorily required securities for fitness clubs and firms providing weight-loss and dating services. Generally, these businesses must provide a security of \$25,000 before being allowed to collect certain fees from clients prior to providing services. This is partly intended to prevent clients from losing money from operators that may accept payments without delivering services promised under a contract. The Department also holds surety bonds for time shares, which may be filed by time-share developers to protect purchaser deposits in such projects. As of June 30, 2016, the Bureau held securities of \$21.2 million for 444 businesses, including \$9.86 million for fitness centers, \$10.25 million in time-share sureties, \$275,000 for dating services, \$400,000 for future service plans and \$400,000 for weight-loss centers.

Identity Theft Assistance

In April, 2006, the Office of Privacy Protection (OPP) was created at the direction of the Governor. Its duties included: (1) providing education on identity theft to individuals, government agencies, law enforcement agencies and businesses, both through the DATCP website and in-person training sessions; (2) receiving complaints related to identity theft; and (3) providing

identity-theft victim assistance. If a business or state agency has experienced a data breach in its customers' personally identifiable information, and the incident created a "material risk of identity theft or fraud," OPP assistance may have included consultation related to statutorily required notices to potential victims.

The Office was authorized three federally funded positions upon its creation. Beginning in 2007-08, OPP funding was changed from \$170,500 FED annually to \$102,300 annually from each of GPR and PR transferred from the Office of Commissioner of Insurance (OCI). In the 2015-2017 biennium, the office was dissolved. Now, the 1.0 agency liaison and 2.0 consumer protection investigators focused on identity theft assistance form an identity theft assistance team within the mediation unit. Identity theft assistance is still provided via a dedicated phone line, and the agency liaison is responsible for reporting data breaches on the DATCP website. Total funding for 2016-17 is budgeted at \$102,300 GPR with 1.5 positions and \$102,300 OCI PR with 1.5 positions. Funding and positions responsible for privacy protection have occasionally varied since OPP's creation.

In 2014 and 2015 respectively, DATCP received 4,732 and 1,727 contacts relating to cases of suspected identity theft. In 2014, 460 complaints were filed related to identity theft, and in 2015, 823 such complaints were filed. The OPP posted information on its website pursuant to 21 data breaches in 2014 and 17 in 2015. The postings primarily alert consumers to data breaches as they are announced by companies or other entities, such as health care providers, possessing sensitive personal information such as health care providers. A posting typically includes the nature of the compromised data, suggested steps potentially affected consumers should take to mitigate the effects of the data breach, and any assistance available to potentially affected consumers, such as temporary credit monitoring. DATCP conducts presentations to consumer groups, busi-

nesses and law enforcement to educate about best practices related to preventing and managing data breaches.

Telemarketer Do-Not-Call List

DATCP administers the do-not-call program under s. 100.52 of the statutes and administrative rule ATCP 127, which establishes terms for the licensing of telemarketers, specifies provisions for maintaining and distributing the do-not-call registry and clarifies allowable actions for making telephone solicitations. Telemarketers pay initial licensing fees of \$700 per year and annual fees of \$500 for renewal, and the Department collects annual fees of \$75 per phone line over three. The annual sum of fees is capped at \$20,000 per registered telemarketer, and fees may be paid on a quarterly basis. Consumers are not charged for registering.

Fees are mostly deposited to a program revenue continuing appropriation for DATCP administration of the program. For 2016-17, DATCP is provided \$760,800 and 7.2 positions from the appropriation. As of July 1, 2016, DATCP allocates 1.2 positions for consumer information and education, 2.0 positions for complaint mediation, 1.0 position for telemarketer registration and no-call program administration, and 1.0 position for investigation. Another 2.0 positions are for program and policy analysts funded from no-call list revenues but counted among central staff for the Division of Trade and Consumer Protection. In addition, the Department is budgeted \$302,900 telephone solicitation PR with 4.2 positions in 2016-17 in an annual appropriation for general consumer protection and consumer education, which supports positions divided among the Bureau's consumer information and education, complaint mediation and investigation units.

Following the enactment of 2013 Act 234, DATCP ceased receiving resident registrations for the do-not-call list. Information on the state do-not-call website and the toll-free registration

hotline was revised to alert consumers to the changes under Act 234 and to redirect consumers to the FTC for sign-up. By August 1, 2014, the Department had transferred to the FTC all registration information for persons with valid registrations on the state do-not-call list, and DATCP reports the FTC added all non-duplicative phone numbers to its existing list of registered state phone numbers.

DATCP reports most telemarketers historically have registered with both the state and the FTC. As a result, most have not seen a significant change in regulatory oversight. The primary change has been that telemarketers receive lists of registered phone lines from the FTC instead of DATCP, which occurs at least every 31 days under federal law. FTC administrative rules charge telemarketers an annual do-not-call list access fee of \$60 per area code accessed, although there is no charge for accessing up to five area codes. To access all six active area codes in Wisconsin, telemarketers would have to pay \$60 annually to the FTC, in addition to charges assessed by DATCP.

For consumers, the primary difference under Act 234 is that registration is permanent under the federal list. Further, state law also is more stringent in some respects than federal law governing the do-not-call list; for instance, telemarketers under federal law may contact a registered number up to 18 months following the completion of a customer's transaction or contractual relationship, while DATCP administrative rules permit only one contact by a seller to determine whether the lapsing of a contract was inadvertent. Federal law allows states to administer and enforce telemarketing laws that are more stringent than federal provisions.

Revenues under administrative rule ATCP 127 were initially estimated at approximately \$550,000 annually beginning in 2003-04. However, actual annual revenues have consistently exceeded the initial estimates. ATCP 127 allows DATCP to reduce or waive one or more of the

quarterly fee payments by telemarketers if the Department projects a year-end balance in the telephone solicitation appropriation account that exceeds projected fiscal year expenditures by at least 15%. In the past, DATCP has waived quarterly payments due to large balances in the account, beginning with the quarterly payment due September 1, 2003. The Department collected one quarterly payment in each of fiscal years 2004-05 and 2005-06. The Department waived one quarterly payment in 2006-07, but has collected all quarterly payments since 2007. Through 2016, the cumulative amount of waived quarterly payments is estimated at \$4.76 million.

DATCP also has transferred a total of \$9.6 million from the appropriation balance to the general fund since 2003-04 under multiple yearly lapse requirements. These amounts are shown in Table 2. On July 1, 2016, the telephone solicitation appropriation had a balance of \$276,700. No-call revenues were \$1.63 million in 2014-15 and \$1.66 million in 2015-16.

Table 2: Transfers of Telemarketer Registration Fees to the General Fund

2003-04	\$666,700
2004-05	62,000
2006-07	402,000
2007-08	2,038,000
2008-09	83,400
2009-10	1,424,600
2010-11	1,917,800
2011-12	665,000
2012-13	556,600
2013-14	777,700
2014-15	763,600
2015-16	<u>250,000</u>
Total	\$9,607,400

In June, 2004, in response to a lawsuit filed by a group of businesses, a Dane County Circuit Court upheld the legality of ATCP 127, except for the contention that the rule allowed DATCP discretion on whether to reduce or eliminate quarterly payments based on the program's fiscal outlook. The court ruled that DATCP did not

have discretion when program revenues exceeded projected expenditures by the specified amount, but rather must reduce or eliminate fee payments when this is the case. However, DATCP has continued to maintain balances in excess of the 15% specified under ATCP 127.81(5).

In addition, the court ruled that the statutes set the maximum fine for a violation under the telephone solicitation program at \$100, and that DATCP may not administratively set a higher maximum fine. This clarified language in ATCP 127, which contains a reference to the state's "Little FTC Act" that imposes a \$10,000 maximum forfeiture for unfair trade practices.

Other Trade and Consumer Protection Programs

The Business Trade Practices Bureau handles regulatory duties related to unfair trade practices and is primarily concerned with potential instances of unfair industry competition. Examples of Business Trade Practices Bureau programs include: (1) regulation of product pricing under the Unfair Sales Act, which is commonly known as the "minimum markup" law, as it generally prohibiting merchants from selling products below cost, or specifies certain minimum additional pricing for motor vehicle fuel, tobacco products and alcoholic beverages; (2) the agricultural producer security program, which attempts to ensure that commodity dealers, storage facilities, and processors have sufficient means to pay individual producers of dairy, grains, and vegetables from whom they purchase; and (3) grading and inspection services for grain, fruits and vegetables to be further marketed nationally or internationally. Appendix II contains a list of administrative rules related to trade practices. Appendix III summarizes the state's minimum markup law. The Business Trade Practices Bureau is supported by GPR, various program revenues, the segregated (SEG) petroleum inspection fund (PIF), and the segregated agricultural producer security fund.

In 2013, the Department created the Bureau of Weights and Measures to carry out programs for: (1) inspection of petroleum products and the storage tanks and systems for those and flammable or combustible liquids; and (2) DATCP's existing weights and measures regulatory and inspection activities, which previously operated from the Regulation and Safety Section of the Consumer Protection Bureau. Prior to 2013 Act 20, DATCP's weights and measures program was responsible for inspecting retail motor vehicle fuel pumps as part of its general regulatory authority over devices for measuring mass or volume in the course of commercial transactions. The Department of Safety and Professional Services (DSPS) was responsible for inspecting petroleum product storage systems, as well as sampling and testing petroleum products, including motor vehicle fuel, to verify the purported content of the material. The 2013 merger was intended to consolidate similar inspection programs in one agency for greater administrative efficiency.

The Bureau of Weights and Measures in 2016-17 is authorized: (1) \$5,401,700 PIF SEG with 42.05 positions, funded primarily by a 2¢ per gallon fee on petroleum products received for sale in the state; (2) \$1,698,200 weights and measures PR with 17.05 positions, supported by license fees on various regulated devices or businesses, fees from municipalities for weights and measures inspection services provided by DATCP under contract, and tonnage surcharges related to weights and measures; (3) \$361,900 from federal (FED) funds provided by the U.S. Environmental Protection Agency for underground storage tank regulation, with 3.0 positions; and (4) \$36,500 GPR with 0.35 position. These amounts include administrative positions both in the Bureau and those at the Division level that are supported by appropriations made for weights and measures or petroleum product inspection programs.

A significant portion of DATCP weights and measures field inspections assist municipalities in

weights and measures regulatory work required by Chapter 98 of the statutes. The statutes require municipalities with population of more than 5,000 to enforce state weights and measures laws in their jurisdiction, unless a municipality enters a contract with DATCP or another municipality for weights and measures inspection services. As of July 1, 2016, 115 municipalities had contracts for DATCP services. These contracts obligate DATCP to provide a total of about 8,000 hours of inspection services to the contracting municipalities.

DATCP inspectors' weights and measures field work most often includes: (1) verifying the proper functioning of weights and measures used in commercial activity, including scales, liquid dispensers and timers; (2) conducting surveys of retail stores for scanner accuracy and price verification; and (3) verifying advertised product weights or volumes on prepackaged foods and consumer goods.

In 2014 and 2015, weights and measures inspectors performed surveys at approximately 5,200 and 6,300 locations, respectively. (A single location may have had multiple inspection types performed, such as price accuracy checks and scale verifications; the totals do not include re-inspections, in which an inspector would return to a location to verify the correction of equipment previously determined to need recalibration or to be otherwise noncompliant.) Further details of devices checked during surveys are shown in Table 3.

Table 3: Summary of Weights and Measures Field Inspection Activities

Inspection Category	2014	2015
Package Weight Checks	106,482	96,823
Price Accuracy Checks	51,322	68,368
Fuel Pumps (Grades)	34,977	43,499
Non-Fuel Scales and Meters	<u>14,749</u>	<u>13,263</u>
Total (Non-Fuel)	207,530	221,953

Further, the Bureau of Weights and Measures maintains and staffs the state's metrology lab,

which verifies the calibration of scales and other devices, used by inspectors and services to test weight and measures in commercial use throughout the state. In 2014 and 2015, the Department tested approximately 10,800 and 12,500 weights and measures, respectively.

Following the transfer of petroleum product and tank storage inspections, inspectors also are responsible for conducting sampling of petroleum products and other liquid fuels, as well as verifying compliance with standards for the safe storage and dispensing of petroleum products. Sampling and inspections for petroleum products and storage tanks occurs primarily at retail fuel stations and other fuel terminal or wholesale locations throughout the state. In fiscal year 2015, 648 new tanks were registered and 209 were permitted. In fiscal years 2014 and 2015 combined, 2,453 tanks were reported closed.

In fiscal year 2015, 6,659 inspections occurred at facilities with petroleum systems or petroleum product storage tanks. Of these inspections, 3,066 were retail sellers of gasoline and other petroleum products. In addition, 471 storage tank plans were reviewed during fiscal year 2015.

In fiscal years 2014 and 2015, DATCP observed 13,281 infractions. DATCP reports it does not have information readily available for the number of enforcement actions taken. Enforcement actions typically include correction at the time of identification, administrative orders, final notices, and red tags. Administrative orders describe the violation and direct its correction, while final notices are issued in the event administrative orders are not complied with. Red tags, which prohibit filling a noncompliant storage tank, typically are issued only following non-compliance with final notices, or in the event a violation presents an immediate threat to public safety.

In November, 2014, DATCP opened the Mad-

ison Fuel Quality Laboratory, centralizing petroleum product testing in Madison, co-located with the metrology laboratory. In July, 2015, the last regional fuel lab closed and all regional laboratory operations were consolidated in the Madison lab.

DATCP reports that in 2014, 5,146 petroleum product samples were sent to a lab where they underwent 15,636 lab tests, resulting in 105 failed tests. In 2015, 5,848 samples were sent to a lab where they underwent 18,428 tests and resulted in 144 failures.

In addition, the Bureau of Weights and Measures enforces laws relating to the handling of potentially ozone-depleting refrigerants, including the proper servicing of mobile air conditioners and cold-storage trailers.

In 2013-14, 2013 Act 312 and DATCP administrative rule changes eliminated certain program revenues generated primarily by annual licenses for automobile repair shops conducting mobile air conditioner installation, removal or repair work. These revenues supported 6.05 positions and associated staffing and program costs. The 2015-17 biennial budget act, 2015 Act 55, reallocated base funding and positions as follows: (a) \$265,300 annually and 4.0 positions to weights and measures inspection PR; and (b) \$162,100 annually with 2.05 positions to petroleum inspection SEG. These transfers were intended to maintain the 6.05 filled positions by shifting them to appropriations supporting related program functions.

Complaint Intake and Response Procedures

Initial Contact

A primary function of the Bureau of Consumer Protection is to review and respond to consumer inquiries and complaints. The majority of contacts to the Bureau come electronically via the Bureau's website or by telephone. Table 4 summarizes the

Table 4: Summary of Consumer Protection Contacts

Contact Type	2014	2015
Non-IVR Phone Calls*	27,749	21,459
Presentation Audiences**	4,687	1,014
Email	510	209
Walk-Ins	100	74
Media Inquiries	383	200
Other***	<u>12</u>	<u>111</u>
Totals	33,441	23,067

* IVR calls are not tracked and are not reflected in this table.

** Estimated total audience of DATCP presentations to groups, which totaled 75 in 2014 and 36 in 2015. Presentations were less frequent in 2015 due to staff vacancy.

*** Includes contacts by legislators, state agencies and by other forms of communication such as fax or letter.

types of consumer contacts received by DATCP in 2014 and 2015. Additionally in 2015, DATCP reports its website had 239,700 unique views of web pages describing consumer protection programs, complaint intake and consumer information of note to the public.

Persons contacting the Bureau to report unfair or fraudulent business practices may receive several types of information. Based on a brief description of the person's circumstances, staff members generally discuss the consumer's legal rights and options for further actions. Consumers may attempt to resolve a dispute privately after gaining a fuller understanding of the responsibilities of involved parties, and DATCP in the past estimated that up to two-thirds of consumer inquiries are resolved upon initial communication. Such resolution, in addition to being timely for consumers, minimizes more time-consuming written responses by consumer protection staff to consumers and affected businesses, which is the first step following receipt of a formal complaint.

Hotline personnel often send fact sheets to callers describing applicable laws and consumers' rights under them. The Bureau sent 17,469 fact sheets in 2014 and 21,869 in 2015. Hotline

responders also refer callers to fact sheets and other information available on the DATCP website. The staff may also refer callers to other agencies that have jurisdiction over the area of concern or that can provide further assistance. The Bureau made 3,782 such referrals in 2014 and 2,405 in 2015.

Written Complaints

In 2015, DATCP received 10,462 unique complaints from consumers, plus an additional 126 duplicate filings, and initiated another 199 complaints on its own, for a total of 10,787 formal complaints. Total complaints in 2014 were 11,600, including 10,965 received from consumers and 635 initiated by the Department. In 2015, approximately 26% of complaints were related to either telemarketer violations of the no-call list (2,261) or other telecommunications practices (428), which typically are among the top sources of written complaints. The Department in 2015 also received a number of complaints on landlord-tenant disputes (1,407), identity theft (823), and home improvement contracts and projects (426). All these subjects typically have been among the top 10 categories of complaints received annually in recent years.

In some instances, the Department may request that a consumer file an official complaint form. These instances may include practices that do not specifically violate current rules or specific statutes, but involve repeated and serious occurrences that DATCP wishes to review for potential further actions. Such complaints may also follow a series of similar complaints warranting further investigation after an initial review by an investigator.

After receiving a complaint, DATCP sends a written response to both the consumer and the affected business. For many complaints, DATCP may find that no illegal action occurred. The Bureau in such cases generally attempts to mediate disputes by informing the consumer and the affected business of their rights or responsibilities

and proposing possible solutions to both parties. Although DATCP's primary statutory mission is to identify and prevent unfair business practices and not to represent individual consumers, the Department reports many complaints are resolved to the satisfaction of consumers by providing the involved parties such information. DATCP estimates that approximately 90% of written complaints are mediated by the Department each year.

Investigations

In some instances, the Department further investigates complaints to determine whether a violation has occurred and how significant the violation is. The Department possesses substantial investigative authority under general agency powers provided by Chapter 93, as well as specific investigative authority in the unfair trade practices (s. 100.20) and deceptive advertising (s. 100.18) laws. DATCP authority includes the ability to subpoena documents and testimony, conduct investigative hearings, collect and analyze samples, and inspect and copy business records. DATCP attorneys and legal staff assist consumer protection staff with investigative activities.

Although most complaints are handled through some form of mediation, an estimated 20% of all complaints require some level of investigation, including interviews, data collection, case evaluations and, at times, undercover investigation. Also, many cases that end in mediation may involve some level of investigation prior to resolution. Additionally, DATCP may mediate certain individual cases prior to conducting investigations. These circumstances generally arise from violations that affect multiple complainants or that indicate other possible wrongdoing by an accused party. Telecommunications, home improvement and telemarketing cases for several years have represented the majority of investigations. DATCP also reports many investigations since 2012 have focused on direct marketing, landlord-tenant issues, prize notices, deceptive marketing and unfair billing practices.

Serious violations with a significant impact on affected consumers will tend to merit greater use of staff resources. DATCP officials have instituted a tier system that rates potential investigations:

Tier 1: Issues of statewide/national importance that have a significant level of impact to Wisconsin consumers and/or businesses.

Tier 2: Routine issues of statewide/regional importance that impact a large number of Wisconsin consumers and/or businesses.

Tier 3: Routine issues that impact an individual complainant and/or business.

Generally, investigations occur when the Department receives numerous unresolved complaints about a single business or issue over a short period of time. The Department also begins investigations and studies of consumer protection issues identified by staff. Investigations are assigned to staff based on priority and in an attempt to balance caseloads among investigative staff.

DATCP conducted 159 formal investigations related to complaints in 2014 and 120 in 2015. DATCP reports it maintains regular contact throughout the course of an investigation with DOJ, or local district attorneys' offices, if a case is more appropriately pursued at the county level. According to DATCP, this typically includes preceding a formal investigation by discussing with prosecutors on the most appropriate course for the investigation, such as critical evidence needed and potential means of enforcement. DATCP and DOJ also report the agencies meet at least monthly to discuss progress on ongoing investigations, although in the course of case development, it is common for agency staff to communicate daily on questions of law or determining the remaining responsibilities of each agency in closing the investigation and preparing the case for further action.

Investigations generally result in formal reports, known as summary investigative reports, of the case's facts and any violations DATCP be-

lieves to have occurred. These reports provide supporting evidence that may be used in court proceedings against the alleged violator. Cases referred to prosecuting agencies may result in civil claims, or criminal charges if appropriate. Alternatively, the agencies may agree the case is more appropriately pursued under an alternative enforcement action, several of which are discussed in the following paragraphs.

Enforcement Actions

The Department enforces consumer protection rules or statutes in several ways, including: (1) cease-and-desist letters; (2) warning letters; (3) assurances of compliance; (4) special orders; and (5) formal prosecutions. A summary of selected enforcement actions taken by DATCP in 2014 and 2015 is shown in Table 5.

Table 5: Summary of Consumer Protection Enforcement Actions and Case Referrals

Action	2014	2015
Investigations	159	120
Cease-and-Desist Letters	351	261
Warning Letters	993	478
Assurances of Compliance	173	134
Special Orders	0	0
Case Referrals		
Local District Attorney	23	22
Wis. Dept. of Justice	11	16
U.S. Attorneys/Agencies	1	9
Other*	<u>0</u>	<u>3</u>
Total Referrals	35	50
Actions Filed Pursuant to DATCP Referrals		
Local District Attorney	11	6
Wis. Dept. of Justice	3	5
U.S. Attorneys/Agencies	<u>0</u>	<u>3</u>
Total Cases Filed	14	14

*Includes referrals to other jurisdictions or internally for further DATCP action.

Cease-and-Desist Letters

Cease-and-desist letters are the initial stage of enforcement for telemarketer violations of the no-call list. When a complaint is received regarding

the no-call list, DATCP sends a cease-and-desist letter to the telemarketer. Based on the telemarketer's response, additional enforcement actions may follow, such as a warning letter. DATCP issued 351 cease-and-desist letters in 2014 and 261 in 2015.

Warning Letters

Warning letters are issued to businesses under the authority of s. 93.06 (10) for minor violations of rules or statutes, or in cases of more significant violations but for which there is no previous history of violations by the business. Each letter specifies the violation that has occurred and states an expectation that such violations will cease. If further enforcement actions are not warranted, the warning letter is usually the final step in resolving a consumer complaint. Possible noncompliance is generally identified through subsequent complaints or through Department surveys. DATCP issued 993 warning letters in 2014 and 478 in 2015.

Assurances of Compliance

The Department requires a written assurance of compliance when the severity of the violation or the history of the violator indicates that a warning letter may not achieve compliance, but the Department considers formal prosecution unwarranted. Issuing an assurance of compliance typically involves an in-person meeting with the business suspected of improper practices. The violating business must sign a statement assuring compliance, which the Department can use to facilitate compliance by other means, if necessary, such as through court proceedings. Compliance assurances can include restitution agreements or other suitable outcomes for complainants while avoiding more time-consuming enforcement processes such as court cases. There were 173 assurances of compliance in 2014 and 134 in 2015.

Special Orders

Special orders address unfair business practices that are not specifically addressed by current law or rules. Issuance of a special order generally takes six to eight months, and DATCP generally views a special order as a precursor to a new administrative rule. The Department first identifies a potentially unfair business practice that is not directly regulated by specific rules or statutes. DATCP, DOJ or both agencies review the practice. If it appears to be unfair, an independent examiner hears the case in a quasi-judicial proceeding and rules whether the practice is unfair. Finally, the DATCP Secretary issues a special order enjoining the unfair business practice. DATCP did not issue any special orders in 2014 or 2015.

Formal Prosecutions

As described earlier, the Department prepares cases for formal prosecution by district attorneys or DOJ attorneys. Violations of consumer protection statutes and rules are customarily prosecuted if they are considered to be serious, have a major adverse impact on consumers or are recurring by the business. Table 5 shows cases referred in 2014 and 2015, as well as actions filed by prosecuting attorneys for DATCP-referred cases. Appendix IV provides a summary of select court cases developed by DATCP that were completed in 2014, 2015 and 2016 through June 30. The cases shown in Appendix IV are not a comprehensive list. Rather, the list includes criminal cases and those civil cases for which the disposition included \$10,000 or more in combined restitution, fines or forfeitures, and court costs. In addition, certain cases investigated or referred by DATCP are not listed in Appendix IV but are listed in Appendix V as having been recently closed by DOJ. This discrepancy arises in part from DATCP monitoring a defendant for compliance with settlement or judgment terms for a period following the conclusion of court proceedings. DATCP classifies the case as closed once restitution or other monitoring requirements have been satisfied.

DATCP generally remains involved in the prosecution of referred cases. DATCP's role in this stage typically includes: (1) giving sworn testimony; (2) reviewing materials submitted by a defendant; (3) attending enforcement conferences with DOJ and the defendant; and (4) consulting on settlement terms.

Consumer protection-related court actions may result in trials or settlements, both of which may include court orders or injunctions that prohibit future conduct by a defendant. In addition, defendants may be liable for civil forfeitures, penalties and restitution to Wisconsin consumers. General fines or forfeitures obtained in state courts are deposited in the common school fund. Additionally, fines and forfeitures for violations of consumer protection laws include a 25% consumer protection surcharge that is deposited to a DATCP program revenue annual appropriation for consumer education. Although DATCP has expenditure authority of \$147,800 from this appropriation, revenue totaled \$101,600 in 2015-16. The Department also transferred \$16,400 to the general fund in 2014-15 and \$20,000 in 2015-16 to meet agency lapse/transfer requirements in recent budget acts. Any revenues to the appropriation exceeding \$185,000 in a fiscal year are deposited to the state's general fund.

Information and Education

In addition to the procedures used in resolving complaints and enforcing consumer protection laws, the Bureau also attempts to engage in several early-stage measures to promote voluntary compliance by businesses and to increase consumer awareness of potentially harmful situations. The Bureau's educational and informational activities include: (1) press releases and social media postings warning of new or existing consumer fraud schemes and seasonal consumer issues; (2) regular presentations and speeches by staff to consumers and businesses; (3) educational and training programs for consumers, in cooperation with consumer groups, educational institutions, and

state and local agencies; and (4) regular appearances on television and radio shows.

DATCP also distributes fact sheets. The most widely distributed fact sheet describes landlord and tenant rights and is available in Spanish and English. DATCP publishes 291 total fact sheets and booklets, including 71 in Spanish and two in large print for the visually impaired. The Department also provides information to local law enforcement agencies to increase their knowledge of consumer protection laws and rules. Staff members also occasionally lecture at technical college law enforcement classes.

Surveys

DATCP complements on-site inspections by staff of the Bureau of Weights and Measures with surveys to measure compliance with other consumer-protection laws. Consumer protection staff may perform the following:

- Surveys of retail stores to check for hazardous household substances or products.
- Review of advertisements, employment offers, and residential leases on a random basis to identify possible law violations.
- Mail surveys to monitor price comparison advertising, initiated due to consumer complaints and Department oversight.

Product Safety Activity

As the principal product safety agency in the state, the Department attempts to protect consumers from unreasonable risk of illness or injury from consumer products by:

- Identifying product hazards.
- Eliminating unsafe products or reducing risks of exposure to them.
- Providing the public with information

needed to identify product hazards.

- Providing the public with information needed to compare and use products safely.

The Department has various compliance tools at its disposal. The Department may require special labels, order recalls or other corrective actions, restrict the method of sale for products, or summarily ban hazardous products. Administrative rule ATCP 139 regulates the labeling of hazardous household products, sets standards for toys and other articles intended for use by children, and establishes standards to ban the sale of certain products.

DATCP contends that public information is perhaps the most effective compliance tool. The Department collects information from consumer complaints, news reports, and other public and professional contacts. The Department also disseminates product safety information through the news media, electronic media and presentations to other organizations that further spread the information. In keeping with the Department's regulatory philosophy of voluntary compliance and progressive enforcement, staff members work with manufacturers and retailers to identify and correct problems without formal enforcement where possible or practical. Staff members also may mediate between consumers and companies.

The Department works closely with the U.S. Consumer Product Safety Commission (CPSC). The agencies cooperate in hazard identification, marketplace monitoring, investigations, research, compliance actions and public information. DATCP has a memorandum of understanding with CPSC and performs several investigative functions for CPSC on a cooperative contract basis as described below.

Investigations. In addition to product-safety investigations for the CPSC, DATCP may perform its own product-safety investigations, either in response to consumer complaints or on the Depart-

ment's own inquiry. DATCP has not initiated any of these investigations since 2007.

Recalls and Compliance Checks. The Department has performed recalls under its own statutory authority for such products as stuffed/plush toys, matches, books, riding lawnmowers and electric scooters. The Department initiated recalls in 2006 and 2007 on children's clothing made with drawstrings, which led to issuance of federal recalls. DATCP has not issued any recalls since that time.

DATCP staff members also inspect retail stores on assignment from CPSC to gather information on the effectiveness of CPSC-issued recalls. The Department performed 29 recall effectiveness checks in 2014 and 22 in 2015. The subjects of the recent effectiveness checks included, among other products, various toys, recreational products, furniture and certain appliances.

Further, DATCP has investigated or inspected sellers of various products at the request of the CPSC to ensure compliance with federal regulations or other enforcement actions. In 2009 through 2011, DATCP conducted inspections at retail sellers of portable generators to verify that generators marketed for sale met federal labeling requirements. In 2012, the Department conducted undercover visits at several ATV dealers in Wisconsin to assess dealers' compliance with requirements regarding to whom ATVs may be marketed.

Consumer Product Safety Surveys and Campaigns. DATCP has occasionally performed consumer product safety surveys. Since 1999, examples of such activities have included: (1) analyzing records of state fire departments for reports of fires caused by consumer products; (2) surveying second-hand and resale stores for recalled or illegal products, and educating store operators about the illegality of such reselling; (3) surveying cigarette lighters to verify the inclusion of child safety mechanisms; and (4) surveying manufacturers and importers of infant and toddler products subject to federal regulations for durability. Surveys may be

conducted on the Department's own initiative or in conjunction with CPSC efforts.

DATCP participates in various state and federal product safety campaigns. For instance, in 2012-2015, DATCP participated in a CPSC Carbon Monoxide Safety Program for safe use of products that can produce carbon monoxide. Further, the Department is among approximately 30 states participating in an information-sharing system coordinated by CPSC, in which CPSC and state product-safety agencies exchange information on educational efforts, incident data and legislative changes. DATCP also publishes a monthly newsletter entitled "Keep Your Kids Safe" that summarizes and highlights all recalls related to children.

DATCP also conducts cooperative planning with other state and local agencies. For example, DATCP works with local fire departments on fire prevention and with the Department of Health Services on investigations and outreach concerning products such as siding, air purifiers and portable heaters. Department staff members also participate in local safety organizations. In addition, staff members work with trade associations to publicize information about product safety regulations.

Organizational Memberships. The Department was involved in the establishment of the International Consumer Product Health and Safety Organization. ICPHSO was established in 1993 to provide an international forum for the exchange of information on consumer product health and safety programs, policies and issues. Its members include manufacturers and distributors of consumer products from around the world, product liability experts and government officials from the Americas, Asia and Europe. DATCP also works with the standards organization ASTM International, a voluntary organization for standards development in a variety of products. It was formerly known as the American Society for Testing and Materials, and was founded in 1898.

**Department of Justice
Consumer Protection Program**

Following the 1996 transfer of most consumer protection functions to DATCP, DOJ retained a small consumer protection section in its Division of Legal Services. During the 2011-13 biennium, DOJ formally created the consumer protection and antitrust unit in its Division of Legal Services. In 2016-17, this unit consists of 12.05 positions, including: (1) 6.75 attorneys; (2) 2.0 consumer protection investigators; (3) 1.5 legal secretaries; and (4) 1.8 paralegals. Of this staff, 1.0 attorney is dedicated to antitrust matters while the remaining attorneys and investigators are dedicated to consumer protection matters. The Department of Justice does not separately budget for individual units within its Division of Legal Services. However, for 2016-17, DOJ estimates the budget for salaries and fringe benefits associated with the consumer protection and antitrust unit to be \$1,208,300 GPR and 12.05 GPR positions.

Consumer Protection Enforcement Authority

Under the marketing and trade statutes (Chapter 100), DOJ may, after consulting with DATCP, determine violations and initiate prosecutorial proceedings involving certain prohibited practices aimed at protecting consumers. The Department has indicated that the consumer protection unit primarily handles cases relating to: (1) fraudulent representations prohibited under s. 100.18 of the statutes; and (2) telecommunication trade practices violations under s. 100.207 of the statutes. For each type of prohibited practice, DOJ may seek to restrain the activity by a temporary or permanent injunction. If DOJ brings an enforcement action under these statutory provisions, a court may take any necessary action to make whole any person who has suffered a financial loss because of the prohibited practice, provided that satisfactory proof has been submitted by the agency to the court.

The Attorney General may also bring an action against any corporation or limited liability company (LLC) thought to have violated an order issued under s. 100.20 of the statutes (methods of competition and trade practices), for the purpose of enjoining the corporation or LLC from doing business in Wisconsin or revoking its certificate of incorporation, authority, or organization.

As previously indicated, DOJ must consult with DATCP before commencing actions relating to consumer protection violations. Under current practice, DOJ informs DATCP prior to filing these types of cases; however, DATCP does not have statutory authority to preclude DOJ from initiating these types of actions. Once the agency has consulted with DATCP, DOJ is permitted to exercise its independent discretion in pursuing the matter.

In addition to its authority to bring cases independently, DOJ may represent the state in other types of consumer protection cases referred for adjudication by DATCP or by other state agencies. DATCP typically refers most consumer protection cases either to a district attorney or to DOJ for court enforcement. District attorneys generally prosecute criminal cases at the trial level but may also bring civil actions under the state's consumer protection laws. DATCP generally refers to DOJ those types of civil actions with multi-county implications.

For allegations of unfair methods of competition or unfair trade practices in business in violation of s. 100.20 of the statutes and associated administrative rules, DOJ has the following authority. The agency may: (1) initiate administrative proceedings by filing a complaint with DATCP relating to such allegations; (2) appear before DATCP in such proceedings; and (3) appeal any resulting DATCP decisions and orders to a court of law.

Enforcement Actions

During 2014-16 (July 1, 2014, through June

30, 2016), a total of 216 consumer protection cases and investigations were opened by DOJ's consumer protection unit. Of this total, 22 cases were referrals from other state agencies, as follows: (1) DATCP referred 20 cases; (2) the Department of Financial Institutions referred one case; and (3) the Department of Transportation referred one case. The remaining 194 cases represent multistate cases, cases referred to DOJ from non-governmental entities, cases internally generated by DOJ, or cases for which DOJ's records does not identify its origin. Of these 194 cases, 31 were multi-state in nature and 163 were Wisconsin-specific.

During 2014-16, DOJ's consumer protection unit closed 216 consumer protection cases and investigations, with the financial recovery in these cases totaling \$9,706,800. Appendix V identifies the consumer protection cases completed by DOJ's consumer protection unit during 2014-2016, in which the financial recovery in the case equaled or exceeded \$100,000. Appendix V also summarizes the consumer protection cases of a criminal nature concluded during 2014-16. These cases included investigations, litigation, prosecution, and negotiated settlements. For each listed case, the following information is provided: (1) case name; (2) case type; (3) source of the case; (4) case description; (5) resolution of the case; and (6) restitution or other monetary recovery, if any. During 2014-16, for the 16 cases summarized in Appendix V, the direct financial recovery totaled \$9,479,200.

Restitution Payments, Investigation Costs, and Related Recoveries

Funds awarded in consumer protection cases are distributed under several different procedures. Restitution funds are typically collected and distributed either through DOJ, directly by the defendant(s), or through a third-party administrator.

In many cases, it is possible to identify specific consumers to whom refunds or restitution can be made. In such cases, payments are made, whenever possible, to those directly injured. Fre-

quently, a court order or a settlement agreement outlines the specific method by which restitution is made.

However, in other cases, victims are not as easily identified, or the magnitude of the dollar amount or the type of violations involved makes it impractical to attempt to identify and return a specific sum to individual consumers. In these instances, a court judgment or settlement agreement may authorize the Attorney General to distribute the restitution funds at his or her discretion for designated purposes consistent with the underlying nature of the violation.

Further, a court judgment or settlement agreement may authorize the Attorney General to apply judgment or settlement funds to court costs, attorneys' fees, consumer protection and education efforts, or other lawful purposes at his or her discretion.

A program revenue, continuing appropriation has been created under DOJ to receive and expend court-ordered restitution funds for victims of medical assistance fraud and violations relating to marketing and trade practices, environmental law, and federal antitrust law. In addition, DOJ utilizes this appropriation to receive and allocate restitution funding in cases where there are specific parties identified to receive restitution awards. Under a continuing appropriation, funds are expendable until fully depleted or until the appropriation is modified or repealed.

If funds remain in DOJ's restitution appropriation after all reasonable attempts have been exhausted to identify eligible recipients, the residual funds are used for any of the other designated purposes provided by the terms of the settlement agreement or court order. In 2014-15, \$334,300 in expenditures for restitution and for other purposes authorized by the particular judgment or settlement was made from DOJ's restitution appropriation. In 2015-16, \$1,814,900 in expenditures for restitution and for other purposes au-

thorized by the particular judgment or settlement was made from DOJ's restitution appropriation. [Note that restitution expenditures were uncommonly high in 2015-16 as a result of a judgment in July, 2014, against Going Places Travel Corporation for deceptive marketing and sales (discussed in greater detail in Appendix V).]

The Department utilizes its Division of Management Services gifts, grants and proceeds continuing program revenue appropriation to receive and allocate settlement funds that are distributed at the sole discretion of the Attorney General. During 2014-15, \$3,698,900 in settlement funds to be allocated at the sole discretion of the Attorney General was deposited to this appropriation. In addition, during this same time period, \$153,000 in discretionary settlement funds for consumer protection was deposited into this appropriation. Discretionary settlement funds for consumer protection are amounts that may be allocated at the discretion of the Attorney General. However, per the court judgment, the funding must be utilized for consumer protection purposes. During 2015-16, DOJ received \$2,583,600 of Attorney General discretionary funding. In addition, during 2015-16, DOJ received \$252,800 of Attorney General discretionary funds that must be utilized for consumer protection purposes.

In multi-state cases, court-ordered restitution may be allocated by a third-party administrator rather than by DOJ. Where a third-party administrator is used, each Attorney General's Office is typically responsible for notifying the administrator of the names of recipients of the restitution amounts. The administrator is then responsible for disbursing the funds and reporting to the court and the parties on that process. In cases involving the allocation of restitution awards directly from defendants or through third-party administrators, the restitution funds do not pass through DOJ's restitution or gifts, grants and proceeds appropriations.

In addition to providing refunds and restitu-

tion payments, civil consumer protection court judgments and settlements secured by DOJ often include amounts for: (1) attorney fees and case costs; (2) civil forfeitures; (3) court fees, assessments and surcharges, including a 25% consumer protection surcharge on most state fines and forfeitures; and (4) award amounts for multiple purposes. The Wisconsin Constitution requires state forfeitures secured by DOJ to be deposited to the common school fund.

A state court may award reasonable and necessary costs of investigation to DATCP and reasonable and necessary expenses of prosecution, including attorneys' fees, to DOJ. When a person who violates the marketing and trade practices statutes is ordered to make these types of payments, these amounts are not deposited to the common school fund. Under s. 100.263 of the statutes, both agencies must credit these types of payments (and any such general payments to the state) to the state's general fund. However, DOJ is specifically authorized to credit 10% of the monies received for such costs, including attorney fees, to a program revenue, continuing investigation and prosecution appropriation. The funds credited to this appropriation (under s. 100.263 and other statutory provisions) may be utilized by DOJ to provide funding for the expenses of investigations and prosecutions of alleged consumer protection violations, as well as other violations pursued by the agency. Further, 2015 Act 55 provided that the investigations and prosecutions appropriation may also be utilized to support the Office of the Solicitor General within DOJ (the Office of the Solicitor General is discussed in a separate Legislative Fiscal Bureau informational paper entitled, "State Criminal Justice Functions"). The appropriation began the 2014-15 fiscal year with a balance of \$5,168,300 and received additional revenue of \$1,053,600 during the fiscal year. In 2014-15, \$1,133,400 was expended from the appropriation, and as a result, the appropriation closed 2014-15 with a balance of \$5,088,500. During the 2015-16 state fiscal year the appropriation received additional revenue of \$1,946,600, expended

\$1,134,600, and closed the 2015-16 state fiscal year with a balance of \$5,900,500.

Report on Restitution Payments

Under s. 165.25(10) of the statutes, DOJ is required to submit a semiannual report to the Department of Administration (DOA) and to the Joint Committee on Finance on the amounts re-

ceived pursuant to a court order or settlement agreement to provide restitution to victims. The Department's report is required to specify: (1) the amount of restitution received by DOJ during the reporting period; (2) the persons to whom DOJ paid restitution; (3) the amount paid by DOJ to each recipient during the reporting period; and (4) DOJ's methodology for selecting recipients and determining the amount paid to each recipient.

APPENDIX I

Summary of State Agency Programs Providing Consumer Protection Services

A number of state agencies perform functions that may be viewed as ensuring that products and services are provided to consumers in a safe, fair and lawful manner. Consumer protection, for the purposes of this informational paper, has generally focused on the response of the state to consumer complaints relating to dissatisfaction with products or services. In addition to the DATCP and DOJ consumer protection programs, a variety of state agencies respond to consumer complaints and provide information to consumers. The following is a listing of these agencies and a brief description of each agency's consumer protection activities.

Department of Administration - Energy Issues. The Department of Administration's Division of Energy, Housing and Community Resources provides general information on energy matters to consumers through the Home Energy Plus Program.

The Division provides energy assistance and weatherization benefits to low-income residents under the Home Energy Plus program. The Home Energy Plus website offers a toll-free number to provide program information.

In 2015-16, Home Energy Plus distributed approximately 150,700 copies of its program brochure in English, Spanish, and Hmong to local agencies and low-income energy assistance and weatherization service providers. Local providers may download and duplicate these brochures. Local providers must conduct their own outreach activities, which may include radio, television and newspaper advertisements and providing information to local community-based agencies.

Board on Aging and Long-Term Care. The Board on Aging and Long-Term Care monitors federal, state, and local long-term care policy, offers recommendations to the Governor, the Legislature, and the Wisconsin congressional delegation, advocates for the interests of individuals who need long-term care, and provides information to the general public.

In calendar year 2015, regional ombudsmen opened 1,025 cases and provided an agency program total of 45,810 consultations, informational contacts, and referrals. The Board's ombudsman staff and trained volunteers also made numerous unannounced visits to nursing homes and community care facilities and provided consulting and education services to these facilities as well as to resident and family councils. In calendar year 2015, volunteer ombudsmen donated 5,728 hours and made 2,662 facility visits. Finally, the Board provides consumers with information and assistance regarding Medicare, Medicaid, and private insurance policies through printed materials, a website, and the toll-free Medigap helpline. In calendar year 2015, the helpline received 13,081 calls.

Department of Children and Families. The child care regulatory program in the Department of Children and Families (DCF) licenses and regulates child care programs, children's residential programs, and child-placing agencies in order to promote the health, safety, and welfare of children in regulated community care arrangements. Child care and out-of-home care providers and facilities are required to meet health and safety standards before receiving a license to operate. Once a license is issued, DCF may regularly inspect the facilities for compliance with these

standards. In addition, DCF investigates complaints it receives regarding these providers and facilities. Violations can result in DCF assessing forfeitures, issuing correction orders, and taking other disciplinary actions.

DCF also provides consumers with information on all licensed and certified child care providers, as well as programs provided or contracted for by a school board. Through the DCF website, an individual can initiate a child care provider search through the child care quality rating and improvement system, known as YoungStar. The search produces information regarding the location, quality rating, type of child care (licensed, certified, or school program), contact information, and the regulatory history of the child care provider. For child care providers not participating in YoungStar, the provider may still be accessed through the YoungStar website, and the same information will be provided, except for the quality rating. Child care providers not participating in YoungStar may not receive child care subsidy reimbursements under the Wisconsin Shares program. Child care providers can be searched by address, city, ZIP code, county, type of child care, provider name, and whether the provider is participating in YoungStar. The regulatory history shows compliance history, a list of any violations, and the corrective action plan for any violations.

Educational Approval Board. The Educational Approval Board (EAB) approves for-profit postsecondary schools (other than schools regulated by other agencies, such as cosmetology, barbering, and real estate schools), out-of-state nonprofit colleges and universities and in-state nonprofit postsecondary institutions incorporated after December 31, 1991. Institutions that have been approved by another state that is a participant in the State Authorization Reciprocity Agreement (SARA) do not require EAB approval.

Additionally, the EAB monitors and periodically reviews approved institutions and programs and investigates consumer complaints regarding facilities, quality of instruction, course content, financial practices and misrepresentations by a school. The Board attempts to resolve complaints through mediation and may also hold hearings, suspend or revoke a school's approval, make a demand upon a school's surety bond or bring action in any court in Wisconsin. The Board manages student and financial records in the event of a school closing.

Department of Financial Institutions. The Department of Financial Institutions (DFI) was created as part of the 1995-97 biennial budget to consolidate regulatory functions related to financial institutions. DFI consists of four divisions: the Division of Corporate and Consumer Services, the Division of Banking, the Division of Securities, and the Division of Administrative Services and Technology. The Bureau of Consumer Affairs administers the Wisconsin Consumer Act and the Office of Financial Literacy provides information to the public on matters of personal finance. The Office of Credit Unions is attached to the Department for administrative purposes and is responsible for regulating the 143 credit unions chartered by the state.

DFI serves as the public custodian of charter documents creating Wisconsin corporations and other business entities, annual reports, and other documents submitted by those entities. There are approximately 438,600 active entities on file with the Department. DFI also examines and files documents under the Uniform Commercial Code, filing 159,500 documents in 2015.

The Department registers 9,300 charitable organizations, professional fundraisers, and professional employer organizations and groups. It performs compliance reviews and responds to complaints related to such entities.

The Department regulates state-chartered banks and trusts (172), savings and loan associations (three), and savings banks (11). The Department also licenses approximately 18,900 solicitors/collectors, adjustment service companies, collection agencies, community currency exchanges, insurance premium finance companies, loan companies, sales finance companies, sellers of checks, mortgage banking professionals, payday lenders and auto title lenders. In carrying out its regulatory duties, DFI conducts safety and soundness and compliance examinations, informs the public and regulated industries of their rights and obligations under the law, and responds to complaints filed against firms and individuals regulated by DFI.

The Department is also responsible for regulating the offer and sale of securities, franchise investment offerings, and corporate takeovers. It does this by requiring registration of securities and franchise offerings (or by allowing certain exemptions from registration), and by licensing and monitoring broker-dealers, securities agents, and investment advisers. In 2015, the Division of Securities responded to 85 complaints, associated with both licensed and unlicensed entities. As a result of those investigations, two warning letters were issued, 15 administrative orders were issued against 31 respondents and six matters were referred for criminal prosecution against 13 defendants. Approximately \$631,500 was awarded as monetary relief to investors, and \$80,000 in fines and penalties was ordered.

DFI administers the Wisconsin Consumer Act, which governs consumer credit transactions. During 2015, the Bureau of Consumer Affairs received 1,040 consumer complaints. Subsequent investigations revealed 185 compliance problems under the Wisconsin Consumer Act, resulting in orders requiring merchants to correct their violations. A total of \$272,052 was returned to consumers as refunds, credits, or adjustments.

Department of Health Services. The Department of Health Services (DHS) licenses and regulates certain types of health care facilities and providers (such as nursing homes, hospitals, community-based residential facilities, adult family homes, home health agencies and hospices), and child care facilities. As part of its regulatory function, DHS conducts surveys of certain types of facilities to ensure that they meet health and safety standards. In addition, DHS investigates complaints it receives regarding the operation of these types of facilities. Violations can result in DHS assessing forfeitures, issuing correction orders, and taking other disciplinary actions.

DHS develops and distributes health-related information that is used primarily by consumers. For example, DHS has created a variety of consumer guides that can be used by individuals who are considering long-term care options. The DHS Division of Public Health produces consumer information on topics ranging from communicable diseases, injury prevention and environmental health resources. This type of information is available on the DHS website. For example, the DHS sport fish consumption program examines the health effects of consuming chemical contaminants in sport fish and, with the Department of Natural Resources, issues fish consumption advisories.

The DHS Office of Health Informatics collects and makes available health statistics, demographic and vital records information for public and private users. The Office produces a range of data files, such as information on physician visits, types of services physicians provide, physicians' charges, and patient demographics.

Office of the Commissioner of Insurance. The Office of the Commissioner of Insurance (OCI) regulates insurance companies and agents by ensuring that insurance companies are financially solvent and adhering to consumer protection laws. In 2015, OCI's Bureau of Market Reg-

ulation investigated and resolved 3,780 written consumer complaints and inquiries and answered over 25,000 telephone inquiries or requests for information. Most official complaints involve the handling of claims, but other issues brought up in these complaints include service to policyholders, marketing and sales practices, and underwriting. Following its investigation of a complaint, OCI may order license disciplines, demand restoration of benefits or rights to policyholders, and levy forfeitures.

As part of its public information activities, OCI develops and distributes brochures on selected insurance topics, buyer's guides, and other materials in response to requests from citizens, agents and insurers. These publications are available through the OCI website.

Office of Lawyer Regulation. The Office of Lawyer Regulation (OLR) investigates alleged violations of the rules of professional conduct for attorneys licensed to practice law in Wisconsin and includes the Board of Administrative Oversight, and the Preliminary Review Committee. The Board of Administrative Oversight, a 12-person board composed of eight lawyers and four non-lawyers, is responsible for monitoring the fairness, effectiveness, and efficiency of the attorney regulation system, while the Preliminary Review Committee, a 14-person committee composed of nine lawyers and five non-lawyers, determines whether there is cause to file a complaint with the Supreme Court concerning lawyer misconduct, following the procedures outlined below.

The inquiry and grievance process concerning attorney conduct is designed to: (1) make the lawyer regulation process more accessible to the general public; (2) quickly address grievant concerns and, where possible, resolve them; (3) offer lawyers who have minor practice problems alternatives designed to enhance the quality of their services; and (4) promptly refer for full investiga-

tion those matters that may involve serious misconduct. The OLR is responsible for receiving, screening, investigating and prosecuting grievances that include allegations of such things as neglect, lack of communication, dishonesty and conflicts of interest. The OLR has established a central intake unit, which receives inquiries and grievances concerning the conduct of an attorney in writing or by telephone. Intake staff take information about the alleged conduct, check for other grievances against the attorney, and inform the grievant that the matter will be assigned to an intake investigator who will contact the grievant within a few days to discuss the matter further.

After screening, a grievance may be closed if: (1) the allegations are not within the OLR's jurisdiction; (2) the grievance can be reconciled between the grievant and attorney if it is a minor dispute; or (3) the grievance is diverted to an alternatives-to-discipline program.

Grievances that cannot be resolved are referred for investigation to be conducted by the OLR staff or with the assistance of 16 regionally based Court-appointed committees. After an investigation is completed, the grievance may be: (1) dismissed for lack of sufficient evidence to proceed; (2) diverted to an alternatives-to-discipline program; (3) disposed through a consensual reprimand; or (4) presented to the Preliminary Review Committee for a determination of whether there is a cause to file a complaint with the Supreme Court, which makes the final disposition.

On July 1, 2015, 744 matters were pending disposition in the OLR. The OLR received 1,979 new grievances in the 2015-16 fiscal year. In 2015-16, 42 attorneys were publicly disciplined and 26 private reprimands were issued. [Private reprimands are generally imposed for an isolated act of misconduct, which causes relatively minor harm. These reprimands may be used as aggravating factors in future disciplinary matters.] Further, 113 attorneys entered the alternatives-to-

discipline program. Finally, 53 cases were dismissed with an advisory letter. On June 30, 2016, 593 matters were pending disposition in the OLR.

The OLR office is in Madison with a total staff of 27.5 positions: 1.0 director, 2.0 deputy directors, 13.95 investigators, 7.0 administrative and support staff, 1.0 litigation counsel, and 2.55 assistant litigation counsel. Total expenditures for the OLR were \$3,078,100 PR in 2015-16 and are budgeted at \$3,043,100 PR in 2016-17. Funding for the OLR is generated from assessments on attorney members of the State Bar of Wisconsin, costs recovered from attorneys disciplined under formal proceedings, and fees on attorney petitions for reinstatement.

Public Service Commission. The Commission works to ensure that, in the absence of competition, adequate and reasonably priced service is provided to utility customers. The Commission's consumer protection activities are the responsibility of the Division of Water, Telecommunications and Consumer Affairs. The Division's Consumer Affairs work unit reported 4,777 total contacts from consumers in calendar year 2015, and an estimated 4,600 contacts from consumers were received during calendar year 2016. Of the total contacts received, 1,664 became official complaints during calendar year 2015, and an estimated 1,215 contacts were handled as complaints during calendar year 2016. Most complaints concern disconnections, billing errors, applications for service, deposits, and deferred payment agreements.

In 2016, approximately 38% of all complaints involved combined electric and gas service, 22% involved electric service, 6% involved natural gas service, 25% involved either water, combined water and sewerage service, or combined water and electric service matters, 8% involved telecommunications service, and 1% involved miscellaneous issues. Actions taken by the Division

to resolve complaints include investigation, mediation, and the issuance of informal determinations by Commission staff. Decisions by staff may be appealed to the Commission, which may issue cease-and-desist orders, refer a matter to the Department of Justice for civil prosecution, or reopen the complaint for additional investigation. This Division monitors large gas and electric utilities' early identification programs for customers facing energy hardships and seeks to resolve such hardships before they become heating crises in winter. All consumer matters are handled through the Commission's office in Madison.

Department of Safety and Professional Services. The Department of Safety and Professional Services (DSPS) administers certain activities and programs regarding licensing of professional occupations and trade professions. The Department's Division of Legal Services and Compliance provides investigative and prosecutorial services relating to the licensed professions (such as medical doctors, nurses, dentists, and pharmacists) under the jurisdiction of 27 regulatory boards or the Department's direct licensing authority. As of July, 2016, the Department and its boards regulated approximately 466,800 active credential holders in 229 different professions, occupations and businesses. The Department received 3,214 complaints involving regulated persons or entities in 2015-16. Outcomes of a complaint investigation may include dismissal of the complaint, informal resolution, or formal disciplinary action. The Department and its regulatory boards have the authority to limit, suspend, or revoke any credential. The Department has one state office located in Madison and has staff in four district offices who work with the trades professions. Additional information on the activities administered by DSPS is available in the LFB informational paper entitled, "Regulation of Occupations by the Department of Safety and Professional Services."

Department of Transportation. The Division of Motor Vehicles of the Department is responsible for the licensing of new and used motor vehicle dealers, recreational vehicle dealers, motor vehicle manufacturers and distributors, and salvage dealers. The Department investigates an average of about 1,300 complaints annually related to sales and lease practices, warranties, product quality, and the motor vehicle lemon law. Most investigations involve insufficient disclosure of used vehicle condition. The Department's investigations may result in informal mediation, formal warnings requiring a written assurance that the business will discontinue a practice, license suspension or revocation, or the administrator of the Division of Hearings and Appeals may issue a special order against specific licensee practices. The Department conducts public appearances, publishes brochures and provides information on its website regarding vehicle purchasing and consumer protection. The agency employs regional investigators and operates a consumer assistance hotline.

The Department also provides consumer protection services to customers of the state's vehicle inspection program. This contractor-managed program conducts emissions testing of about 650,000 vehicles annually in southeastern Wisconsin, pursuant to Clean Air Act requirements for areas with air quality issues. Departmental auditors regularly review the 200 private inspection facilities that provide these services to ensure compliance with applicable laws and contractual obligations. The auditors investigate consumer issues related to emissions testing, wait time, and

fraud complaints. In addition, auditors review electronic records and videos to identify and investigate possible fraudulent practices.

Department of Workforce Development. The Department enforces both civil rights and labor standards laws through the Civil Rights Bureau and the Labor Standards Bureau, which are located in the Division of Equal Rights. The Bureau of Civil Rights enforces anti-discrimination laws affecting housing, employment, and public accommodations. DWD received approximately 3,400 discrimination complaints in 2015; approximately 95% of the discrimination cases were employment-related. Cases are investigated and may be conciliated or brought before an administrative law judge for a formal hearing. The Civil Rights Bureau also enforces the family and medical leave law and certain anti-retaliation laws.

The Labor Standards Bureau enforces labor standards laws, including laws governing minimum wage, overtime, and child labor. In 2015, the Bureau investigated approximately 2,400 cases, about 2,200 of which involved unpaid wage claims from employees.

The Department conducts a public awareness program for anti-discrimination laws and labor standards that includes publishing brochures and conducting public information presentations. The Equal Rights Division also has a website that provides information related to both civil rights and labor standards programs and laws. The Equal Rights Division maintains offices in Madison and Milwaukee.

APPENDIX II

Summary of DATCP Trade and Consumer Protection Administrative Rules

Consumer Protection Administrative Rules

Academic Material Unfair Trade Practices (ATCP 128). Prohibits the sale of academic material, such as term papers purchased to be submitted as original work for the purpose of fulfilling requirements of any learning institution in the state.

Art Prints and Multiple Art; Sales Practices (ATCP 117). Prohibits the misrepresentation of multiple artwork (artwork produced from a master in multiple copies), including: its status as an original reproduction; bearing of the artist's signature; status as a limited edition; the methods of reproduction; other elements of the artwork affecting the buyer's evaluation; the market value of the artwork; disclosure and warranty statements; and required records. The rule requires a disclosure and warranty statement for multiple artwork sold at a price exceeding \$800.

Car Rentals; Customer Notices (ATCP 118). Specifies the form and content of a notice car rental companies that offer and sell damage waivers are required to provide to customers.

Chain Distributor Schemes (ATCP 122). Prohibits chain distributor schemes, in which a person, upon a condition that he or she makes an investment, is granted a license to recruit, for profit, additional investors who in turn further perpetuate the chain of investors.

Consumer Product Safety (ATCP 139). Establishes labeling requirements for hazardous substances and bans the use of extremely hazardous products, including certain toys and children's clothing.

Coupon Sales Promotions (ATCP 131). Prohibits misrepresentation in the offering of coupons, requires written agreements between coupon promoters and participating merchants, and requires full disclosure of restrictions on coupon redemption.

Credit Report Security Freezes (ATCP 112). Defines the identification requirements for placing and removing a freeze on a credit report.

Direct Marketing and No-Call List (Chapter ATCP 127). Establishes disclosure requirements, including the initial identification of the soliciting business firm and its products or services offered for sale. Prohibits unfair practices, such as false claims to be part of a survey or research project, false special offers or deceptive free gifts and unauthorized payments. Requires direct marketers to maintain sales records. ATCP 127 also implements the state do-not-call program.

Environmental Labeling of Products (ATCP 137). Establishes standards for advertising and labeling that makes environmental claims for consumer products, such as products that advertised as recycled, recyclable or degradable. Further establishes labeling requirements for plastic containers to facilitate recycling or reuse of the containers.

Freezer Meat and Food Service Plans (ATCP 109). Prohibits misrepresentation in the advertising and sale of freezer meats and food service plans, including bait-and-switch selling, false representations of savings from advertised food service plans and misrepresentation of special offers or price concessions, guarantees, identity of the seller, price or financing. Establishes contract requirements, and creates a three-day right to cancel.

Home Improvement Practices (ATCP 110). Prohibits deceptive practices, including model home misrepresentations, product misrepresentations, bait-and-switch selling, deceptive gift offers, price and financing misrepresentation, and misleading guarantees. Establishes written guarantee and contract requirements and requires timely performance, except where delay is unavoidable and timely notice is given. Also regulates the guarantee of basement waterproofing services, and prohibits contractors from using the pressure pumping method to waterproof basements without a seller's and engineer's analysis; basement-waterproofing provisions were previously contained in ATCP 111.

Manufactured Home Communities - Fair Trade Practices (ATCP 125). Prohibits tie-in sales, which require the purchase of a mobile home or any other payment to qualify or receive preferential status for a mobile home park site. Establishes rental agreement and disclosure requirements, including utility charge limitations. Regulates termination of tenancy, mobile home resale practices, mobile home relocations and changes in rental terms or park rules.

Motor Vehicle Repair (ATCP 132). Establishes the regulation of motor vehicle repair transactions and practices for the repair of autos, motorcycles and small trucks. Prohibits unauthorized repairs, and generally requires shops to give customers a written repair order and written estimate of cost prior to commencing repairs and requires the return of used parts to customers upon request.

Price Comparison Advertising (ATCP 124). Prohibits misleading price comparisons and establishes standards for fair price comparisons, including standards establishing the seller's actual or offered price, the seller's future price for the product and the competitor's price.

Real Estate Advertising, Advance Fees (ATCP 114). Prohibits misrepresentation in the

solicitation of real estate advance fees collected for listing or advertising the sale or lease of property, and requires that copies of all contracts be given to contracting property owners.

Referral Selling Plans (ATCP 121). Prohibits referral-selling plans, which induce a consumer sale based on an offer of compensation to a prospective buyer, unless the compensation is paid prior to the sale.

Residential Rental Practices (ATCP 134). Requires disclosure of known housing code violations and other conditions affecting habitability prior to rental. Establishes standards and procedures for the return of security deposits and earnest monies, and requires landlords to comply with repair promises. Prohibits certain unfair rental practices, including the advertising and rental of condemned premises, unauthorized entry during tenancy, confiscation of personal property and unfair retaliatory eviction. Prohibits certain practices from inclusion in rental agreements, such as eviction other than by judicial procedures, the acceleration of rent payments, the imposition of liabilities on tenants or the removal of landlord liabilities.

Electronic Communications Services (ATCP 123). Regulates subscription and billing practices related to cable and telecommunication services provided to consumers primarily for personal, household or family use. Also establishes requirements for provision of video services for providers such as cable operators receiving a statewide franchise.

Work Recruitment Schemes (ATCP 116). Prohibits misrepresentations and other misleading practices by employment recruiters that require employment recruits to make an investment or purchase. Requires the disclosure of purchases or investments to be made by potential recruits as a condition of employment and the basis, source and form of potential earnings to be made by such recruits.

Weights and Measures Administrative Rules

Fair Packaging and Labeling (ATCP 90). Regulates the packaging and labeling of products, including the accuracy and location of package or label descriptors that identify the product and list product origin, content, quantity and nutritional qualities.

Flammable, Combustible and Hazardous Liquids (ATCP 93). Specifies standards and requirements for proper storage, handling and dispensing of flammable liquids.

Gasoline Advertising (ATCP 113). Prohibits misrepresentation relating to octane rating or octane value of gasoline and prohibits misrepresenting gasoline as aviation fuel when the product is not suitable for aviation use.

Mobile Air Conditioners; Reclaiming or Recycling Refrigerant (ATCP 136). Regulates motor vehicle repair shops that install or repair mobile air conditioners containing ozone-depleting substances.

Petroleum and Other Liquid Fuel Products (ATCP 94). Establishes standards and specifications for quality of gasoline, petroleum-based and other liquid fuels, and provides procedures for inspection of such products.

Selling Commodities by Weight, Measure or Count (ATCP 91). Prescribes standards for measuring product volume by weight, measure or count to achieve greater uniformity in methods of sale used in the state, increase the accuracy of quantity information, prevent consumer deception and promote fair competition.

Weighing and Measuring Devices (ATCP 92). Sets regulatory standards and permit requirements for commercial weighing and measuring devices, including vehicle and livestock scales, gas pump volume/price indicators and liquefied petroleum gas specifications.

Trade Practice Administrative Rules

Milk Contractors (ATCP 100). Provides reasonable assurance that producers will be paid for their milk and prohibits price discrimination between individual producers.

Dairy Trade Practices (ATCP 103). Establishes a uniform system of accounting to determine whether selected dairy products are being sold below cost, which is prohibited.

Grain Dealers and Grain Warehouse Keepers (ATCP 99). Requires warehouse contents be insured and that grain inventories of sufficient quantity and quality be maintained to meet all outstanding obligations to grain depositors and to be returned to individual depositors on demand. Grain dealers are also required to measure truthfully the type, weight, grade and quality of grain when determining purchase price.

Price Discrimination and Related Practices (ATCP 102). Prohibits price discrimination by sellers of fermented malt beverages, soft drinks or motor fuels to prevent unfair trade practices.

Price Gouging During an Emergency (ATCP 106). Prohibits sellers from charging excessive prices during emergencies, including natural disasters, civil disorder or hostile actions, as declared by the Governor. Unless otherwise shown to be justified, prices are unlawful during emergencies if they are more than 10% above the highest price at which the seller sold like consumer goods or services during the 60 days preceding the declared emergency.

Public Warehouse Keepers (ATCP 97). Ensures public warehouse facilities are suited to reasonably protect the products in storage. Requires warehouse contents be insured and storage contents be disclosed by warehouse keepers.

Sales Below Cost (ATCP 105). Generally prohibits sales below the seller's costs. Further, prohibits selling tobacco products, alcoholic beverages

ages or motor vehicle fuel without required markups between wholesalers and retailers. See Appendix III for further details.

Vegetable Contractors (ATCP 101). Regulates vegetable procurement contracts to ensure producers receive compensation for goods sold.

APPENDIX III

Unfair Sales Act/Minimum Markup Law

The Unfair Sales Act under s. 100.30 of the statutes generally prohibits selling products below cost. Although the law intends to ensure fair competition among business, the section also contains a policy statement identifying below-cost sales as a form of deceptive advertising that "misleads the consumer." The provision is also known as the minimum markup law, as it requires certain products, namely motor vehicle fuel, tobacco products and alcoholic beverages, to be sold at certain levels or percentages above invoice cost. All other products may not be sold below cost. DATCP, in conjunction with district attorneys, has responsibility for enforcing the act. The Unfair Sales Act took effect in the 1930s with the intent of preventing predatory pricing by large firms. It was thought that large firms could reduce prices below cost to levels smaller firms could not match. Larger firms would incur short-term losses but drive smaller firms out of business. It was thought the remaining large firms would use near-monopoly power to charge exorbitant prices after smaller firms were mostly forced from the market.

Alcoholic beverages and tobacco products are sold at a markup of 3% to wholesalers and 6% to retailers. Due to compounding, these markups yield a 9.18% increase over the price set by manufacturers. Motor vehicle fuel sales similarly re-

quire a minimum markup of 3% to wholesalers and 6% to retailers. This also yields a total minimum markup of 9.18% of the statutorily defined cost of the fuel. In the case of a refiner or wholesaler of motor vehicle fuel selling directly at retail, the minimum markup is 9.18%. The statutes include applicable taxes and fees as well as transportation costs prior to imposing the minimum markup.

Table 6 below shows simplified examples of how the minimum markup requirement for motor vehicle fuel sales is calculated, given average posted terminal prices, under current law. Transportation costs may vary based on factors including distance between a retail station and fuel terminal, but costs are assumed at about 2¢ per gallon. Table 6 uses 51.3¢ for total taxes and fees, which includes the following: (1) a state tax of 30.9¢ per gallon of fuel; (2) a federal tax of 18.4¢ per gallon of gasoline (24.4¢ per gallon of diesel); and (3) a state petroleum inspection fee of 2¢ per gallon.

Below-cost sales are allowed under certain circumstances, including: (1) bona fide clearance sales; (2) sales of perishable merchandise; (3) sales of damaged or discontinued merchandise; (4) liquidation sales; (5) sales for charitable purposes; (6) contract sales to government bodies;

Table 6: Current Minimum Markup Law Calculations

Average Terminal Price	Transportation Cost	Taxes and Fees	Subtotal	Minimum Markup (9.18%)	Minimum Pump Price
\$1.00	\$0.02	\$0.513	\$1.53	\$0.14	\$1.67
2.00	0.02	0.513	2.53	0.23	2.76
3.00	0.02	0.513	3.53	0.32	3.85
4.00	0.02	0.513	4.53	0.42	4.95

(7) prices set to meet a competitor's documented price; and (8) court-ordered sales. For adjustments of motor vehicle fuel prices to match those of a competitor, the person making the adjustment must notify DATCP the day on which an action is taken. This exempts the person from enforcement actions otherwise taken in response to below-cost sales.

DATCP or a district attorney may seek forfeitures of not less than \$50 nor more than \$500 for the first below-cost sale and not less than \$200 nor more than \$2,500 for each subsequent violation. DATCP has authority to issue special orders under this section, any violation of which may incur a forfeiture of not less than \$200 nor more than \$5,000.

In addition, any parties harmed or threatened with harm by sales of motor vehicle fuel or tobacco products that violate minimum markup requirements may also seek injunctions and damages against sellers. These parties may bring claims of \$2,000 or three times the amount of any monetary loss, whichever is greater, for each day of a continued violation. Claims may include accounting and attorney costs. Claims pertaining to motor vehicle fuel must also be made within 180 days of a violation.

In January, 2009, the Dane County Circuit Court ruled, in response to a challenge of the minimum markup law's validity under the Wisconsin Constitution, that the law was not unconstitutional beyond a reasonable doubt, and the law would continue to be in effect. However, in February, 2009, the United States District Court for the Eastern District of Wisconsin ruled that the minimum markup law as it applies to motor vehicle fuel restrains trade in violation of the federal Sherman Act and does not meet criteria for state immunity. DATCP stopped enforcing the law for motor vehicle fuel after this decision.

Provisions regarding tobacco, alcohol and other below-cost sales were not affected by the ruling, and DATCP continued enforcing these non-fuel provisions.

In September, 2010, the U.S. 7th Circuit Court of Appeals overturned the District Court, ruling the minimum markup as applied to motor vehicle fuel did not lead to retailer collusion or price-fixing. DATCP thereafter resumed enforcement of the minimum markup as it applies to motor vehicle fuel. In May, 2012, Wisconsin's Fourth District Court of Appeals also affirmed the 2009 Dane County decision upholding the law.

As of December, 2016, a lawsuit challenging s. 100.30 of the statutes on state constitutional grounds remains pending in Vilas County. The suit, filed in August, 2016, claims the minimum markup provisions: (1) violate the due process of retailers and consumers by requiring prices higher than what may otherwise prevail in the market; and (2) violate the equal protection of sellers and consumers by requiring markups on sales of motor vehicle fuel, alcohol and tobacco products, but not other transactions.

In addition to protections against below-cost sales, s. 100.305 of the statutes attempts to protect consumers against excessive pricing. The statute prohibits sales of consumer goods at "unreasonably excessive prices" during "abnormal economic disruptions." Periods of disruption must be declared by the Governor and include natural disasters, hostile actions, energy supply disruptions, or labor or civil unrest. DATCP promulgated administrative rule ATCP 106 in 2008 to specify unreasonably excessive prices. DATCP or DOJ, after consulting with DATCP, may issue warnings to violating sellers or prosecute excessive pricing. Violations are subject to forfeitures up to \$10,000.

APPENDIX IV

**DATCP-Referred Consumer Protection
Court Cases Closed in 2014, 2015 and 2016 through June 30
(Total Judgments of \$10,000 or More and Criminal Cases)**

Case Name	Case Type	Where Referred	Case Description	Resolution	Forfeiture, Restitution and Other Payments	Other Conditions
Civil Cases						
Affinion Group Inc.; Trilegiant Corporation; WebLoyalty.com Inc.	Direct Marketing; Fraudulent Representations	Wisconsin DOJ (Dane County Circuit Court)	The defendant was alleged to have charged consumers for services without their authorization, and misrepresented itself as one of its marketing partners with whom consumers did business.	Judgment	Forfeiture of \$250,000 and restitution of \$19,387,162 to consumers in 47 states.	Business entities involved are required to change their practices of disclosure, solicitation, and billing.
Alter Trading Corporation	Weights and Measures	La Crosse County DA	The defendant was alleged to have represented a false quantity and caused a scale ticket to be incorrect.	Settlement/Stipulation	Forfeiture of \$10,000.	
American Broadband & Telecommunications Co.	Do-Not-Call Registry; Telemarketing	Columbia County DA	The defendant was alleged to have required employees to violate the no-call list.	Settlement/Stipulation	Forfeiture of \$75,000.	
AmeriGas Propane, L.P.	Weights and Measures	Racine County DA	The defendant was alleged to have operated unlicensed LPG meters.	Settlement/Stipulation	Forfeiture of \$46,000.	
APX Alarm; Vivint, Inc.	Direct Marketing; Fraudulent Representations	Wisconsin DOJ (Milwaukee County Circuit Court)	The defendant was alleged to have made misleading and deceptive sales while marketing its products door-to-door.	Settlement/Stipulation	Forfeiture of \$65,000, \$148,000 in refunds and cancellation of \$450,000 in consumer debt.	Vivint (formerly APX Alarm) agrees to improve its disclosures to consumers about its services and charges, and to make it easier for them to cancel their contracts.

Case Name	Case Type	Where Referred	Case Description	Resolution	Forfeiture, Restitution and Other Payments	Other Conditions
Badger Scale, Inc.	Weights and Measures	Sauk County DA	The defendant was alleged to have: misrepresented a device was correct; had test reports that did not meet requirements; employed uncertified technicians; failed to provide reports to DATCP; and violated service; maintenance and testing standards.	Settlement/Stipulation	Forfeiture of \$14,544.	
Brian Williams; Readers Club Home Office, Inc.	Do-Not-Call-Registry; Fraudulent Representations	Wisconsin DOJ (Outagamie County Circuit Court)	The defendant was alleged to have failed to register as a telemarketer and violated the no-call list during marketing of magazine subscriptions.	Settlement/Stipulation	Forfeiture of \$50,000.	If defendant decides to do business in Wisconsin, 30 day notice must be provided.
Clif Bar & Company	Weights and Measures	Rock County DA	The defendant was alleged to have misrepresented quantities offered for sale in certain prepackaged foods.	Settlement/Stipulation	Forfeiture of \$31,963.	
Consumer Advocates Group	Fraudulent Representations	Federal Trade Commission (FTC)	The defendant was alleged to have made false claims while selling services as a mortgage foreclosure consultant.	Settlement/Stipulation	Restitution of \$70,921 in Wisconsin.	
Corey Oil, Ltd.	Weights and Measures	Waukesha County DA	The defendant was alleged to have sold gasoline that did not meet the posted octane.	Settlement/Stipulation	Forfeiture of \$10,000.	
Creative Openings	Do-Not-Call Registry; Telemarketing	Outagamie County DA	The defendant was alleged to have failed to register as a telemarketer, and to have violated the no-call list.	Settlement/Stipulation	Forfeiture of \$45,000.	
Easy Mortgage, Inc.	Do-Not-Call Registry	Waukesha County DA	The defendant was alleged to have violated the no-call list.	Settlement/Stipulation	Forfeiture of \$31,420.	
Energy I, LLC; ES Technology LLC; First Energy, LLC; Mark F. Stitt	Direct Marketing; Fraudulent Representations	Wisconsin DOJ (Fond du Lac County Circuit Court)	The defendant was alleged to have made fraudulent representations of an attic insulation product to elderly homeowners.	Judgment	Forfeiture of \$108,694, restitution of \$100,000 and \$6,867 in attorney's fees.	
Gander Mountain Company	Weights and Measures	Brown County DA	The defendant was alleged to have misrepresented prices and to have failed to provide refund signage.	Settlement/Stipulation	Forfeiture of \$13,049.	

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Gordy's Chippewa Foods, Inc.	Weights and Measures	Eau Claire County DA	The defendant was alleged to have misrepresented quantities offered for sale for certain products.	Settlement/Stipulation	Forfeiture of \$13,000.	
Great Expectations; JRM Enterprises	Securities; Fraudulent Representations; Do-Not-Call-Registry	Wisconsin DOJ (Milwaukee County Circuit Court)	The defendant was alleged to have made fraudulent representations about its dating service while conducting unregistered telemarketing to consumers on the no-call list.	Settlement/Stipulation	Forfeiture of \$500,000, fees of \$50,000.	
Griffin Sales, Inc.	Direct Marketing; Prize Notices	Waukesha County DA	The defendant was alleged to have omitted required information from prize notices.	Settlement/Stipulation	Forfeiture of \$9,000 and fees of \$5,434.	
Lakes Gas Co.	Misrepresentation, Improper Billing	Wisconsin DOJ (Polk County Circuit Court)	The defendant was alleged to have billed consumers a higher price than previously agreed upon.	Settlement/Stipulation	Forfeiture of \$10,000 and restitution of \$86,686.	
MDSFEST, Inc.	Weights and Measures	Eau Claire County DA	The defendant was alleged to have misrepresented quantities offered for sale for certain products.	Settlement/Stipulation	Forfeiture of \$24,391.	
Menard, Inc.	Weights and Measures	Racine County DA	The defendant was alleged to have placed rejected product back on the shelf for sale.	Settlement/Stipulation	Forfeiture of \$10,000.	
Mississippi River Rental	Fraudulent Representations	La Crosse County DA	The defendant was alleged to have received payments without providing services.	Judgment	Forfeiture of \$12,223 and restitution of \$56,659.	
Morton Salt, Inc.	Weights and Measures	Marinette County DA	The defendant was alleged to have misrepresented quantities offered for sale in certain products.	Settlement/Stipulation	Forfeiture of \$26,127.	
Pinnacle Security; Pinnacle Security Group; Pinnacle Security Holdings	Direct Marketing; Fraudulent Representations	Wisconsin DOJ (Milwaukee County Circuit Court)	The defendant was alleged to have made untrue, misleading and deceptive representations while marketing its products door-to-door.	Settlement/Stipulation	Forfeiture of \$40,000, \$23,500 in refunds and cancellation of \$1 million in consumer debt.	Pinnacle agrees to improve its disclosures to consumers about its services and charges, and to make it easier for them to cancel their contracts.
Roundy's Supermarkets, Inc.	Weights and Measures	Wood County DA	Roundy's was alleged to have misrepresented quantities offered for sale in packages of seafood.	Settlement/Stipulation	Forfeiture of \$26,061.	

Case Name	Case Type	Where Referred	Case Description	Resolution	Forfeiture, Restitution and Other Payments	Other Conditions
Sears, Roebuck & Co.	Weights and Measures	Waukesha County DA	The defendant was alleged to have misrepresented the price of certain items.	Settlement/Stipulation	Forfeiture of \$12,938.	
Sendik's Food Markets, LLC	Weights and Measures.	Ozaukee County DA	The defendant was alleged to have misrepresented quantities offered for sale for certain products.	Settlement/Stipulation	Forfeiture of \$33,500.	
Seneca Tank, Inc.	Weights and Measures	Chippewa County DA	The defendant was alleged to have operated a service company without a license or certified technicians.	Settlement/Stipulation	Forfeiture of \$10,467.	
Senior Safe Alert	Telemarketing; Fraudulent Representations	FTC & Florida AG	The defendant was alleged to have made fraudulent representations to senior citizens in the sale of medical devices via telephone.	Judgment	Forfeiture of \$23 million, \$459,792 of which is dedicated to Wisconsin.	Business is banned from telemarketing.
T & R Properties, LLP d/b/a Lake Delton Shell	Weights and Measures	Sauk County DA	The defendant was alleged to have misrepresented the octane rating of fuel sold.	Settlement/Stipulation	Forfeiture of \$36,522.	
Target Corporation	Weights and Measures	Waukesha County DA	Target was alleged to have misrepresented the price of certain items.	Settlement/Stipulation	Forfeiture of \$46,486.	
Thor Corp; Green Palm Vacations, Inc.; Perfekt Marketing, LLC.	Direct Marketing; Prize Notices	Wisconsin DOJ (Dane County Circuit Court)	The defendants were alleged to have misrepresented prizes during a direct marketing campaign of travel club memberships.	Settlement/Stipulation	Forfeiture of \$18,380 and fees of \$6,620 by each defendant.	
U.S. Venture, Inc.	Weights and Measures	Brown County DA	The defendant was alleged to have sold gasoline not meeting required specifications.	Settlement/Stipulation	Forfeiture of \$40,000.	
Versatile Marketing Services	Do-Not-Call Registry; Direct Marketing	Waukesha County DA	The defendant was alleged to have violated the no-call list while marketing alarm systems to consumers.	Settlement/Stipulation	Forfeiture of \$50,000.	
Your Home Improvement Company	Telemarketing	Wisconsin DOJ (La Crosse County Circuit Court)	The defendant was alleged to have failed to register as a telemarketer.	Settlement/Stipulation	Forfeiture of \$30,000.	

Case Name	Case Type	Where Referred	Case Description	Resolution	Forfeiture, Restitution and Other Payments	Other Conditions
Criminal Cases						
Bauer, Kurt	Home Improvement Theft	Ozaukee County DA	The defendant was accused of theft by contractor.	Pleaded no contest to one misdemeanor.	Fees of \$176.	2 years' probation, and defendant may not work as a home improvement contractor.
Dixon, Ray	Theft by Contractor	Waukesha County DA, Milwaukee County DA	The defendant was accused of accepting down payments on home improvement, and failing to provide service.	Pleaded guilty to one felony count of theft by contractor.	Restitution of \$9,854.	18 months' state prison with 2 years' extended supervision and 3 years' probation. Defendant may only work as an employee, and may not do any contracting or run any business.
Fyre, Bradley	Home Improvement Theft	Columbia County DA	The defendant was accused of committing home improvement theft.	Pleaded no contest to two misdemeanor counts of theft.	Restitution of \$3,348.	Two years' probation imposed.
Gates, Paul	Theft by Contractor	Dane County DA	The defendant was accused of theft by contractor.	Pleaded no contest to one felony count of theft by contractor.	Forfeiture of \$2,026 and restitution of \$18,498.	5 years' probation imposed. Defendant is ordered not to operate as a home improvement contractor.
Handeland, Thomas	Theft by Contractor	Waukesha County DA	The defendant was accused of theft by contractor and contract violations.	Pleaded guilty to two misdemeanors.	Forfeiture of \$1,781.	
Haney, David S.	Home Improvement Theft	Lincoln County DA	The defendant was accused of theft by contractor.	Pleaded no contest to two misdemeanors.	Restitution of \$13,976, fees of \$586.	
Jones, Morris; Storts, Aaron; Werfel, Stewart	Home Improvement Theft	Wisconsin DOJ (Dane County Circuit Court)	The defendants were accused of home improvement theft while conducting roofing contracts.	Jones pleaded no contest to 12 felonies and one misdemeanor. Storts pleaded no contest to one misdemeanor. Werfel pleaded no contest to one misdemeanor.	Jones: Forfeitures of \$60,369 and fees of \$8208. Storts: Fees of \$285. Werfel: Fees of \$285.	Jones: 10 years of probation, 3 months of jail. Storts: 30 days of jail.
Lasher, Zachary	Theft by Contractor	La Crosse County DA	The defendant was accused of theft by contractor.	Pleaded guilty to one misdemeanor.	Forfeiture of \$1,429.	

Case Name	Case Type	Where Referred	Case Description	Resolution	Forfeiture, Restitution and Other Payments	Other Conditions
Meulemans, Robert E., Jr.	Home Improvement Theft	Outagamie County DA	The defendant was accused of home improvement contract violations.	Pleaded no contest to four misdemeanors.	Forfeiture of \$1,138.	9 months' probation.
Napiwocki, Jason	Home Improvement Theft	Portage County DA	The defendant was accused of home improvement theft and contract violations.	Pleaded no contest to five misdemeanors.	Restitution of \$65,200 and fees of \$11,502.	3 years' probation.
Parks, Mark; Goltz, Eileen; Schultz, Jason; Weinhart, Jessica; Gilbert, Jessica; Baalman, Tina; Parks, Mindy; Conant, Ashley	Wire Fraud	United States Postal Inspection Service and Federal Bureau of Investigation	The defendants were alleged to have participated in a fraudulent timeshare resale telemarketing scheme.	Judgment	Forfeiture and restitution of \$2.4 million.	Mark Parks: 9 years' prison. Goltz: 14 months' prison. Schultz: 2 years' prison. Weinhart: 3 years' probation. Gilbert: 8 months' prison. Baalman: 1 year's prison. Mindy Parks: 3 years' probation. Conant: 20 months' prison.
Schiessl, Michael Maurice	Home Improvement Theft	Waukesha County DA	The defendant was accused of theft by contractor.	Pleaded guilty to one misdemeanor.	Restitution of \$9,138.	9 months' jail and 4 years' probation.
Schiller, James R.	Theft by Contractor	Milwaukee County DA	The defendant was accused of home improvement theft.	Pleaded no contest to two misdemeanors.	Forfeiture of \$582, fees of \$810.	6 months' House of Correction, 2 years' probation, 50 hours of community service.
Zimbauer, David	Home Improvement; Improper Billing	Grant County DA	The defendant was accused of billing consumers for goods or services they did not agree to purchase.	Pleaded no contest to one misdemeanor.	Restitution of \$8,706 and fees of \$1,189.	One year probation.

APPENDIX V

Department of Justice Consumer Protection Cases Completed in 2014-16

(Total Judgments of \$100,000 or More and Criminal Cases)

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
Civil Cases (total judgements of \$100,000 or more)								
Going Places Travel Corporation	Deceptive sales and marketing practices	DATCP	Going Places Travel Corp., a Wisconsin-based corporation, was accused of deceptively marketing memberships for travel clubs from Travel Services, Inc., a travel club business located in Litchfield, Illinois. The defendants were accused of providing consumers with untrue, deceptive, or misleading representations regarding the discounts on travel available to club members, the geographic locations of certain travel clubs, and the exclusive nature of the benefits available to club members. In addition, the defendants were accused of violating Wisconsin's prize notice law by failing to make required disclosures in the marketing postcards sent to consumers.	In January, 2014, a jury found that the defendants violated Wisconsin's consumer protection laws, as well as its prize notice law. A subsequent judgment in June, 2014, imposed a permanent injunction limiting the scope of the defendant's future business activities. In addition, the judgment requires the defendants to pay approximately \$3.8 million in restitution to consumers, \$841,600 in forfeitures and assessments, and \$215,000 to reimburse Wisconsin for the costs of its investigation and prosecution.		\$1,056,600	\$3,803,600	\$4,860,200
Pfizer Inc. and Wyeth Pharmaceuticals, Inc. (Rapamune)	Drug misrepresentation	National Association of Attorneys General (NAAG)	Wyeth Pharmaceuticals, Inc. (a subsidiary of Pfizer Inc.), was accused of misrepresenting the uses, benefits, and qualities of Rapamune, an immunosuppressive drug approved by the FDA to prevent organ rejection after kidney transplant surgery. The defendant was accused of promoting Rapamune for off-label uses (a use not approved by the	Wisconsin, along with 41 other states and the District of Columbia, reached a \$35 million settlement with Pfizer Inc. and Wyeth Pharmaceuticals to resolve the allegations. Under the settlement, Wisconsin will receive \$677,500 (\$671,400 in Attorney General discretionary funding and \$6,100 to reimburse DOJ's costs of investigation and prosecution). In addition, the settlement requires the defendants to	\$671,400	\$6,100		\$677,500

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
			FDA).	ensure that its marketing and promotional practices do not unlawfully promote Rapamune or any other Pfizer product.				
AT&T Mobility, LLC	False representations and unfair billing	NAAG	AT&T Mobility, LLC was accused of charging customers for third-party "premium" text message subscription services (such as for horoscopes, trivia, or sports scores) that the customer did not authorize. The fraudulent practice of adding unauthorized charges to a customer's phone bill is known as "cramming." As noted in this Appendix, similar allegations were also brought against mobile telephone providers T-Mobile, Sprint Wireless, and Verizon Wireless.	Wisconsin, along with 49 other states, the District of Columbia, the Federal Trade Commission and the Federal Communications Commission, settled the matter with AT&T with a consent judgement. Under the consent judgement, the defendant will reform its billing practices to ensure that it only bills consumers for third-party charges that have been authorized by the consumer. Further, the judgement provides that AT&T Mobility will pay \$80 million to refund consumers who were charged for third-party services they did not authorize, \$20 million to the settling states and District of Columbia, and \$5 million to the Federal Trade Commission. Wisconsin's share of the settlement will be \$309,000. The \$80 million for refunds will be administered by the Federal Trade Commission.	\$297,700	\$11,300	Restitution amounts will be administered by the Federal Trade Commission	\$309,000
T-Mobile USA, Inc	False representations and unfair billing	NAAG	T-Mobile USA, Inc. was accused of charging customers for third-party "premium" text message subscription services (such as for horoscopes, trivia, or sports scores) that the customer did not authorize. As noted in this Appendix, similar allegations were also brought against mobile telephone providers AT&T, Sprint Wireless, and Verizon Wireless.	Wisconsin, along with 49 other states, the District of Columbia, the Federal Trade Commission and the Federal Communications Commission, settled the matter with T-Mobile with a consent judgement. Under the consent judgement, the defendant will reform its billing practices to ensure that it only bills consumers for third-party charges that have been authorized by the consumer. Under the judgement, T-Mobile will also establish a minimum \$90 million Premium Short Messaging Service Refund Program, under which T-Mobile will refund consumers	\$270,400	\$7,700	Restitution amounts will be administered by T-Mobile's Premium Short Messaging Service Refund Program	\$278,100

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
				who received unauthorized charges from T-Mobile since June 1, 2010. As part of the \$90 million minimum payment, T-Mobile must pay the settling states \$18 million and the Federal Trade Commission \$4.5 million. Wisconsin's share of the settlement is \$278,100.				
Sprint Wireless	False representations and unfair billing	NAAG	Sprint Wireless was accused of charging customers for third-party "premium" text message subscription services (such as for horoscopes, trivia, or sports scores) that the customer did not authorize. As noted in this Appendix, similar allegations were also brought against mobile telephone providers AT&T, T-Mobile, and Verizon Wireless.	Wisconsin, along with 49 other states, the District of Columbia, the Consumer Financial Protection Bureau and the Federal Communications Commission, settled the matter with Sprint with a consent judgement. Under the consent judgement, the defendant will reform its billing practices to ensure that it only bills consumers for third-party charges that have been authorized by the consumer. Under the judgement, Sprint will also pay up to \$50 million in refunds to consumers who were victims of cramming. Sprint's refund program will be under the supervision of the federal Consumer Financial Protection Bureau. Further, Sprint will pay the settling states and the District of Columbia \$12 million, as well as \$6 million to the Federal Communications Commission. Wisconsin's share of the settlement is \$184,400.	\$178,300	\$6,100	Restitution to consumers will be paid directly by Sprint under the supervision of the federal Consumer Financial Protection Bureau	\$184,400
Verizon Wireless	False representations and unfair billing	NAAG	Verizon Wireless was accused of charging customers for third-party "premium" text message subscription services (such as for horoscopes, trivia, or sports scores) that the customer did not authorize. As noted in this Appendix, similar allegations were also brought against mobile telephone providers AT&T, T-Mobile, and Sprint Wireless.	Wisconsin, along with 49 other states, the District of Columbia, the Consumer Financial Protection Bureau and the Federal Communications Commission, settled the matter with Verizon with a consent judgement. Under the consent judgement, the defendant will reform its billing practices to ensure that it only bills consumers for third-party charges that have been authorized by the consumer. Under the judgement,	\$240,800	\$5,100	Restitution to consumers will be paid directly by Verizon under the supervision of the federal Consumer Financial Protection	\$245,900

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
				Verizon will also pay up to \$70 million in refunds to consumers who were victims of cramming. Verizon's refund program will be under the supervision of the federal Consumer Financial Protection Bureau. Further, Verizon will pay the settling states and the District of Columbia \$16 million, as well as \$4 million to the Federal Communications Commission. Wisconsin's share of the settlement is \$245,900.			Bureau	
Equifax Information Services; TransUnion LLC; and Experian Information Solutions, Inc.	Unfair and deceptive business practices; inaccurate credit reporting	NAAG	A multistate investigation was undertaken into whether Equifax, TransUnion, and Experian violated Wisconsin consumer protection laws and the federal Fair Credit Reporting Act. Specifically, it was alleged that the defendants: (a) did not maintain procedures to ensure accuracy of consumer or credit reports; (b) did not maintain procedures to conduct investigations into consumer disputes; (c) engaged in improper disclosure or marketing practices related to the sale of direct-to-consumer products during credit report dispute phone calls; and (d) did not maintain reasonable procedures designed to prevent the reappearance of information in consumer or credit reports that was deleted or suppressed from display pursuant to an investigation.	Wisconsin, along with 30 other states, entered into an Assurance of Voluntary Compliance (AVC) with the credit reporting agencies. Under the AVC, the credit reporting agencies agreed to reform their business practices in order to ensure that they were in compliance with state consumer protection laws and the federal Fair Credit Reporting Act. In addition, the credit reporting agencies agreed to pay the states \$6,000,000. Wisconsin's payment share of the agreement was \$148,200.	\$137,100	\$11,100		\$148,200
Classmates, Inc.	False representations and unfair billing	NAAG	Classmates, Inc., a social networking website, was accused of inadequately informing consumers that they would be automati-	Wisconsin, along with 21 other states, entered into a consent judgement with the defendant. Under the consent judgement, the defendant must not	\$185,000	\$14,400	Restitution to consumers will be paid directly	\$199,400

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
			<p>cally charged for a subscription renewal after their initial subscription service period concluded. In addition, the defendant was accused of advertising third-party membership programs that caused consumers: (a) to believe that the membership programs were managed by the defendant, when in fact the programs were managed by a third party; and (b) to enroll in a membership program without knowledge that their enrollment would cost money. Further, the defendant was accused of instituting privacy policies that failed to adequately inform consumers that the defendants shared the consumers' personal information with the third parties that managed the membership programs when consumers enrolled in those membership programs.</p>	<p>make any express or implied misrepresentations that have the capacity, tendency, or effect of deceiving or misleading consumers in connection with the offer or sale of any subscription services or membership programs. In addition, the judgement ordered Classmates to pay up to \$3,000,000 in restitution to affected consumers that file an eligible complaint. Finally, the defendant paid the states \$5,177,600. Wisconsin's share of the judgement was \$199,400.</p>			by Classmates, Inc.	
Florists' Transworld Delivery, Inc. and FTD.com Inc.	False representations and unfair billing	NAAG	<p>Florists' Transworld Delivery, Inc., and its subsidiary FTD.com Inc., were accused of violating Wisconsin's consumer protection laws. Specifically, the defendants were accused of advertising third-party membership programs that caused consumers: (a) to believe that the membership programs were managed by the defendant, when in fact the programs were managed by a third party; and (b) to enroll in a membership program without knowledge that their enrollment would cost money. Further, the defendant was accused of instituting privacy policies that failed</p>	<p>Wisconsin, along with 21 other states, entered into a consent judgement with the defendants. Under the consent judgement, the defendants must not make any express or implied misrepresentations that have the capacity, tendency, or effect of deceiving or misleading consumers in connection with the offer or sale of any third-party membership programs. In addition, the defendants must also pay the states \$2,822,400. Wisconsin's share of the judgement is \$115,900.</p>	\$101,600	\$14,300		\$115,900

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
			to adequately inform consumers that the defendants shared the consumers' personal information with the third parties that managed the membership programs when consumers enrolled in those membership programs.					
Chase Bank, USA and Chase Bankcard Services, Inc.	Debt collection	NAAG	Chase was accused of implementing improper debt collection activities. Specifically, it was alleged that Chase sold certain accounts to third party debt buyers that were inaccurate, settled, discharged in bankruptcy, not owed by the consumer, or otherwise uncollectable. It was also alleged that Chase filed lawsuits and obtained judgments against consumers using deceptive affidavits and other documents, because, for example, they were signed without personal knowledge of the signer. Chase was further accused of making errors in calculating pre- and post-judgement fees and interest when filing debt collection lawsuits.	A multi-state investigation led to an Assurance of Voluntary Compliance between Chase and 47 states, including Wisconsin, and the District of Columbia. Under the AVC, Chase will reform its debt collection business activities. Further, Chase will provide cash refunds to affected consumers nationwide totaling not less than \$50,000,000. Finally, Chase will pay the states \$95,580,900, of which Wisconsin's share is \$745,200.	\$745,200		Restitution to consumers to be paid directly by Chase	\$745,200
DISH Network, LLC	Telecommunications; unfair billing practices	DATCP	The defendant was accused of implementing unfair billing practices. Specifically, the defendant was accused of increasing the price of certain satellite television programming packages without informing consumers of the option of canceling their subscriptions without incurring an early cancellation fee.	Wisconsin and DISH Network entered into a consent judgement that requires DISH to make changes to its communications with customers whenever DISH increases prices on satellite television offerings that are subject to an early termination fee. Further, the judgement provides that DISH will provide a \$4.25 bill credit to DISH subscribers who were affected by one or more of the price increases that went into effect from January, 2010 through February, 2013. According to		\$233,000	\$377,100	\$610,100

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
				DOJ, 88,735 consumers received this bill credit, causing restitution to total \$377,100. In addition to restitution, the judgement required DISH to pay the state \$233,000 (\$225,000 to Dane County and \$8,000 to reimburse DOJ and DATCP for investigation and prosecution costs).				
Legal Helpers Debt Resolution, LLC	Unlicensed adjustment service	DFI	Legal Helpers Debt Resolution, LLC was accused of operating an adjustment service company without a license and charging fees to debtors in excess of what is permitted under Wisconsin law. Legal Helpers was also accused of making untrue, deceptive, or misleading representations in the course of marketing its debt resolution services to Wisconsin consumers.	Wisconsin and Legal Helpers Debt Resolution entered into a \$1,000,000 settlement agreement.		\$1,000,000 ⁴		\$1,000,000
Criminal Cases								
Daniel Steiner - Midwest Roofing Corporation	Criminal	Better Business Bureau (BBB)	The defendant, owner of Midwest Roofing Corp., was accused of theft by a contractor. Specifically, it was alleged that the defendant failed to provide agreed upon services after the defendant received payment to repair roof damage to certain homes in 2011.	In two separate cases filed in Dane County and Outagamie County, the defendant was found guilty of theft. Both cases resulted in a guilty plea. In the Outagamie County case, the court ordered the defendant to pay restitution totaling \$15,100 and court surcharges totaling \$1,500. In the Dane County case, the court sentenced the defendant to three months of probation and ordered restitution totaling \$21,600.		\$1,500	\$36,700	\$38,200
Gregory Dudzik and Casey Karch - Armor Shield Home Improvement	Criminal	DATCP	The defendants, through their business Armor Shield Home Improvement Systems, were alleged to have committed fraudulent representations, theft	The defendants plead no contest to two counts of theft by contractor. Additional counts of theft by contractor were read-in at sentencing. For both counts, the defendants were sentenced		\$2,100	\$27,000 ⁵	\$29,100

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
Systems			by contractors, and fraudulent writings.	to three years of probation to run concurrently. The court also ordered that the defendants pay restitution totaling \$27,000, complete a COMPAS evaluation (a risk and needs assessment), submit a DNA sample, and use a trust account for business purposes so that an agent can monitor their business activities.				
Brian Jennings - Freedom Financial Group	Criminal	DFI	The defendant, through his business Freedom Financial Group, was alleged to have committed fraudulent loan modifications. More specifically, the defendant was alleged to have received signed personal checks from consumers in exchange for advantageous mortgage loan modifications. The defendant, however, was accused of never providing mortgage refinancing for any of the victims. [As noted in this Appendix, similar complaints were filed against other employees of Freedom Financial Group. Each complaint resulted in a different resolution.]	The defendant plead guilty to three counts of unlawful receipt of payments less than or equal to \$2,500. In addition, three counts of fraudulent writings were dismissed but read-in at sentencing. The court ordered the defendant to pay restitution totaling \$3,000 to affected consumers. In addition, the court ordered the defendant to two years of probation, and barred the defendant from future employment in the mortgage industry. The defendant was also ordered to pay \$900 in court assessments.		\$900	\$3,000	\$3,900
Stuart Nisenbaum - Freedom Financial Group	Criminal	DFI	The defendant, through his business Freedom Financial Group, was alleged to have committed fraudulent loan modifications. More specifically, the defendant was alleged to have received signed personal checks from consumers in exchange for advantageous mortgage loan modifications. The defendant, however, was accused of never providing mortgage refinancing for any of the victims. [As noted in this Appendix, similar com-	The defendant was found guilty of 10 counts of theft with false representations. On the first two counts, the court sentenced the defendant to two consecutive six months terms at the Milwaukee House of Correction with Huber work release privileges. For the remaining eight counts, the court ordered the defendant to serve six month terms in jail that were to run concurrent with the sentences resulting from counts one and two. The court also ordered the defendant to pay restitution totaling \$10,900 to affected con-		\$17,600	\$10,900	\$28,500

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds ¹	State Award ²	Restitution ³	Total
			plaints were filed against other employees of Freedom Financial Group. Each complaint resulted in a different resolution.]	sumers and court assessments totaling \$17,600.				
Robert Garcia - Freedom Financial Group	Criminal	DFI	The defendant, through his business Freedom Financial Group, was alleged to have committed fraudulent loan modifications. More specifically, the defendant was alleged to have received signed personal checks from consumers in exchange for advantageous mortgage loan modifications. The defendant, however, was accused of never providing mortgage refinancing for any of the victims. [As noted in this Appendix, similar complaints were filed against other employees of Freedom Financial Group. Each complaint resulted in a different resolution.]	The defendant was found guilty of three counts of violations by a foreclosure consultant. The defendant was sentenced to three consecutive six month terms of confinement at the Milwaukee House of Correction, however the sentence was stayed and the defendant was placed on 18 months of probation. The court ordered the defendant to pay \$3,000 in restitution to affected consumers, along with \$2,600 in court assessments. The court also barred the defendant from future employment in the mortgage industry.		\$2,600	\$3,000	\$5,600
Total					\$2,827,500	\$2,390,400	\$4,261,300	\$9,479,200

¹ Discretionary settlement funds are amounts that may be expended for purposes permitted by state law, at the sole discretion of the Attorney General.

² Amounts received as state awards include civil forfeitures, attorneys' fees, costs and penalties.

³ Due to third party administration of some settlement recoveries and restitution payments made directly by defendants, DOJ cannot always determine the full amount of restitutions received by Wisconsin consumers.

⁴ According to DOJ, while the litigation of the case against Legal Helpers resulted in a \$1,000,000 judgement, a final determination has not been made as to how the judgement will be allocated.

⁵ According to DOJ, restitution amounts may be increased by an additional \$4,000 due to a future amendment to the judgement of complaint.