



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0410

November 27, 2013

Honorable Earl Ray Tomblin
Office of the Governor
State Capitol
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Re: Annual Report on the Activities of the Consumer Protection and Antitrust Division

Dear Governor Tomblin:

Pursuant to West Virginia Code §46A-7-102(4), attached please find the *Annual Report on the Activities of the Consumer Protection and Antitrust Division*

As always, if you have any questions or comments, please do not hesitate to contact me.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Daniel W. Greear", with a long, sweeping underline that extends to the right.

Daniel W. Greear
Chief Counsel

DWG/lab

c: Jeffrey V. Kessler, Senate President
Ross Taylor, Cabinet Secretary
Tim Miley, Speaker of the House



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0410

November 27, 2013

Honorable Tim Miley
Speaker of the House of Delegates
Room 228-M, Building 1
Capitol Complex
Charleston, WV 25305

Re: Annual Report on the Activities of the Consumer Protection and Antitrust Division

Dear Speaker Miley:

Pursuant to West Virginia Code §46A-7-102(4), attached please find the *Annual Report on the Activities of the Consumer Protection and Antitrust Division*

As always, if you have any questions or comments, please do not hesitate to contact me.

Very Truly Yours,


Daniel W. Greear
Chief Counsel

DWG/lab

c: Jeffrey V. Kessler, Senate President
Ross Taylor, Cabinet Secretary
Honorable Earl Ray Tomblin

State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0410

November 27, 2013

Jeffrey V. Kessler, Senate President
Room 227M, Building 1
State Capitol Complex
Charleston, WV 25305

Re: Annual Report on the Activities of the Consumer Protection and Antitrust Division

Dear President Kessler:

Pursuant to West Virginia Code §46A-7-102(4), attached please find the *Annual Report on the Activities of the Consumer Protection and Antitrust Division*

As always, if you have any questions or comments, please do not hesitate to contact me.

Very Truly Yours,

Daniel W. Greear
Chief Counsel

DWG/lab

c: Ross Taylor, Cabinet Secretary
Honorable Rick Thompson
Honorable Earl Ray Tomblin

State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305



OFFICE OF THE ATTORNEY GENERAL

ANNUAL REPORT ON THE ACTIVITIES OF THE CONSUMER PROTECTION AND ANTITRUST DIVISION

NOVEMBER 27, 2013

PATRICK MORRISEY
ATTORNEY GENERAL

2013 ANNUAL REPORT

A REPORT ON THE ACTIVITIES OF THE WEST VIRGINIA ATTORNEY GENERAL'S CONSUMER PROTECTION AND ANTITRUST DIVISION

I.

FOREWARD

In accordance with West Virginia Code § 46A-7-102(4), it is my pleasure to submit this report to the Governor and Legislature of West Virginia. This report outlines the activities of the Consumer Protection and Antitrust Division from November 20, 2012, through November 19, 2013, and highlights the type of consumer protection issues that are being handled by our office.

Respectfully Submitted,



PATRICK MORRISEY
ATTORNEY GENERAL

II.

TABLE OF CONTENTS

I. FOREWORD1

II. TABLE OF CONTENTS.....2

III. OVERVIEW OF CONSUMER PROTECTION AND ANTITRUST DIVISION3

IV. KEY ISSUES AND PROBLEMS AFFECTING CONSUMERS.....5

V. SUMMARY OF ACTIVITIES, INVESTIGATIONS, AND ENFORCEMENT7

 A. CONSUMER COMPLAINTS7

 B. CONSUMER PROTECTION LITIGATION

 1. CASE SUMMARIES.....8

 2. ASSURANCES OF DISCONTINUANCE AND SETTLEMENT

 AGREEMENTS.....43

 C. ANTITRUST LITIGATION.....53

 D. PRENEED FUNERAL UNIT.....61

IV. OUTSIDE COUNSEL POLICY.....63

IV. CONCLUSION.....64

III.

OVERVIEW OF CONSUMER PROTECTION AND ANTITRUST DIVISION

As the largest division in the Attorney General's Office, the Consumer Protection and Antitrust Division ("Division") is central to the Office's mission to protect the public from unfair, deceptive and fraudulent acts or practices. The Division's mission is also to foster fair and honest competition and ensure that monopolies do not override the free market.

A. Legal Authority

The Division is responsible for enforcing the West Virginia Consumer Credit and Protection Act, W. Va. Code § 46A-1-101 et seq.; the West Virginia Antitrust Act, W. Va. Code § 47-18-1 et seq.; and the Preneed Funeral Contracts Act, W. Va. Code § 47-14-1 et seq.

B. Staffing

Overseen by a Deputy Attorney General, the Division is comprised of over thirty (30) employees who play a significant role in the furtherance of the mission. These employee positions include seven (7) attorneys, two (2) paralegals, four (4) mediators, two (2) investigators, and over ten (10) support staff. In addition, the Division also utilizes six (6) consumer compliance specialists to assist in the consumer awareness and outreach. These specialists are located in various locations in the State and are responsible for a designated region of counties. The specialists also serve as a conduit of information from the counties to the Attorney General Office relating to emerging problems or scams that are being experienced by consumers.

C. Processing of Consumer Complaints

The backbone of the Division's efforts – and its successes – is its consumer complaint process. The complaint process affords both consumers and businesses the opportunity to seek an informal resolution of a dispute without formal litigation. The process is intended to have the Division serve as a *de facto* mediator who aides in the resolution. The intent is to bring about a positive result for the consumer, and ensure business awareness and compliance with the Consumer Protection laws. The mediation process is voluntary, but the intent is to reach a settlement satisfactory to both parties.

The complaint process is centralized around a written complaint form. If a consumer has a dispute with a business, he/she can call the Division's toll-free hotline at 1-800-368-8808. If the consumer has questions or difficulty, an employee of the Division will assist the consumer over the phone or invite the person to the Division office to assist in person. When requested by a consumer, a complaint form and instructions are sent to the consumer's home. The complaint form is also available on the Division's website at www.wvago.gov.

When the complaint form is returned, it is assigned to a designated “mediator” within the office. The mediators are employees of the division that are specifically charged with overseeing the complaint process and guiding its resolution. Upon receiving a Complaint, the mediator contacts the business on behalf of the consumer requesting a response to the complaint. The business then responds either agreeing to the complaint or disputing the complaint. Typically, the response includes an offer to resolve the matter for a designated amount of money as reimbursement. Depending on the nature of the complaint and the cooperation of the parties, the average mediation process lasts about 30 to 45 days.

IV.

KEY ISSUES AND PROBLEMS AFFECTING CONSUMERS

A. Substance Abuse Task Force

One of the central initiatives by Attorney General Morrissey is the creation of a task force within the Consumer Protection Division to address the scourge of Substance Abuse in the State. The abuse of prescriptions drugs, specifically opioids, has increased dramatically in recent years. Drug abuse in West Virginia and throughout the nation has reached a monumental level, and the economic and social impact is debilitating. The healthcare cost related to drug abuse is reported to be \$72.5 billion annually, and costs West Virginians over \$430 million dollars a year. The opioid abuser generates direct health care costs 8.7 times higher than non-abusers.

Additionally, the number of opioid prescriptions filled has increased from 76 million in 1991 to 219 million in 2011. Data from the National Survey on Drug Use and Health (NSDUH) shows that nearly one-third of people aged 12 and over who used drugs for the first time in 2009, began by using a prescription drug. In West Virginia the problem is even more critical as drug overdose is the leading cause of death for West Virginians under 45. West Virginia also leads the nation in the most medicated state, filling 7 more prescriptions per person annually than the national average.

The statistics surrounding drug abuse are alarming and necessitates involvement by law enforcement, manufacturers, distributors, pharmacies, healthcare providers and consumers. The epidemic requires a multifaceted approach to educate the healthcare industry, increase monitoring programs, and further enforcement of laws and regulations.

Comprised of former prosecutors and experienced law enforcement investigators, Attorney General Morrissey's task force is charged with development of initiatives and methods

to combat the growing problem of prescription pill abuse, meth, and other illegal drugs. The task force has been engaged in significant fact-finding, and will present initial recommendations to the Attorney General in the coming month. Thereafter, the task force will remain engaged in implementation of the initiatives as well as continual review and analysis of this problem.

B. ACA Hotline

An emerging issue in the closing months of the reporting period, there were significant questions and fraud allegations relating to the Affordable Care Act (informally referred to as Obamacare). In an effort to provide knowledgeable advice to consumers with questions or allegations of scams, Attorney General Morrissey established a hotline and employees dedicated to handling the ACA.

The hotline has been successful in answering consumer phone calls and centralizing potential scams. In addition, the employees involved with the ACA also participate in national ACA fraud working groups, including the United States Department of Justice ACA group as well as the National Association of Attorneys General ACA fraud group.

C. Increasing Consumer Awareness

Attorney General Morrissey continued educational outreach programs during the reporting period through personal and staff outreach to West Virginia consumers, and Internet social networking sites, such as Facebook and Twitter. The media sites connect to West Virginians by offering updated consumer tips, information about current news and events, as well as provide forums for consumer feedback. The Attorney General's office can be found on Facebook at "Facebook.com/AGWestV" and on Twitter at "Twitter.com/WestVirginiaAG".

In addition, the Division updated and created multiple brochures relating to the major topics and questions that are posed to the Division. In particular, the Division updated/created

the following: “In The Loop: Getting To Know Your Attorney General’s Office”; “On The Mark: A Guide To Concealed Handgun Laws in West Virginia”; Measuring Up: A Consumer’s Guide To Hiring Contractors for Home Repairs”; and “Consumer Protection: Know The Facts You Need To Protect Yourself.”

Finally, the Attorney General’s Office has issued many scam alerts to consumers, held educational seminars, and relied upon the office’s division to distribute information about consumer fraud, identity theft, and scams.

D. Targeting of Elderly

The targeting of the elderly to perpetuate a fraud or scam still remains a serious problem affecting the state. While education and awareness remain important weapons to combat this problem, making the filing of complaints easier and available are also important factors. Therefore, the Division and the AARP Foundation continued the ElderWatch collaboration during the reporting period. ElderWatch is dedicated to providing protection for West Virginia’s older consumers who have been victims of fraud. One of the services offered by ElderWatch is assisting consumers who want help filling out the Division’s consumer complaint form. If the consumer would like assistance, the Division’s receptionist transfers the call to an AARP volunteer who fills out the form for the consumer over the telephone.

V.

SUMMARY OF ACTIVITIES, INVESTIGATIONS, AND ENFORCEMENT

A. Consumer Complaints

During the reporting period, the Division received 6,009 complaints. The most common complaints involved promotional marketing and automobile purchases. (See Exhibit 1.) Of the complaints pending at the beginning of or received during the reporting period, the Division

closed 7,141. As a result of the Division's mediation efforts, consumers received \$533,453.02 in cash refunds, and \$3,421,123,27 in debt cancellation and value for products and services received. The total amount received in mediation was \$3,954,576.29. (See Exhibit 2).

B. Consumer Protection Litigation

When a matter is brought to the attention of the Division involving significant areas of violation or repeat offenses by a business, the Division investigates the business, and when necessary, brings suit against the business to enforce compliance with the Consumer Credit and Protection Act. Below is a summary of matters that resulted in formal litigation by the Division, and concludes with a listing of assurances/settlement agreements that were reached during the reporting period.

Case Summaries

1.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Aegon Direct Marketing Services, Inc., Aegon USA; Aegon Financial Services Group Inc.; Transamerica Advisors Life Insurance Company; Transamerica Capitol Inc.; Transamerica; Stonebridge Life Insurance Company; Stonebridge Casualty Insurance Company
(Civil Action No.: 12-C-126-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Attorney General filed a complaint against Aegon Direct Marketing Services, Inc.; Aegon USA; Aegon Financial Services Group Inc.; Transamerica Advisors Life Insurance Company; Transamerica Capitol Inc.; Transamerica; Stonebridge Life Insurance Company; and Stonebridge Casualty Insurance Company for unlawful telemarketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft protection. The Defendants in this case are third party vendors for various banks

and credit card companies. A motion to dismiss was filed on April 1, 2013. The parties are awaiting ruling on this motion. A scheduling order has been entered setting trial for this matter on December 2, 2014.

2.

State ex rel. Patrick Morrissey v. Affinion Group, Inc., et al.
(Civil Action No. 13-C-1902 - Circuit Court of Kanawha County)

The Attorney General joined 46 other states and the District of Columbia in a multistate settlement with Affinion Group, Inc., (“Affinion”) and its affiliates arising from the companies’ questionable marketing of discount club memberships. A Final Order was entered by Kanawha Circuit Judge Jennifer Bailey on October 10, 2013 approving the settlement.

The Final Order requires that the defendants pay \$32 million dollars to the states and the District of Columbia, of which \$19 million will be placed into a restitution fund to compensate consumers who have been aggrieved by the defendants’ deceptive marketing practices. The settlement provides that more than 2,100 West Virginia residents will be eligible to receive a refund of money spent on discount club memberships. The defendants also paid \$25,000 to the State of West Virginia that may be used by the Attorney General for general consumer protection and other educational purposes.

3.

State of West Virginia, ex rel. Patrick Morrissey v.
AmerisourceBergen Drug Corp, et al.
(Civil Action No. 12-C-141 – Circuit Court of Boone County)

On June 26, 2012, the Office of the Attorney General filed a Complaint and Petition for temporary and permanent injunction against the following drug manufacturers: AmerisourceBergen Drug Corporation, Miami-Luken, Ink, J. M. Smith Corporation d/b/a Smith Drug Company, The Harvard Drug Company, Anda, Inc., Associated Pharmacies, Inc., Auburn

Pharmaceutical Company, H.D. Smith Wholesale Drug Company, Keysource Medical Inc., Masters Pharmaceuticals, Inc., Quest Ph. The Complaint and Petition alleged that the aforementioned manufacturers acted negligently, and recklessly, by failing to diligently respond to suspicious orders which the defendants have filled. The Complaint further alleges the defendants failed to provide effective controls and procedures to guard against diversion of controlled substances. The complaint alleges these defendants violated the West Virginia Consumer Care Credit and Protection Act, Unfair Methods of Competition or Unfair or deceptive Acts or Practices Act, and various other statutes which has negligently and unlawfully contributed to the epidemic of prescription drug abuse in the state. The State's action was removed to the United States District Court for the Southern District of West Virginia. The federal court remanded the case to the state in March of 2013. The complaint seeks a permanent injunction which mandates the defendants to promptly inform the West Virginia Board of Pharmacy of any and all suspicious orders received from parties located in West Virginia and to submit their system for determining suspicious orders to West Virginia authorities for approval, damages and losses sustained to the state as a result of the aforementioned violations, and other relief.

A scheduling conference was held in Boone County Circuit Court on September 9, 2013. This matter is currently scheduled for trial on October 21, 2014.

4.

State of West Virginia ex rel. Patrick Morrissey v.
James R. Armstrong, et al.
(Civil Action No. 09-C-852 - Circuit Court of Kanawha County)

On May 7, 2009, the Attorney General filed a lawsuit against James R. Armstrong, owner of Family Credit Counseling Corporation (FCCC), which purported to be a federally tax-exempt

nonprofit corporation. The Attorney General also named as defendants several for-profit companies also owned and controlled by Armstrong that marketed FCCC's services and charged unlawful up-front fees that were shared with Armstrong.

The suit alleged that Armstrong established and controlled the for-profit entities that referred consumers facing dire financial circumstances to FCCC for debt management plans (ADMPs) without any screening to determine whether DMPs were appropriate for their needs. The suit also alleges that Armstrong defrauded FCCC and consumers by syphoning funds for his personal use from a trust account to hold consumers payments intended to be distributed to their creditors and from FCCCs operating account. The suit alleges that Armstrong's fraudulent conduct prevented FCCC from making timely distribution of consumers' payments to their creditors and ultimately caused FCCC to become defunct.

On March 13, 2013, Kanawha Circuit Judge James C. Stucky granted the Attorney General's motion for summary judgment and entered a Judgment Order finding that the defendants had charged unlawful up-front fees and excessive monthly service fees for establishment and administration of the DMPs as alleged in the Attorney General's second and third causes of action. The Attorney General withdrew the remaining causes of action.

Specifically, the court awarded a judgment against the defendants in the total amount of \$126,085.22, consisting of \$95,737.00 in unlawful up-front fees and \$30,348.22 in excess charges of monthly service fees in the administration of DMPs to 250 West Virginia consumers.

5.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Bank of America Corporation, et al
(Civil Action No.: 11-C-87-N Circuit Court of Mason County, West Virginia)

Suit was filed against the Defendants on August 16, 2011, alleging unfair and deceptive acts or practices in connection with the sales and marketing of ancillary credit card services. These ancillary services purported to protect customers against fraudulent or unauthorized charges on their credit cards, protection from identity theft, and to provide benefits in the event of unemployment or disability.

The complaint alleged that the Defendants violated the West Virginia Consumer Credit Protection Act when they charged consumers for these services that they did not want or from which they could receive no benefit, and by the unfair and deceptive manner in which the Defendants offered and administered the claims made by consumers for benefits. The Defendants filed a writ of prohibition with the West Virginia Supreme Court of Appeals seeking to prohibit the Attorney General from the use of outside counsel in the prosecution of these cases. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. *See, State ex rel., Discover Financial Services Inc., v. Nibert*, 231 W.Va. 227, 744 S.E.2d 625 (2013).

Following the denial of the writ, settlement negotiations commenced and settlement was reached with this Defendant in the amount of \$1.95 Million dollars.

6.

State of West Virginia ex rel. Patrick Morrissey v. Basset Construction and Mike Brown, Individually, and d/b/a as Basset Construction
(Civil Action No. 13-C-280 – Circuit Court of Putnam County)

On August 21, 2013, the Attorney General filed a Complaint and Petition for Preliminary and Permanent Injunction in Putnam County Circuit Court against Basset Construction and Mike Brown, individually, and d/b/a Basset Construction. The State alleges that the contractor violated the Consumer Protection Act as well as the legislative rules regulating home improvement. The contractor had multiple prior complaints filed with the Attorney General in 2004, 2005, 2010 and 2011. This most recent complaint stems from a contract to construct a garage in Putnam County. Defendant was paid \$17,500 and did not complete the work and has been unresponsive to the consumer as well as this office.

7.

State of West Virginia ex rel. Patrick Morrissey v.
Blue World Pools, Inc., et al.
(Civil Action No. 13-MISC-13 Circuit Court of Kanawha County)

On January 7, 2013, the Attorney General filed a petition to enforce investigative subpoena against Blue World Pools, Inc. because of its refusal to comply with the Attorney General investigative subpoena. The Attorney General opened an investigation of Blue World after receiving complaints indicating that it was engaging in a wide range of unfair or deceptive acts or practices in the sale and financing of above ground pools in West Virginia, including “bait and switch” (advertising pools for \$399 with the intention of selling the pools for \$10,000 or more), failure to furnish proper notice of the three-day right to cancel as required by the FTC Rule concerning Cooling-Off Period For Door-To-Door sales and the WVCCPA, and requiring that consumers make payment by electronic funds transfer as a condition of obtaining credit, in violation of the Electronic Funds Transfer Act and the WVCCPA.

On June 6, 2013, a Dismissal Order was entered by Kanawha Circuit Judge Charles E. King upon motion by the Attorney General dismissing the petition to enforce investigative subpoena after Blue World Pools agreed to substantially comply with the subpoena.

8.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Bristol-Meyers Squibb Company; Sanofi-Aentis, US, LLC
(MDL No.: 2418, United States District Court of New Jersey)

On December 28, 2012, The Attorney General's Office filed a lawsuit against the Defendants pursuant to the West Virginia Consumer Credit and Protection Act, based on alleged false and misleading marketing of the prescription drug Plavix. Specifically, the Complaint alleged that Defendant promoted Plavix as a superior drug to Aspirin for certain indicated cases without justification and charged excessive amounts for the drug despite the fact that the drug did not have superior efficacy to Aspirin. On February 1, 2013, the Defendant's removed the matter to Federal Court. Following the removal, the matter was consolidated to the United State Judicial Panel on Multidistrict Litigation, MDL Number 2418, pending in the United States District Court in the District of New Jersey. The state of West Virginia filed a motion to remand and argument was held before the MDL on August 22, 2013. The parties are currently awaiting a ruling on the motion to remand.

9.

State of West Virginia ex rel Patrick Morrissey v. Cardinal Health, Inc.
(Civil Action No. 12-C-140 – Circuit Court of Boone County)

On June 26, 2012, the Office of the Attorney General filed a Complaint and Petition for temporary and permanent injunction against Cardinal Health, Inc.

The Complaint and Petition alleged that Cardinal acted negligently, and recklessly, by failing to diligently respond to suspicious orders which it had filled. The Complaint further alleges the defendant failed to provide effective controls and procedures to guard against diversion of controlled substances. The complaint alleges this defendant violated the West Virginia Consumer Care Credit and Protection Act, Unfair Methods of Competition or Unfair or deceptive Acts or Practices Act, and various other statutes which has negligently and unlawfully contributed to the epidemic of prescription drug abuse in the state. The State's action was removed to the United States District Court for the Southern District of West Virginia. The federal court remanded the case to the state in March of 2013. The complaint seeks a permanent injunction which mandates the defendant to promptly inform the West Virginia Board of Pharmacy of any and all suspicious orders received from parties located in West Virginia and to submit their system for determining suspicious orders to West Virginia authorities for approval, damages and losses sustained to the state as a result of the aforementioned violations, and other relief.

A scheduling conference was held in Boone County Circuit Court on September 9, 2013. This matter is currently scheduled for trial on October 21, 2014.

10.

State of West Virginia ex rel. Patrick Morrissey, Jr. v.
CashCall, Inc., et al.
(Civil Action No. 08-C-1964 - Circuit Court of Kanawha County)
(Supreme Court Appeal No. 12-1274)

The Attorney General commenced an investigation of CashCall, Inc. (CashCall), of Anaheim, California, in 2007 after learning that the company was making or arranging usurious loans for West Virginia consumers. These loans had interest rates of up to 99% per annum and were arranged over the Internet via an interactive website. The Attorney General's investigation

was also prompted by consumer complaints alleging a wide range of abusive debt collection practices by CashCall. In response, CashCall asserted that its loans were actually made by a state-chartered bank in South Dakota, and, therefore, the Attorney General was preempted by federal law from regulating its practices.

On October 8, 2008, the Attorney General sued CashCall, a California corporation, and its president and CEO, J. Paul Reddam, in the Circuit Court of Kanawha County. The Attorney General asked the Court to permanently enjoin CashCall from making and collecting usurious loans in West Virginia, to void the loans, to issue refunds of all unlawful fees collected from consumers, and to comply with his investigative subpoena.

The three-day trial of the Attorney General's case against CashCall occurred on October 31 and November 1, 2011, and concluded on January 3, 2012 before Kanawha Circuit Judge Bloom. On September 10, 2012, Judge Bloom issued a Final Order on Phase I of Trial: The State's Debt Collection Claims wherein he awarded \$2,292,000.00 to the State for 292 West Virginia consumers because of CashCall's abusive debt collection practices. On that date he also issued a Final Order on Phase II of Trial: The State's Usury and Lending Claims wherein he awarded \$11,505,687.96 in total relief for the 292 West Virginia consumers for the State's usury and unlawful lending claims, for a total relief of \$13,797,687.96. In addition, CashCall was ordered to cancel debts totaling \$2.3 million.

On October 10, 2012, CashCall and Paul Reddam filed an appeal from Judge Bloom's two rulings to the Supreme Court of Appeals of West Virginia. The Court issued a scheduling order on October 31, 2012. As of this date, the Court has not decided whether to grant oral argument to CashCall on its appeals of the orders entered by the trial court in Phase I and Phase II of the trial.

In both Phase I and Phase II, Judge Bloom also ruled that the Attorney General was entitled to be reimbursed for his costs, including reasonable attorney's fees, for the successful prosecution of the action against CashCall. However, the Court indicated that it would make a ruling on the amount of expenses and attorney's fees at a later date after the filing of an appropriate petition by the Attorney General and an evidentiary hearing. After a hearing on December 21, 2012, Judge Bloom entered an order on March 18, 2013 finding that Assistant Attorneys General had expended collectively a total of 999.5 hours in their representation of the State in the enforcement action against CashCall for which each were entitled to be reimbursed at the rate of \$350 per hour. Accordingly, the Court awarded the State a total of \$446,180.00 as reimbursement for attorney's fees and \$9,787.94 as reimbursement for other costs expended in the case. CashCall has also appealed Judge Bloom's order awarding attorney's fees and costs to the Attorney General, which has been incorporated into the appeals of the orders in Phase I and Phase II that are already pending.

11.

State of West Virginia ex rel. Patrick Morrissey v.
Cav's Coach Company, LLC, et al.
(Civil Action No. 13-C-1 – Circuit Court of Roane County)

On January 4, 2013, the Attorney General filed suit against Cav's Coach Company, LLC and its owners, Chris Cavender and Carol Cavender. The Attorney General opened an investigation of Cav's Coach Company, a charter bus company based in Cross Lanes, West Virginia, after it failed to fulfill its obligations under a contract with Reedy Elementary PTO to transport 47 passengers from Clendenin, West Virginia to New York, New York. The Attorney General sued after Cav's Coach Company failed to make refunds to persons who purchased tickets for the trip that was ultimately canceled.

On January 4, 2013, an Agreed Order was entered in the Circuit Court of Roane County granting the Attorney General a judgment against Cav's Coach Company in the amount of \$6,800.00 to be used as refunds to persons who purchased tickets for the aborted trip. The Order also permitted Cav's Coach Company to pay the amount owed in installments of \$650.00 per month with the first payment due in January, 2013.

12.

State of West Virginia ex rel. Patrick Morrissey, Jr. v.
Cavalry SPV I, LLC, et al.
(Civil Action No. 10-C-994 - Circuit Court of Kanawha County)
(Supreme Court Appeal Nos. 11-1564 and 12-0546)

On June 3, 2010, the Attorney General sued four affiliated New York-based collection agencies and their principals for collecting debts in West Virginia without a license and for other violations of the WVCCPA. The corporate defendants include Cavalry SPV I, LLC, Cavalry SPV II, LLC, Cavalry Investments, LLC, and Cavalry Portfolio Services, LLC, North Carolina corporations. All of the corporate defendants are debt buyers, except for Cavalry Portfolio Services, which is a third-party collection agency that collects debts for its affiliates as well as other outside parties.

On August 22 and 23, and continuing on September 9, 2011, the court heard testimony and evidence on the Attorney General's motion for a temporary injunction and for enforcement of its investigative subpoena against the Cavalry companies. The court entered an order on October 7, 2011, granting a temporary injunction and ordering the four Cavalry companies to comply with the Attorney General's investigative subpoena within 60 days. Specifically, the court enjoined Cavalry SPV I, Cavalry SPV II, and Cavalry Investments from continuing to collect debts that they acquired prior to the time they became licensed in October, 2010.

The court also ordered the company to release all garnishments and wages and to release all liens and attachments from personal and real property arising from court judgments they obtained prior to the time they became licensed. The court also ordered the Cavalry companies, in conjunction with the Attorney General, to notify all consumers of the injunction. The court permitted Cavalry to continue to accept payments made voluntarily by consumers, after notice of the injunction, but required Cavalry to place all such funds received into escrow and to make periodic accounting to the Attorney General of all such payments received.

Calvary filed an appeal to the Supreme Court of Appeals of West Virginia from the October 7, 2011 order requiring it to comply with the Attorney General's subpoena. In addition, Cavalry also filed a separate appeal to the Supreme Court from that provision of the order that enjoined Cavalry from continuing to collect debts that it acquired before becoming licensed to collect debts in West Virginia.

On October 1, 2013, the Supreme Court heard oral argument on Cavalry's two petitions for appeal arising from the order entered by Kanawha Circuit Judge James Stucky on October 7, 2011. A decision was issued on November 13, 2013, upholding the power of the Office of the Attorney General to issue investigative subpoenas. The Court did rule that when the Office of the Attorney General files a civil proceeding, the subpoena authority ends with respect to those matters which form the basis of the complaint's allegations.

13.

State of West Virginia ex rel. Patrick Morrissey v.
CCDN, LLC, et al.
(Civil Action No. 10-C-632 - Circuit Court of Kanawha County)

On April 1, 2010, the Attorney General CCDN, LLC, Robert K. Lock, Jr., and Philip Manger in the Circuit Court of Kanawha County. The State alleged the defendants were

unlawfully engaged in debt settlement in West Virginia. Essentially, defendants promised to settle consumers' credit card debts for less than what they owed. In its complaint, the State alleged that the defendants never provided the promised debt settlement services. Lock and Manger were both lawyers when the company was operating.

Defendants failed to mount any significant defense and judgment was granted in favor of the State on January 7, 2011. The Circuit Court of Kanawha County awarded the State \$29,918.75* in restitution plus \$130,000.00* in penalties. CCDN has since been dissolved. As of the date of this report, the State has not received any payment from the defendants. However during the reporting period, Phillip Manger was disbarred in the State of New York and Robert Lock was disciplined by the attorney regulatory authority in Illinois. Lock and the State of Illinois appealed the sanctions ordered.

14.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Center Partners, Inc.,
(Civil Action No.: 12-C-123-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Attorney General filed a complaint against Center Partners, Inc., for unlawful telemarketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft protection. The Defendant in this case is a third party vendor for various banks and credit card companies. The Defendants filed a motion for a more definite statement on or about April 1, 2013. No ruling has yet been issued on this motion.

15.

**State of West Virginia ex rel. Patrick Morrissey v.
Charles Roth, d/b/a Valley Pools and Spas Construction, et al.**
(Civil Action No. 05-C-432 - Circuit Court of Putnam County)

In late 2005, the Division filed suit against Charles Roth (Roth), a Dunbar resident, who for years had been installing swimming pools and performing other home improvements under the name Valley Pools and Spas Construction. Consumers complained that when they contacted Roth, he submitted impressive proposals with low bids and promises of “15-year” warranties. Once Roth received significant payments, consumers reported that he failed to complete the jobs and became increasingly difficult to reach. Some consumers reported that if they insisted he make all the repairs prior to final payment, Roth would threaten to physically harm them.

In January of 2006, the Circuit Court of Putnam County enjoined Roth from engaging in any home improvement business until the case was resolved. On March 30, 2007, Roth finally agreed to a permanent injunction forever barring him from engaging in home improvement business in the state. Roth was also ordered to pay \$80,000.00* in restitution to consumers, in monthly payments. During this reporting period, Roth has paid \$3,600.00.

16.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Citigroup, Inc., et al
(Civil Action No.: 11-C-89-N Circuit Court of Mason County, West Virginia)

Suit was filed against the Defendants on August 16, 2011, alleging unfair and deceptive acts or practices in connection with the sales and marketing of ancillary credit cards services. These ancillary services purported to protect customers against fraudulent or unauthorized charges on their credit cards, protect from identity theft, and to provide benefits in the event of unemployment or disability. The complaint alleged that the Defendants violated the West Virginia Consumer Credit Protection Act when they charged consumers for these services that

they did not want or from which they could receive no benefit, and by the unfair and deceptive manner in which the Defendants offered and administered the claims made by consumers for benefits. The Defendants filed a writ of prohibition with the West Virginia Supreme Court of Appeals seeking to prohibit the Attorney General from the use of outside counsel in the prosecution of these cases. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. See, State ex rel., Discover Financial Services Inc., v. Nibert, 231 W.Va. 227, 744 S.E.2d 625 (2013).

Following the denial of the writ, settlement negotiations commenced and settlement was reached with this Defendant in the amount of \$1.95 Million dollars.

17.

**State of West Virginia ex rel. Patrick Morrissey, Attorney General v. CVS Pharmacy, Inc.,
et al**
(Civil Action No.: 09-C-226 Circuit Court of Boone County, West Virginia)

On July of 2009, the Attorney General sued CVS for failure to comply with West Virginia Code § 30-5-12B which requires the substitution of generics for name brand drugs. The statute also requires that cost savings be passed on to the purchaser. It is alleged that CVS did not pass on the prescription drug savings to purchaser when generic drugs were substituted for name brand drugs as required by the statute. The case was subsequently removed to the United States District Court and subsequently remanded. This case is closely related to matter of State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Rite Aid of West Virginia, Inc. To date, no trial date has been set and discovery continues.

18.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Discover Financial Services, Inc., et al
(Civil Action No.: 11-C-86-N Circuit Court of Mason County, West Virginia)

Suit was filed against the Defendants on August 16, 2011, alleging unfair and deceptive acts or practices in connection with the sales and marketing of ancillary credit cards services. These ancillary services purported to protect customers against fraudulent or unauthorized charges on their credit cards, protect from identity theft, and to provide benefits in the event of unemployment or disability. The complaint alleged that the Defendants violated the West Virginia Consumer Credit Protection Act when they charged consumers for these services that they did not want or from which they could receive no benefit, and by the unfair and deceptive manner in which the Defendants offered and administered the claims made by consumers for benefits. The Defendants filed a writ of prohibition with the West Virginia Supreme Court of Appeals seeking to prohibit the Attorney General from the use of outside counsel in the prosecution of these cases. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. *See, State ex rel., Discover Financial Services Inc., v. Nibert*, 231 W.Va. 227, 744 S.E.2d 625 (2013).

Following the denial of the writ, settlement negotiations commenced and settlement was reached with this Defendant in the amount of \$1.95 Million dollars.

19.

State of West Virginia ex rel. Patrick Morrissey, v. Dominion Management Services d/b/a CashPoint, Michael Lester, ACAC, Inc. d/b/a Approved Cash Advance and Manuel Marrero
(Civil Action No. 12-C-644 - Circuit Court of Kanawha County)

The Office of the Attorney General filed a Petition to Enforce Investigative Subpoena on December 14, 2012 against Dominion Management Services d/b/a CashPoint and Michael

Lester, and ACAC, Inc. d/b/a Approved Cash Advance, Virginia title lenders, after receiving complaints that they were abusing and harassing West Virginia consumers in the collection of delinquent accounts. Specifically, consumers reported they were victimized by repeated and continuous telephone harassment, unlawful disclosure of alleged debts to consumers, employers, coworkers, relatives, family members and other persons not residing with the consumer, accusations of fraud or other conduct which would tend to disgrace or subject them to ridicule or contempt of society, and threats that failure to voluntarily relinquish possession of a vehicle that secures a loan may result in arrest or criminal prosecution.

The Attorney General's petition was initially assigned to Kanawha Circuit Judge Carrie Webster but was subsequently reassigned to Senior Status Judge James O. Holliday after Judge Webster was disqualified. Prior to the hearing on the merits of the Attorney General's petition, the Attorney General reached a full settlement with Respondents Approved Cash Advance and its owner, Manuel Marrero, and an order was entered dismissing them from the suit. The settlement with Approved Cash Advance is discussed elsewhere in this report.

On July 2, 2013, Judge Holliday heard the Attorney General's petition against the remaining Respondents, Dominion Management Services, Inc., d/b/a CashPoint and its owner, Michael H. Lester, after which he entered an order on September 19, 2013 requiring the Respondents to comply in full with the Attorney General's investigative subpoena within thirty (30) days after entry of the order. The Respondents have advised the Attorney General that they do not intend to appeal Judge Holliday's order and are in the process of complying with the investigative subpoena as of this date.

State of West Virginia ex rel. Patrick Morrissey v.
Envision Payment Solutions, Inc., Gregory Mellott, and Julie Burrus
(Civil Action No. 12-C-623 - Circuit Court of Kanawha County)

On December 3, 2012, the Attorney General filed a Petition to Enforce Investigative Subpoena against Envision Payment Solutions, Inc. ("Envision"), a check guarantee company based in Atlanta, Georgia. The Attorney General's investigation was prompted by complaints alleging that Envision had engaged in a wide range of abusive collection practices, including telephone harassment, sending collection letter threatening that nonpayment may result in arrest or criminal prosecution, and continuing to collect dishonored checks after consumers advised that they were victims of stolen checks and forgery or that they otherwise disputed the debts.

On May 1, 2013, Kanawha Circuit Judge Charles King entered an order granting the Attorney General's petition and requiring Envision to comply in full with the subpoena within thirty (30) days after entry. As of this date, Envision has not done so. Instead, Envision filed two motions on July 10, 2013 asking the Court to reconsider its order. On August 1, 2013, the Attorney General filed a petition for contempt asking the Court to take such actions as may be necessary to compel Envision to comply with its previous Order. A hearing was held on Envision's motion and the Attorney General's Petition for Contempt on September 11, 2013. As of this date the parties are awaiting a ruling on the matters from Judge King.

21.

State ex rel. Patrick Morrissey, Jr. v.
Fast Auto Loans, Inc.
(Civil Action No.: 12-C-231 - Circuit Court of Jefferson County)
(Case No. 3:12-cv-64 - USDC, Northern District of West Virginia)

On June 14, 2012, the Attorney General sued Fast Auto Loans, Inc., a Virginia title lender, its parent company, Community Loans of America, Inc., and the president and CEO of both companies, Robert Reich, for engaging in abusive debt collection practices. The Attorney General alleged in the suit that Fast Auto Loans had engaged in a wide range of unlawful debt collection and other unfair or deceptive practices that violate the WVCCPA, including unlawful threats or coercion, oppression and abuse, unreasonable publication of debts to third parties, fraudulent, deceptive or misleading representations, unfair or unconscionable means, false threats of arrest or criminal prosecution, the collection of excess charges, and failure to meet legal obligations to consumers following seizure of vehicles that secure its loans.

Fast Auto Loans removed the Attorney General's suit to federal court on July 18, 2012. The State filed a motion to remand the case back to the Circuit Court of Jefferson County. On January 11, 2013, U.S. District Court Judge Gina Groh filed a memorandum opinion and order remanding the case back to the Circuit Court of Jefferson County to be heard by Judge Sanders.

This case is currently in the discovery stage and is scheduled for a bench trial before Judge David Sanders on April 1, 2014.

22.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
First Premier Bank
(Civil Action No.: 11-C-90-N Circuit Court of Mason County, West Virginia)

Suit was filed against the Defendant on August 16, 2011, alleging unfair and deceptive acts or practices in connection with the sales and marketing of ancillary credit cards services.

These ancillary services purported to protect customers against fraudulent or unauthorized charges on their credit cards, protect from identity theft, and to provide benefits in the event of unemployment or disability. The complaint alleged that the Defendant violated the West Virginia Consumer Credit Protection Act when it charged consumers for these services that they did not want or from which they could receive no benefit, and by the unfair and deceptive manner in which the Defendant offered and administered the claims made by consumers for benefits. The Defendant filed a writ of prohibition with the West Virginia Supreme Court of Appeals seeking to prohibit the Attorney General from the use of outside counsel in the prosecution of these cases. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. *See, State ex rel., Discover Financial Services Inc., v. Nibert*, 231 W.Va. 227, 744 S.E.2d 625 (2013).

Following the denial of the writ, settlement negotiations commenced and settlement was reached with this Defendant in the amount of \$112,500.00.

23.

State ex rel. Patrick Morrisey, Jr. v. GA Financial Trust 2002-A, et al.
(Civil Action No. 09-MISC-213 - Circuit Court of Kanawha County)

On June 11, 2009, the Attorney General filed a Petition to Enforce Investigative Subpoena against GA Financial Trust 2002-A and Arrow Financial Services, LLC, located in Delaware. The Attorney General commenced an investigation of GA Financial Trust 2002-A after receiving a complaint that it had purchased and was collecting defaulted credit card debts in West Virginia without the required license and surety bond. On August 25, 2010, a hearing was held in the Circuit Court of Kanawha County. At the Courts request, the parties submitted proposed findings of fact and conclusions of law outlining their respective positions.

Although no ruling had been issued, Kanawha Circuit Judge Carrie Webster was forced to disqualify herself from the case when GA's counsel of record was hired as her law clerk. The case was reassigned by random rotation to Kanawha Circuit Judge Paul Zakaib, Jr., who has scheduled a new oral argument on the matter for December 19, 2013.

24.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
G.E. Money Bank
(Civil Action No.: 11-C-91-N Circuit Court of Mason County, West Virginia)

Suit was filed against the Defendant on August 16, 2011, alleging unfair and deceptive acts or practices in connection with the sales and marketing of ancillary credit cards services. These ancillary services purported to protect customers against fraudulent or unauthorized charges on their credit cards, protect from identity theft, and to provide benefits in the event of unemployment or disability. The complaint alleged that the Defendant violated the West Virginia Consumer Credit Protection Act when it charged consumers for these services that they did not want or from which they could receive no benefit, and by the unfair and deceptive manner in which the Defendant offered and administered the claims made by consumers for benefits. The Defendant filed a writ of prohibition with the West Virginia Supreme Court of Appeals seeking to prohibit the Attorney General from the use of outside counsel in the prosecution of these cases. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. *See, State ex rel., Discover Financial Services Inc., v. Nibert*, 231 W.Va. 227, 744 S.E.2d 625 (2013).

Following the denial of the writ, settlement negotiations commenced and settlement was reached with this Defendant in the amount of \$1.95 Million dollars.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. GlaxoSmithKline, LLC, formerly SmithKline Beechum Corporation
(Civil Action No.: 12-C-085 Circuit Court of Wayne County, West Virginia)

Suit was initially filed by the Attorney General on March 30, 2012, alleging unfair and deceptive acts or practices and unfair methods of competition and wrongfully and illegally marketing, promoting, and selling the diabetes drug known as “Avandia”. The complaint states that the Defendant spent hundreds of millions of dollars promoting Avandia in a false and/or misleading manner. The complaint further alleged that West Virginians that took the drug experienced severe adverse effects including myocardial infarction, myocardial ischemia, severe injury to the heart leading to cardiac arrest and death. The complaint alleges the violations of law including the West Virginia Consumer Credit and Protection Act. The Defendant initially filed various motions to dismiss and to prevent the Attorney General from using outside counsel in this litigation. After these motions were denied by the trial court, the Defendant filed a writ of prohibition to prohibit the use of outside counsel. On June 4, 2013, the West Virginia Supreme Court rejected the Defendants’ argument’ and allowed the use of outside counsel. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. *See, State ex rel., Discover Financial Services Inc., v. Nibert*, 231 W.Va. 227, 744 S.E.2d 625 (2013). Since that time, the parties have engaged in significant settlement negotiations. It is likely that the settlement will be finalized prior to the end of the fiscal year.

26.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
HSBC Bank of Nevada, NA, et al
(Civil Action No.: 11-C-93-N Circuit Court of Mason County, West Virginia)

Suit was filed against the Defendants on August 16, 2011, alleging unfair and deceptive acts or practices in connection with the sales and marketing of ancillary credit cards services. These ancillary services purported to protect customers against fraudulent or unauthorized charges on their credit cards, protect from identity theft, and to provide benefits in the event of unemployment or disability. The complaint alleged that the Defendant violated the West Virginia Consumer Credit Protection Act when it charged consumers for these services that they did not want or from which they could receive no benefit, and by the unfair and deceptive manner in which the Defendants offered and administered the claims made by consumers for benefits. The Defendants filed a writ of prohibition with the West Virginia Supreme Court of Appeals seeking to prohibit the Attorney General from the use of outside counsel in the prosecution of these cases. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. *See, State ex rel., Discover Financial Services Inc., v. Nibert*, 231 W.Va. 227, 744 S.E.2d 625 (2013).

Following the denial of the writ, settlement negotiations commenced and settlement was reached with this Defendant in the amount of \$1.95 Million dollars.

27.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
J.P. Morgan Chase and Company, et al
(Civil Action No.: 11-C-94-N Circuit Court of Mason County, West Virginia)

Suit was filed against the Defendant on August 16, 2011, alleging unfair and deceptive acts or practices in connection with the sales and marketing of ancillary credit cards services.

These ancillary services purported to protect customers against fraudulent or unauthorized charges on their credit cards, protect from identity theft, and to provide benefits in the event of unemployment or disability. The complaint alleged that the Defendants violated the West Virginia Consumer Credit Protection Act when they charged consumers for these services that they did not want or from which they could receive no benefit, and by the unfair and deceptive manner in which the Defendants offered and administered the claims made by consumers for benefits. The Defendants had originally removed these matters and the matters were subsequently remanded to the Circuit Court of Mason County. The Defendants then filed a writ of prohibition with the West Virginia Supreme Court of Appeals seeking to prohibit the Attorney General from the use of outside counsel in the prosecution of these cases. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. *See, State ex rel., Discover Financial Services Inc., v. Nibert*, 231 W.Va. 227, 744 S.E.2d 625 (2013).

Following the denial of the writ, settlement negotiations commenced and settlement was reached with this Defendant in the amount of \$1.95 Million dollars.

28.

State of West Virginia ex rel. Patrick Morrissey v.
Lender Processing Services, Inc., et al.
(Civil Action No. 13-C-210 - Circuit Court of Kanawha County)

In January 2013, the Attorney General joined 44 states and the District of Columbia in a settlement with Lender Processing Services, Inc., and its subsidiaries, LPS Default Solutions and DocX. A consent order was filed along with the complaint in Kanawha County Circuit Court.

The Jacksonville, Florida based company agreed to reform its business practices related to mortgage foreclosure services and pay the State \$203,595.00 as part of the \$113 million multi-state settlement. LPS had been accused of “robo-signing” documents and other improper

conduct related to mortgage loan default servicing. As part of the relief, LPS will enhance its oversight of the default services it provides and will review third-party fees to ensure the fees have been earned and are reasonable and accurate.

29.

State of West Virginia ex rel. Patrick Morrissey v.
Liberty Mutual Insurance Company, et al.
(Civil Action No. 11-C-2231 - Circuit Court of Kanawha County)

On December 15, 2011, the Attorney General filed a Complaint and Petition for Preliminary and Permanent Injunction against Liberty Mutual Insurance Company and Greg Chandler's Frame & Body, LLC for repairing vehicles with used parts in violation of W. Va. Code § 46A-6B-1 et seq., Consumer Protection – Automotive Crash Parts. Liberty Mutual required body shops to repair vehicles with reconditioned, re-manufactured and used parts in violation of West Virginia law. In addition, Liberty Mutual failed to provide consumers with the proper notices and written statements required by West Virginia's automotive crash parts law.

It is unlawful in West Virginia for an insurance company to require the use of salvaged, used or reconditioned original equipment manufacturer crash parts when negotiating repairs of motor vehicles within three years of manufacture, without acquiring the motor vehicle owner's consent.

In April 2012, Liberty Mutual agreed to stop requiring body shops to use salvaged parts while the matter is pending.

In December 2012, the circuit court entered an order permanently enjoining Liberty Mutual from requiring the use of salvaged parts to repair motor vehicles three years old or newer. Liberty Mutual has appealed the ruling and it is scheduled for oral argument in the West Virginia Supreme Court in March 2014.

30.

State of West Virginia ex rel. Patrick Morrissey v.
Liggett Construction and Donald Liggett, Individually
and d/b/a as Liggett Construction
(Civil Action No. 13-P-135 – Circuit Court of Marion County)

On August 26, 2013, the Office of the Attorney General filed suit against Liggett Construction and its owner Donald Liggett. The State filed the lawsuit because Liggett had failed to complete renovation, remodeling, or roofing services for at least three consumers who paid in advance for the work. Specifically, Liggett misled consumers about renovations and roof replacements, failing to keep numerous promises regarding completion dates and quality of services. Furthermore, the consumers found the work completed to be deficient and required additional labor and supplies to finish.

Liggett has failed to answer the State's complaint. The State seeks a final order permanently banning Liggett from undertaking contractor work, and requiring restitution for consumers who were harmed by the defendants' conduct, as well as civil penalties.

31.

State of West Virginia ex rel. Patrick Morrissey v.
Midland Funding, LLC, and Midland Credit Management, Inc.
(Civil Action No. 12-C-433 - Circuit Court of Kanawha County)

On March 8, 2012, the Office of the Attorney General filed a Complaint and Petition for Preliminary and Permanent Injunction against Midland Funding, a Delaware corporation, and its sister corporation, Midland Credit Management, a Kansas corporation, for using false affidavits when obtaining default judgments against West Virginia consumers and for failing to include information required by law when suing a consumer in magistrate or circuit court for an alleged debt.

The Attorney General began his investigation into Midland's business practices upon receiving complaints from consumers that they had received repeated telephone calls from Midland attempting to collect debts they did not owe. Some consumers also complained they had been sued for debts they did not owe on credit cards they never owned.

The Attorney General has entered into a settlement agreement with Midland wherein all post-judgment interest will be deleted from all West Virginia accounts; the State will receive \$55,000.00 to be used for consumer restitution and consumer education programs, and the special assistant attorney general was paid attorney fees in the amount of \$75,000.00. An order was entered on January 9, 2013 dismissing the case with prejudice in accordance with the terms of the settlement agreement.

32.

State of West Virginia ex rel. Patrick Morrissey v.
Morgan Drexen, Inc., et al.
(Civil Action No. 11-C-829 - Circuit Court of Kanawha County)

In May of 2011, the State sued Kansas attorney Lawrence W. Williamson, West Virginia attorney Rachelle McIntyre-Nicholson, Vincent D. Howard and Damian J. Nassiri, two California lawyers, their law partnership, Howard|Nassiri, Morgan Drexen, Inc., a Nevada company based in Los Angeles, and Walter J. Ledda, the principal owner of Morgan Drexen, in the Circuit Court of Kanawha County. The Attorney General alleged that the defendants had violated the Act by failing to give disclosures about the risks involved with a practice known as debt settlement and claiming to be able to negotiate a reduction in credit card debt in exchange for the payment of fees. Additionally, the defendants are not properly registered as a Credit Services Organization or properly registered under the state's Telemarketing Act. Moreover, the State claims that Lawrence Williamson is misrepresenting that he is providing legal services to

consumers in conjunction with the debt settlement services when he is not licensed to practice law in West Virginia.

In July of 2011, the trial court ordered the defendants to stop acquiring new customers in West Virginia, to escrow any fees or charges owed to the defendants from their business activities in West Virginia, and to continue to attempt to settle debts for their customers. An evidentiary hearing was held in September of 2011 with regard to the defendants' activities. The trial court has not ruled on the hearing although all briefing was completed in October 2011.

33.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Nationwide Affinity Company of America, Nationwide Agribusiness Insurance Company, Nationwide Assurance Company, Nationwide General Insurance Company, Nationwide Company of America, Nationwide Mutual Fire Insurance Company, Nationwide Mutual Insurance Company, and Nationwide Property and Casualty Company

(Civil Action No.: 1:13-cv-02677 United States District Court Southern District of West Virginia)

On January 11, 2013, suit was filed alleging violations of the West Virginia Consumer Credit Protection Act based on the failure of Nationwide to give premium discounts as advertised to members of the Farm Bureau who purchased National insurance policies. The Defendants removed the matter to federal court and filed a motion to dismiss. In response, a motion to remand has been filed along with a response to the motion to dismiss. No rulings have been made on these pending motions.

34.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Intersections Insurance Services, Inc.

(Civil Action No.: 12-C-122-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Attorney General filed a complaint against Intersections Insurance Services, Inc., for unlawful telemarketing activities, unlawful imposition of fees, and

other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft protection. The Defendant in this case is a third party vendor for various banks and credit card companies. The Defendants filed a motion for a more definite statement on or about April 1, 2013. No ruling has yet been issued on this motion.

35.

State of West Virginia ex rel. Patrick Morrissey v.
Nutrigenomics Mfg., LLC, et al.
(Civil Action No. 12-C-127 - Circuit Court of Putnam County)

On April 30, 2012, the Attorney General filed a Complaint and Petition for Preliminary and Permanent Injunction against Nutrigenomics Manufacturing, LLC and Drew Green, the limited liability company's organizer (Nutrigenomic). The State brought the action to enjoin and restrain Nutrigenomics from engaging in unfair or deceptive acts or practices in its marketing, distribution, and sale of products and consumer goods.

Nutrigenomics manufactured and sold chemicals that are used to create synthetic controlled substances that imitate the effects of marijuana, ecstasy (MDMA), cocaine, and methamphetamine. These synthetic drugs are sold on the market as "incense," "bath salts," "plant food," and other false labels. Each of the synthetic drugs are harmful to humans and many cause any number of lasting physical and psychological side effects, and are illegal in West Virginia.

The Honorable Phillip Stowers entered an Agreed Order on July 18, 2012 in which Nutrigenomics agreed not to conduct business in West Virginia, represent or imply to consumers that the chemicals are lawful in West Virginia, or that the effects of the chemicals are harmless.

The company has now been liquidated through bankruptcy, and Drew Green has pled guilty to violating federal drug laws. He awaits sentencing.

In July 2013, Judge Stowers permanently enjoined Neutrigenomics and Green from doing any business in West Virginia. The State awaits a ruling on civil penalties.

36.

State of West Virginia ex rel. Patrick Morrissey v.
Procorp Debt Solutions
(Civil Action No.: 12-MISC-244 - Circuit Court of Kanawha County)

On May 1, 2012, the Attorney General filed a subpoena enforcement suit against Procorp Debt Solutions, a Boca Raton, Florida debt settlement company, for refusing to comply with the State's subpoena. Procorp engaged in the controversial practice of providing a type of debt relief service for consumers commonly known as Adebt settlement.

Kanawha Circuit Judge Zakaib entered an order on June 26, 2012 compelling Procorp to comply with the subpoena and enjoining it from providing or continuing to provide debt relief or other services to consumers in West Virginia until such time as it complies in full with the subpoena and also becomes licensed and bonded to provide such services by the appropriate state agencies.

On January 1, 2013 the Attorney General filed a petition for contempt against Procorp after it failed to comply with Judge Zakaib's order requiring that it comply in full with the Attorney General's investigative subpoena. Thereafter, the Attorney General entered into an Assurance of Discontinuance with Procorp discussed elsewhere in this report that fully resolved the underlying investigation. In accordance with the settlement, an order was entered by the Court on May 1, 2013 dismissing the petition for contempt.

37.

State of West Virginia ex rel. Patrick Morrissey v.
Reed's Upholstery and David Reed
(Civil Action No. 12-C-1493- Circuit Court of Kanawha County)

In July 2012, the State sued David Reed and his upholstery business for multiple unfair or deceptive business practices. Reed sometimes took furniture and money and then refused to return either. After a preliminary injunction was imposed in August 2012, Reed entered an agreed order to settle the matter. Reed agreed to fix and return furniture, post a performance bond with the court and pay the State \$3,000.00.* Shortly after the settlement, Reed fixed and returned furniture as promised, repaid a customer who cancelled a job, and made the first payment of \$200.00 towards satisfying the \$3,000.00* judgment. During this reporting period, Reed has paid \$1,500.00.

38.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
Rite Aid of West Virginia, Inc.,
(Civil Action No.: 09-C-217 Circuit Court of Boone County, West Virginia)

On July of 2009, the Attorney General sued Rite Aid of West Virginia, Inc., for failure to comply with West Virginia Code § 30-5-12B which requires the substitution of generics for name brand drugs. The statute also requires that cost savings be passed on to the purchaser. It is alleged that Rite Aid did not pass on the prescription drug savings to purchaser when generic drugs were substituted for name brand drugs as required by the statute. The case was subsequently removed to the United States District Court and subsequently remanded back to Boone County Circuit Court. Renewed motions for summary judgment and motions to compel were heard on November 7, 2013. Currently, the parties are awaiting the Court's ruling on these motions.

39.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
Sitel Corporation
(Civil Action No.: 12-C-124-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Office of the Attorney General filed a complaint against the Sitel Corporation for unlawful marketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft protection. The Defendant in this case is a third party vendor for various banks and credit card companies. A motion to dismiss was filed on May 13, 2013. The parties are awaiting ruling on this motion. A scheduling order has been entered setting this matter for trial on August 19, 2014.

40.

State of West Virginia ex rel. Patrick Morrissey v. Spiker's Upholstery
and Peter Spiker, Individually and d/b/a as Spiker's Upholstery
(Civil Action No. 13-C-608 – Circuit Court of Monongalia County)

On August 20, 2013, the Office of the Attorney General filed suit against Spiker's Upholstery and its owner Pete Spiker. The State claims Spiker misled consumers, promising to reupholster furniture which he never did. Spiker also used high pressure sales tactics at the homes of dozens of unsuspecting consumers to demand immediate payment in full for services never to be undertaken or done in such a poor way as to require the job to be completely redone.

The Attorney General's lawsuit seeks to bar Spiker from performing any further reupholstery work, cancel all outstanding contracts, refund all money owed to consumers, and return all furniture. Since the action commenced, the State has received many additional written complaints against Spiker.

41.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
Sykes Enterprises, Inc.
(Civil Action No.: 12-C-125-N Circuit Court of Mason County, West Virginia)

On or about October 2, 2012, the Office of the Attorney General filed a complaint against Sykes Enterprises, Inc., for unlawful telemarketing activities, unlawful imposition of fees, and other unfair and unlawful acts as prohibited by the West Virginia Consumer Credit and Protection Act West Virginia Code § 46A-1-101, et seq., in connection with the marketing of credit card ancillary services such as identity theft protection. The Defendant in this case is a third party vendor for various banks and credit card companies. A motion to dismiss was filed on April 1, 2013. The parties are awaiting ruling on this motion. A scheduling order has been entered, and trial in this matter has been set for October 21, 2014.

42.

Thompson's Gas & Electric Service, Inc. v.
Patrick Morrissey
(Civil Action No. 12-MISC-398 - Circuit Court of Kanawha County)

The Attorney General issued a subpoena to Thompson's Gas & Electric Service on July 3, 2012. Our investigation was prompted by complaints indicating that Thompson was engaged in a wide range of unfair or deceptive acts and practices, including misleading consumers about the terms and conditions of service and seizing tanks containing propane already paid for by consumers without reimbursing them. Thompson's Gas & Electric Service filed a Motion to Quash Administrative Subpoena on August 2, 2012, in the Circuit Court of Kanawha County. A hearing was scheduled for November 8, 2012, but was continued when the parties agreed to try to meet and resolve their differences. As of this date Thompson's has not complied with the subpoena and the motion to quash remains pending.

State of West Virginia ex rel. Patrick Morrissey v.
Wholesale Used Cars, Inc.
(Civil Action No. 03-C-2839 - Circuit Court of Kanawha County)

Wholesale Used Cars, Inc. was a buy here-pay here used auto dealer located in Charleston, West Virginia. In November 2003, the Division sued Wholesale, Charles Parker, Owner, and Jeryl Parker, President (Wholesale). Consumers complained that Wholesale sold them used vehicles that became inoperable shortly after purchase. A review of Wholesale's loan documents revealed numerous additional violations, including disclaiming the implied warranty, asserting a right to collect a late fee before expiration of the 10-day grace period, charging late fees that exceeded the statutory permissible fee, and failing to provide the disclosures required by the Truth in Lending Act, 15 U.S.C. § 1638 et seq. At a preliminary injunction hearing held on January 9, 2004, Wholesale agreed to be enjoined from further financing of autos until such time as it adopted loan documents that complied with the requirements of state and federal law.

After a fact finding hearing conducted by a special commissioner appointed by the Court, an order was entered on October 11, 2005, requiring the defendants to pay the State \$28,616.34 in consumer restitution in 24 monthly payments and to pay \$28,616.34 in civil penalties. As of this date, Charles Parker has repaid the \$28,616.34 in consumer restitution, which has been distributed to 14 consumers who have been aggrieved by the dealer's practices. However, Charles Parker has defaulted on the amount owed for civil penalties. As of this date he has paid \$5,271.26 and currently owes an additional \$18,073.92 in civil penalties.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
World Financial Network National Bank, et al
(Civil Action No.: 11-C-92-N Circuit Court of Mason County, West Virginia)

Suit was filed against the Defendants on August 16, 2011, alleging unfair and deceptive acts or practices in connection with the sales and marketing of ancillary credit cards services. These ancillary services purported to protect customers against fraudulent or unauthorized charges on their credit cards, protect from identity theft, and to provide benefits in the event of unemployment or disability. The complaint alleged that the Defendants violated the West Virginia Consumer Credit Protection Act when they charged consumers for these services that they did not want or from which they could receive no benefit, and by the unfair and deceptive manner in which the Defendants offered and administered the claims made by consumers for benefits. The Defendants had originally removed these matters and the matters were subsequently remanded to the Circuit Court of Mason County. The Defendants then filed a writ of prohibition with the West Virginia Supreme Court of Appeals seeking to prohibit the Attorney General from the use of outside counsel in the prosecution of these cases. The writ was denied by the West Virginia Supreme Court of Appeals on June 4, 2013. *See, State ex rel., Discover Financial Services Inc., v. Nibert*, 231 W.Va. 227, 744 S.E.2d 625 (2013).

Following the denial of the writ, settlement negotiations commenced and settlement was reached with this Defendant in the amount of \$260,000.00.

Assurances of Discontinuance/Settlement Agreements

1.

In the matter of ACAC, Inc. d/b/a Approved Cash Advance

On March 15, 2013 the Attorney General entered into an Assurance of Discontinuance with ACAC, Inc., d/b/a Approved Cash Advance, a Virginia title lender headquartered in Cleveland, Tennessee. The Attorney General opened an investigation of Approved Cash Advance after receiving complaints or other information that it was engaging in abusive collection practices when West Virginia residents defaulted on title loans. Title loans typically have interest rates of 300% APR or more and are secured by a non-purchase money security interest in the consumer's motor vehicle. Although title loans are not permitted in West Virginia, some cash-strapped residents travel to Virginia to obtain them.

Among other things, consumers alleged that Approved Cash Advance contacted them or their family members by telephone at unusual times or places known to be inconvenient, wrongfully communicated information related to a consumer's alleged indebtedness to employers or other third parties, and threatened that voluntarily relinquishing possession of vehicles that secured the loan may result in arrest or criminal prosecution.

In the Assurance, Approved Cash Advance promised to permanently refrain from making title loans to West Virginia residents in the future. Approved Cash Advance also promised to deduct all interest and fees still owed on accounts that were not paid in full as of February 26, 2013, and to release their liens on all remaining titles to West Virginia residents.

As a result of this Assurance, Approved Cash Advance released the liens on titles to vehicles owned by 90 West Virginia residents and canceled \$11,682.32 in debts.

2.

In the matter of James P. Belstadt and Vision Credit Solutions, LLC

On August 16, 2013, the Attorney General entered into an Assurance of Discontinuance with James P. Belstadt who did business as Vision Credit Solutions, LLC ("Vision"), a collection agency based in Amherst, New York. The Attorney General opened an investigation of Vision after receiving complaints reporting that Vision was engaging in the purchase and collection of debts from consumers in West Virginia without a license to do so. In the Assurance, Vision promised to permanently refrain from doing so.

3.

In the matter of Barry Blackburn d/b/a Pawn Shop and Pawn Shop II

On August 1, 2013, the Attorney General entered into an Assurance of Discontinuance with Barry Blackburn ("Blackburn") d/b/a Pawn Shop and Pawn Shop II of Oakhill, West Virginia. The Attorney General opened an investigation of Blackburn after receiving complaints and other information that Blackburn, a pawn broker, was engaging in the illegal practice of making title pawn loans. A title pawn loan is a short-term cash advance or loan made by a pawnbroker to a consumer that is secured only by the title to the motor vehicle and not by the actual physical possession of the vehicle. Because such loans are not true pawn transaction, the Supreme Court of Appeals of West Virginia previously held that they are consumer loans that are regulated by the Attorney General.

In the Assurance, Blackburn agreed to pay \$27,121.00 that will be used as restitution for consumers whose vehicles were illegally seized or resold, and to refund illegal interest charges to the 85 West Virginia consumers who obtained the title pawn loans. Blackburn also agreed to pay an additional \$5,000.00 to the State for use by the Attorney General for consumer protection

or other authorized purposes. Blackburn also agreed to permanently refrain from making title pawn loans in West Virginia.

4.

In the matter of Hampshire Memorial Hospital, Inc.

On July 3, 2013, the Attorney General entered into an Assurance of Discontinuance with Hampshire Memorial Hospital, Inc. ("Hampshire Memorial"), of Winchester, Virginia. The Attorney General was prompted to open an investigation of Hampshire Memorial after receiving complaints alleging that it was engaging in a wide range of allegedly unlawful debt collection practices. Among other things, Hampshire Memorial required patients to sign a consent form that included a waiver of their homestead exemption in any subsequent debt collection matter. The form also provided that consumers whose accounts became delinquent would incur interest charges of 7% interest on the unpaid balance and such consumers would be liable for Hampshire Memorial's attorney's fees in the collection of the debt. Hampshire Memorial also employed a collection agency, Mosaic Financial Solutions, Inc. ("Mosaic"), to collect its delinquent accounts but Mosaic was not licensed to do so in West Virginia. At the behest of Hampshire Memorial, Mosaic also induced West Virginia consumers to enter into credit agreements that converted non-interest bearing debts allegedly owed to Hampshire Memorial into interest bearing debt charged to open credit agreements. The Attorney General entered into a separate Assurance with Mosaic which is discussed elsewhere in this report.

In the Assurance, Hampshire Memorial agreed to permanently refrain from engaging in the alleged unlawful collection practices and paid \$7,500.00 to the Attorney General that may be used for consumer protection or other authorized purposes.

5.

In the matter of Huddleston & Huddleston, Attorney at Law, PLLC

On June 27, 2013, the Attorney General entered into an Assurance of Discontinuance with Huddleston & Huddleston, Attorneys at Law, PLLC ("Huddleston"), a law firm located in Bowling Green, Kentucky. The Attorney General opened an investigation of Huddleston after receiving complaints that Huddleston had purchased delinquent consumer accounts for collection in West Virginia without a license to do so. Huddleston also stated or implied that it may file suit to collect a time-barred debt when it had no intention of doing so.

In the Assurance, Huddleston agreed to permanently refrain from the unlawful practice and paid \$1,000.00 to the State of West Virginia that may be used by the Attorney General for consumer protection or other authorized purposes. Huddleston also closed the account with a zero balance of a West Virginia consumer, from which it had attempted to collect the debt, resulting in a canceled debt of \$5,334.47.

6.

In the matter of Lincare, Inc.

On August 2, 2013, the Attorney General entered into an Assurance of Discontinuance with Lincare, Inc., a provider of home medical equipment services headquartered in Clear Water, Florida. The Attorney General opened an investigation of Lincare after receiving a complaint from a West Virginia consumer who alleged that Lincare unlawfully disclosed protected health information about him to a neighbor while attempting to deliver medical equipment to his home.

In the Assurance, Lincare promised to supplement its present policies and procedures and to provide additional training to its staff to ensure that privacy is protected in the delivery of home medical equipment to West Virginia residents. Lincare also agreed to pay \$6,000.00 to the

State of West Virginia that may be used by the Attorney General for consumer protection and other authorized purposes.

7.

In the matter of Manor Resources, LLC d/b/a www.turbotitleloan.com

On February 5, 2013, the Attorney General entered into an Assurance of Discontinuance with Manor Resources, LLC, d/b/a www.turbotitleloan.com ("Turbo Title"), an Internet payday lender based in Rock Island, Illinois. The Attorney General opened an investigation of Turbo Title after receiving a complaint indicating that Turbo Title was making usurious title loans over the internet to West Virginia residents.

In the Assurance, Turbo Title promised to permanently refrain from making such usurious loans over the Internet to West Virginia consumers. Turbo Title also agreed to refund all unlawful interest charges that it had collected and to close any remaining accounts with a zero balance. As a result of the Assurance, the Attorney General obtained a total of \$2,425.00 in refunds and cancelled debts combined for 6 West Virginia consumers.

8.

In the matter of Matthews Law Firm, Inc.

On April 12, 2013, the Attorney General entered into an Assurance of Discontinuance with Matthews Law Firm, Inc. ("MLF"), of Los Angeles, California. The Attorney General opened an investigation of MLF after receiving complaints alleging that was engaging in the provision of debt settlement services to West Virginia residents without the license to do so and was also charging excess fees for such services.

In the Assurance, MLF agreed to permanently refrain from the provision of debt settlement or other debt relief services to consumers in West Virginia. MLF also agreed to make

full refunds to consumers who did not receive any account settlements and refunds of not less than 50% to all others.

9.

In the matter of Dave Metzger and Ashley Devries d/b/a Vacuum Payment Processors & Metzger Enterprises, Inc.

On January 11, 2013, the Attorney General entered into an Assurance of Discontinuance with Dave Metzger and Ashley Devries d/b/a Vacuum Payment Processors & Metzger Enterprises, Inc. (collectively "Metzger"), a distributor of Kirby vacuum cleaners headquartered in Pittsburgh, Pennsylvania. The Attorney General opened an investigation of Metzger after receiving complaints alleging that Metzger engaged in a wide range of unfair or deceptive sales practices. Among other things, Metzger mislead consumers about their three-day right to cancel under state and federal law and also engaged in abusive debt collection practices in the course of repossessing Kirby vacuum cleaners from consumers who allegedly defaulted on their accounts. In the Assurance, Metzger agreed to permanently refrain from engaging in the unlawful practices. Metzger also agreed to pay \$5,000.00 to the State of West Virginia that may be used by the Attorney General for consumer protection purposes and other authorized purposes.

10.

In the matter of Mosaic Financial Solutions, Inc.

On July 5, 2013, the Attorney General entered into an Assurance of Discontinuance with Mosaic Finance Solutions, Inc. ("Mosaic"), a collection agency based in Greensboro, North Carolina. The Attorney General opened an investigation of Mosaic after receiving complaints or other information indicating that Mosaic was collecting debts in West Virginia without a license to do so. The Attorney General's investigation also disclosed that Mosaic induced West Virginia residents on behalf of its client, Valley Health Systems ("Valley"), to enter into open credit accounts that converted non-interest debts owed to Valley into debt that incurred interest at the

rate of 7% APR. Mosaic also advised consumers falsely that failure to pay alleged debts to Valley could result in the filing of a lawsuit and liability for Valley's collection costs and attorney's fees.

In the Assurance, Mosaic promised to permanently refrain from engaging in the unlawful practices. Mosaic also agreed to pay \$7,500.00 to the State of West Virginia that may be used by the Attorney General for consumer protection and other authorized purposes.

11.

In the matter of Premium Asset Services, LLC

On September 26, 2013, the Attorney General entered into an Assurance of Discontinuance with Premium Asset Services, LLC ("Premium"), a collection agency based in Santa Ana, California. The Attorney General opened an investigation of Premium after receiving complaints alleging that Premium was collecting debts in West Virginia without a license and was engaging in other unlawful collection practices. Among other things, Premium allegedly failed to send consumers written notice of their right to dispute the debt than five days after its first contact, threatened garnishment of wages without informing consumers that garnishment may only occur after it has obtained a judgment, and threatened to file suit to collect debts when it had no intention of doing so.

In the Assurance, Premium promised to permanently refrain from engaging in such practices in West Virginia. Premium also agreed to refund all payments it collected from West Virginia consumers and to close all of its West Virginia accounts with a zero balance. Premium also agreed to pay \$2,500.00 to the State of West Virginia, to be used by the Attorney General for consumer protection and other authorized purposes.

As a result of the Assurance, the Attorney General obtained \$3,237.09 in refunds and cancelled debts combined for 4 West Virginia consumers.

12.

In the matter of Procorp Debt Solutions, LLC

On May 8, 2013, the Attorney General entered into an Assurance of Discontinuance with Procorp Debt Solutions, LLC ("Procorp"), a debt settlement company located in Boca Raton, Florida. The Attorney General opened an investigation of Procorp after receiving complaints and other information alleging that Procorp was engaging in the provision of debt settlement services of West Virginia residents without a license to do so and was charging unlawful fees for such services.

In the Assurance, Procorp promised to permanently refrain from engaging in such practices. Procorp also promised to make full refunds to all consumers who did not receive any account settlements and to refund not less than 50% refunds to all others.

13.

In the matter of Rubin & Yates, LLC

On October 28, 2013, the Attorney General entered into an Assurance of Discontinuance with Rubin & Yates, LLC ("R&Y"), a collection agency based in Depew, New York. The Attorney General opened an investigation of R&Y after receiving complaints and other information that it was engaging in the purchase and collection of defaulted accounts in West Virginia without a license to do so. Further investigation also disclosed that R&Y was engaging in other unlawful collection practices, including threatening to file suit when it had no intention of doing so, threatening that nonpayment of alleged debts would result in arrest or criminal prosecution, telephone harassment, the disclosure of debts to third parties, failure to send notice

of debt validation rights within five days after its first contact, failing to verify debts when disputed by consumers, and attempting to collect debt in the absence of any proof of the debts and without any ability to obtain such proof.

In the Assurance, R&Y promised to refund all payments it collected from West Virginia consumers and to close its West Virginia accounts with a zero balance. R&Y also agreed to pay \$5,000.00 to the State of West Virginia, to be used by the Attorney General for consumer protection and other authorized purposes.

As a result of the Assurance, the Attorney General obtained \$11,616.35 in cash refunds for 18 West Virginia consumers, as well as \$2,078,306.60 in cancelled debts for 802 West Virginia consumers.

14.

In the matter of Joel Scarlato and Scarlato Enterprises, LLC

On May 8, 2013, the Attorney General entered into an Assurance of Discontinuance with Joel Scarlato, doing business as Scarlato Enterprises, LLC ("Scarlato"), a home improvement contractor based in Hurricane, West Virginia. The Attorney General opened an investigation of Scarlato after receiving complaints that it was engaging in home improvement contracting without a license from the Contractor Licensing Board and was engaging in a number of unfair or deceptive acts or practices in connection with home improvement contracting.

In the Assurance, Scarlato promised to permanently refrain from engaging in such practices in the future. Scarlato also released a mechanic's lien of \$2,948.91 that he had filed against the property of two West Virginia consumers. Scarlato also paid \$500.00 to the State of West Virginia that may be used by the Attorney General for consumer protection and other authorized purposes.

15.

In the matter of The Strayer University Corporation

On May 13, 2013, the Attorney General entered an Assurance of Discontinuance with The Strayer University Corporation ("Strayer"), a private, for-profit institution of higher education based in Herndon, Virginia. The Attorney General opened an investigation of Strayer after receiving complaints that it was engaging in certain unlawful debt collection practices, including the imposition of collection fees to delinquent accounts allegedly owed by West Virginia consumers.

In the Assurance, Strayer promised to permanently refrain from adding unlawful debt collection fees to delinquent accounts in West Virginia. Strayer also agreed to pay \$6,060.00 to the State of West Virginia to be used by the Attorney General for consumer protection and other authorized purposes.

As a result of the Assurance, Strayer removed \$6,060.00 in collection fees that it had assessed to West Virginia accounts and refunded \$1,240.00 that it had already collected on 573 accounts.

16.

In the matter of Sunbelt Fidelity Corp.

On April 23, 2013, the Attorney General entered into an Assurance of Discontinuance with Sunbelt Fidelity Corp. of Houston, Texas.

The Attorney General had commenced an investigation of Sunbelt Fidelity, a mortgage rescue company, after receiving a complaint that Sunbelt Fidelity was collecting fees for promises of negotiating relief for the consumer from her mortgage loan. No relief was negotiated.

In the Assurance, Sunbelt Fidelity agreed to comply with West Virginia law in its future business practices and refrain from doing business in West Virginia until it registers with the West Virginia Secretary of State, and the Department of Tax and Revenue among other relief. As part of the Assurance, Sunbelt Fidelity paid \$500.00 to the State.

17.

In the matter of WVU The Lofts, LLC

On June 3, 2013, the Attorney General entered into an Assurance of Discontinuance with WVU Lofts, LLC ("The Lofts"), a real estate company based in Chambersburg, Pennsylvania that owned and managed residential rental property located in or near Morgantown, West Virginia. The Attorney General opened an investigation of The Lofts after receiving complaints that it was engaging in unlawful debt collection practices. Specifically, some consumers reported that The Lofts continued to debt their credit card accounts after they had withdrawn written authorization to do so. Consumers also reported that The Lofts unlawfully passed on the costs of property maintenance to consumers by charging them for professional carpet and cleaning services to remedy conditions more fairly characterized as normal wear and tear.

In the Assurance, The Lofts promised to permanently refrain from engaging in the practices in the future. The Lofts also dismissed several small claims suits it had filed against consumers to collect amounts questioned by the Attorney General and also paid \$5,000.00 to the State of West Virginia, to be used by the Attorney General for consumer protection and other authorized purposes.

C. Antitrust Litigation

The Antitrust Division of the Office of the Attorney General is under the same management as the Consumer Protection Division and is charged with the responsibility of

enforcing the West Virginia Antitrust Act, W. Va. Code § 47-18-1 et seq. The purpose of the Antitrust Act is to prevent unreasonable restraints of trade, monopolies, and attempts to monopolize trade. The Antitrust Division is staffed by one attorney and one paralegal and receives legal support from other attorneys in the office as needed. Under the Antitrust Act, the Attorney General is authorized to take legal action on behalf of the State and/or on behalf of its citizens to secure injunctive relief, restitution, civil penalties, damages, fees and costs.

1.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v.
Acordia of West Virginia, Inc., et al
(Civil Action 05-C-115-W Circuit Court of Hancock County, West Virginia)

On or about May 19, 2005, the Office of the Attorney General sued Acordia Inc., and Acordia Of West Virginia, Inc., alleging violations of the antitrust act. Acordia, an insurance broker acts as a middle man between a company wanting to purchase insurance and companies offering insurance policies. The suit alleges that Acordia failed to disclose the backdoor commissions that are received from its clients. Moreover, the State alleged that Acordia steered its customers to insurers that paid higher contingent commissions. Contingent Commissions were paid, in part, based on the volume of business written by the broker and the profitability of the business written. The case had largely been dormant from 2006-2011. Summary Judgment motions were filed in the summer of 2012. Supplemental briefs were filed in August of 2013, and on November 8, 2013, the Court entered an Order denying the motions for summary judgment and ordering discovery. Accordingly, discovery is continuing and trial is not expected for some time.

2.

State of West Virginia ex rel. Patrick Morrisey v.
Bank of America N.A.

(Civil Action No.: 09-C-113-N Circuit Court of Mason County, West Virginia)
(MDL No. 1950 U.S. District Court Southern District of New York)

On September 3, 2009, the State filed a complaint against Bank of America, NA, concluding that Bank of America had conspired with other financial institutions and brokers to fix prices bid for investment products called Guaranteed Investment Contracts (“GIC”). The GIC’s are sold to State and municipal agencies as short term investments of larger sums of money obtained by the agencies from the sale of bonds. They are usually tax exempt. The State alleges the GIC’s paid less interest than they would have in a competitive market due to the conduct of Bank of America. Bank of America removed the matter to the United States District Court for the Southern District of West Virginia.

The matter was transferred to the United States District Court for the Southern District of New York, and was joined with multidistrict litigation. Subsequently, the Attorney General’s Office expanded the suit to include 24 companies as Defendants in the lawsuit. Currently all Defendants who have been brought into the action include Bank of America, NA, Merrill Lynch and Company, Inc., UBS Financial Services, Inc., UBS Securities, LLC, UBS AG, J.P. Morgan Chase and Company, J.P. Morgan Securities, Inc., MBIA Inc., Morgan Stanley, Bayerische Landesbank, Girozentrale Financial Security Assurance, Inc., Assured Guaranty US Holdings Inc., Dexia S.A., G.E. Funding Capitol Market Services, Inc., Trinity Plus Funding Comapnay, LLC, Trinity Funding Company, LLC, .Nitixis Funding Corp., Nitixis S.A., CDR Finanacial Products, Inc., George K. Baum and Co., and Investment Management Advisory Group, Inc.

In 2013, settlements were reached with Royal Bank of Canada in the amount of \$175,000.00, and Bank of America in the amount of \$1.375 Million dollars. Discovery continues with respect to the remaining Defendants.

3.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Comcast Corporation, et al

(Civil Action No.: 09-C-130-H Circuit Court of Marshall County)
(Civil Action 5:09-cv-00091fps- US District Court Northern District of West Virginia)
(Civil Action 2: 109-cv-0091fps- US District Court Eastern District of Pennsylvania)

In July of 2009, suit was filed against Comcast Corporation, Comcast Holdings Corporation, LLC, Comcast Cable Communications Holdings, Inc., alleging antitrust violations. Comcast requires customers to rent a converter box if customers want premium channels. The converter boxes are available for sale for less than a yearly rental fee from Comcast, but Comcast requires the rental fees to be able to access the premium channels. The matter was removed to Federal Court and then transferred to Eastern District of Pennsylvania. Currently, there is a pending nationwide class action settlement which would potentially resolve the claims in West Virginia. The matter has been presented to the Court for a ruling, no ruling has been issued on the proposed settlement.

4.

State of West Virginia ex rel. Patrick Morrissey, Attorney General v. Minnesota Mining and Manufacturing Company, et al.
(Circuit Court of Lincoln County West Virginia)

On August 6, 2003, the Attorney General sued Minnesota Mining and Manufacturing Company, Mine Safety Appliance Company, and American Optical Corporation in Lincoln County. The State alleged that Defendants violated the West Virginia Consumer Credit and Protection Act by falsely advertising the capabilities of the masks they sold. Specifically, the

State alleged that all of the dust masks were marketed for being safe and effective, the masks repeatedly failed. The Defendants removed this case to the United States District Court for the Southern District of West Virginia. In January 2005, the case was remanded to State Court. The case is still pending.

5.

State of West Virginia, ex rel., Patrick Morrissey, Attorney General v. Pfizer, Inc., Pfizer-Ireland Pharmaceuticals, Warner-Lambert Company, LLC, Ranbaxy, Inc., Ranbaxy Pharmaceuticals, Inc., Ranbaxy Laboratories, LTD
(Civil Action No.: 13-C-1-N Circuit Court of Mason County, West Virginia)

On December 28, 2012, the Attorney General filed a complaint against the Defendants, alleging that various agreements and settlements between the Defendants violated West Virginia Antitrust statutes as well as the West Virginia Consumer Credit Protection Act. The Defendants initially removed the action to Federal Court where it was subsequently remanded. The Defendants then filed Motions to Dismiss which were heard by the Court on October 7, 2013. At this time, parties are awaiting a ruling from the Court on the Motion to Dismiss.

6.

State of California, et al. v. Infineon Technologies AG, et al.
(3:06- CV-04333 PJH - U.S.D.Ct. Northern District of California)
(MDL No. 1486 - San Francisco Division, Northern District of California)

On July 14, 2006, the Division filed a complaint along with 38 states against Infineon Technologies AG; Infineon Technologies North America Corp.; Hynix Semiconductor, Inc.; Hynix Semiconductor America, Inc.; Micron Technology, Inc.; Micron Semiconductor Products, Inc.; Mosel Vitelic, Inc.; Mosel Vitelic Corp.; Nanya Technology Corporation USA, Inc.; Nanya Technology Corporation; Elpida Memory, Inc.; Elpida Memory (USA), Inc.; and, NEC Electronics America, Inc. These companies and others are charged with conspiring to fix the prices of dynamic random access memory computer chips. The computer memory chips are

used in personal computers, laptop computers, and other electronic devices, such as cell phones and personal digital assistants. Several of the companies have pled guilty to price fixing.

In early 2007, Samsung Semiconductor, Inc. and Samsung Electronics Co., Ltd., reached a settlement with West Virginia and the other litigating states. In total, Samsung agreed to pay the states \$10,000,000.00.* Late in 2007, a second defendant group, Winbond Electronics Corporation and Winbond Electronics Corporation America, settled its litigation with West Virginia and the other states. In total, Winbond agreed to pay the states \$500,000.00.* In June 2010, the states and private class plaintiffs reached a settlement agreement with all the remaining defendants except the Nanya group. The remaining defendants agreed to pay approximately \$19,000,000.00* to the states. Later, the Nanya group of defendants reached a settlement agreement with the states. The Nanya group of defendants agreed to pay to the states \$424,800.00.* The amount each state will receive from the settlement agreements has not been determined. Final court approval of the settlement is pending.

7.

State of Missouri, et al. v. AU Optronics Corp. et al.
(Case No. CV:10-3619 EMC - U.S.D.Ct. N.D. of California San Francisco Division)

In August of 2010, the Attorney General joined four other states in a complaint against manufacturers of thin-film transistor liquid crystal display panels. The states claim that the companies conspired to fix prices, and restrict production of the panels to keep prices high. The LCD panels are used as computer monitors, in laptop computers and televisions. Most of the companies have pled guilty to federal price fixing charges. One of the defendants, AU Optronics, was found guilty of antitrust violations in a federal criminal trial during the reporting period.

The companies sued include: AU Optronics Corp. of Taiwan; Chi Mei Innolux Corp. of Taiwan; Hannstar Display Corporation of Taiwan; Hitachi Ltd. of Japan; LG Display Co. Ltd. of South Korea; Samsung Electronics, Co., Ltd. of South Korea; and Sharp Corporation of Japan. Affiliates and subsidiaries of the companies were also named as defendants.

Settlements were reached with all defendants during the prior reporting period and West Virginia received civil penalties in the amount of \$766,923.56. The State will receive settlement money related to the State's purchases, but the amount is unknown at this time. Finally, a claims process that ended December 6, 2012 will pay refunds to consumers in an amount expected to be at least \$25.00 per claim. The amount of valid claims will not be known until challenges to the settlements are resolved on appeal.

8.

State of Texas, et al. v. Hachette Book Group, Inc. et al.
(Case No. 12-cv-6625 - U.S.D.Ct., Southern District of New York)

In the companion e-books case to the Penguin action, West Virginia and other states settled claims against Hachette Book Group, Inc., HarperCollins Publishers, LLC, Simon & Schuster, Inc. and Simon & Schuster Digital Sales, Inc. (Settling Publishers) with regard to claims of price fixing e-books. During the reporting period, the court gave final approval to the settlement.

As part of the relief, the Settling Publishers are agreeing to stop selling e-books through an "agency" model but to resume sales as a wholesale distributor. This will allow retailers such as Amazon or Barnes & Noble to sell books at deep discounts. Under the agency model, the Settling Publishers set the retail prices. In addition, the companies agreed to pay the states approximately \$70,000,000.00 to compensate consumers, plus attorneys' fees. West Virginia's portion of the fees and costs, \$42,328.00 was received during the reporting period. Distribution

to consumers was held up to combine the distribution with the proceeds from the Penguin and Macmillan settlements. Final approval in the companion matter is expected in December 2013 with distribution targeted for Spring 2014.

9.

State of Texas, et al. v. Penguin Group (USA) Inc. et al.
(Case No. 12-cv-03394 - U.S.D.Ct., Southern District of New York)
(11 MDL - 02293 - U.S.D.Ct., Southern District of New York)

In April of 2012, the Attorney General sued two book publishers and Apple, Inc. The publishers, Penguin Group (USA) Inc. and Holtzbrinck Publishers, LLC d/b/a Macmillan conspired to set the prices for electronically-distributed books (e-books). The publishers met with each other and other publishers - Hachette Book Group, HarperCollins and Simon & Schuster - to determine how to combat low prices charged by Amazon, Inc. for New York Times Best Sellers.

In a separate matter, Hachette, HarperCollins and Simon & Schuster settled with West Virginia and the other states joining in the multidistrict litigation in the United States District Court for the Southern District of New York. The U.S. Department of Justice filed a companion case against Apple and the publishers as well.

During the reporting period, the states reached settlements with Penguin and Macmillan. Penguin and Macmillan agreed to similar injunctive relief as the other publishers (Hachette, HarperCollins and Simon & Schuster). They agreed to sell their e-books on the wholesale/retail model that permits retailers to set the final retail price to consumers. Retailers such as Amazon are once again free to deeply discount retail prices as they did before the conspiracy. Under the terms of the settlements, Penguin agreed to pay \$75 million to the states for consumer relief and Macmillan agreed to pay \$20 million. In addition, the companies will pay the states' fees and

costs in the amount of \$10 million. West Virginia's portion has not been determined. Final approval of the Penguin and Macmillan settlements is expected in December, 2013.

Also during the reporting period, the states tried the liability phase of the case against Apple along with the U.S. Department of Justice. The trial court ruled in favor of the government plaintiffs in July 2013, ruling that Apple had violated the antitrust laws. The Court then imposed injunctive relief on Apple in September. The relief prohibits Apple from entering into "agency" agreements with the publishers and prevents Apple from using "most favored nation" restrictions in its contracts that would guarantee it would never face pricing competition.

Apple, Simon & Schuster and Macmillan have appealed the terms of the injunctive relief imposed by the Court in September 2013. A trial on the states' damages claims and civil penalties is set for May 2014.

D. Preneed Funeral Unit

Attorney General Morrissey's Preneed Funeral Division is responsible for recording and regulating the sale, management, and execution of preneed funeral contracts. The Preneed Funeral Division consists of an auditor, an administrative assistant, and a lawyer.

There are currently 272 funeral homes and 33 cemeteries licensed to sell preneed funeral contracts in West Virginia. The Preneed Funeral Division has two funded accounts. The West Virginia Preneed Regulation Fund (the Regulation Fund) was established to pay for the administration of the Preneed Funeral Division and is funded by fees paid by consumers and funeral homes. The West Virginia Preneed Guarantee Fund (the Guarantee Fund) was established to serve as an insurance account to protect consumers in the event a funeral home is financially unable to fulfill its preneed contractual obligations. As of November 19, 2013, the

Regulation Fund has a balance of \$192,357.88, and the Guarantee Fund has a balance of \$541,416.55.

PRENEED FUNERAL UNIT LITIGATION

State ex re. Patrick Morrissey v.
Elk Funeral Home, et al.
(Civil Action No. 12-C-935 - Circuit Court of Kanawha County)

On May 22, 2012, the Office of the Attorney General filed suit against Elk Funeral Home and its owner, Billy Surratt. The State filed the lawsuit because Surratt had misappropriated funds belonging to more than 30 consumers who paid in advance for funeral arrangements. Ultimately, it was revealed that Surratt had failed to deposit consumers' money into trust accounts, and had not reported the funds to the Attorney General, as required by law. Elk Funeral Home and Surratt are currently enjoined from accepting advance payments from consumers and Surratt's assets have been frozen until the case is resolved. The pending enforcement action seeks a final order permanently banning Elk Funeral Home and Surratt from selling or administering preneed funeral contracts, restitution for consumers who were harmed by the defendants' conduct, as well as civil penalties, punitive damages, and interest on all judgments.

PRENEED FUNERAL UNIT ASSURANCES OF DISCONTINUANCE

As part of its responsibility to regulate the sale of preneed funeral contracts, the Preneed Funeral Unit conducts audits to ensure that funeral providers are managing their preneed funeral accounts in accordance with state law. When audits reveal violations, funeral providers are asked to sign an Assurance of Discontinuance. The most common violations discovered during these audits are the failure to report preneed funeral contracts to the Preneed Funeral Unit within 10 days of execution, and the failure to submit a Report of Death Beneficiary form after

servicing a preneed funeral contract. During the 2013 reporting period, four preneed funeral providers signed Assurances of Discontinuance.

FUNERAL HOME	LOCATION	CONTRACTS Failure to Register	CONTRACTS Failure to File Death Beneficiary Forms	FILING FEES AND COSTS
Mountain Funeral Group, LLC d/b/a Davis Funeral Home	Clarksburg, WV	8	419	\$6,160.00
Wilson-Shamblin-Smith Funeral Home	Clay, WV	0	12	\$1,520.00
Pennington Funeral Home	Gauley Bridge, WV	0	0	\$1,400.00
O'Dell Funeral Home	Montgomery, WV	27	59	\$4,020.00

VI.

OUTSIDE COUNSEL POLICY

On July 16, 2013, the West Virginia Office of Attorney General adopted an Outside Counsel Policy to establish procedures and guidelines for the appointment of outside counsel to represent the State. This policy had a significant impact on the amount of money paid to outside counsel assisting the Office of Attorney General in matters related to Consumer Protection and Anti-Trust.

While attorney's fees in such cases are approved by the Court, the Outside Counsel Policy mandated that the Attorney General request that fees awarded by the Court be within the limits set by the policy. Under the policy fees in contingent arrangements are limited as follows:

1. Twenty-five percent of the first \$10 million recovered; plus

2. Twenty percent of any portion of the recovery between \$10 million and \$15 million; plus
3. Fifteen percent of any portion of the recovery between \$15 million and \$20 million; plus
4. Ten percent of any portion of the recovery between \$20 million and \$25 million; plus
5. Five percent of any portion of the recovery exceeding \$25 million.

Additionally, the total recovery for any legal matter is not to exceed \$50 million.

Based on the implementation of this policy, the West Virginia Office of Attorney General was able to save the State of West Virginia \$1,164,375.00 in attorney's fees for settlements reached in 2013. (See Exhibit 3.)

VII.

CONCLUSION

While 2013 was a transition year for the Office of Attorney General, the Consumer Protection and Antitrust Division enjoyed tremendous successes in meeting its mission and commitment to the protection of the public from fraud and misrepresentations. The Division vigilantly pursued education awareness for both the consumers and businesses, and successfully mediated matters to arrive at informal resolutions. . The mediation numbers reflect the successes of this Division. When necessary and appropriate, the Division brought suit against entities to enforce the Consumer Credit and Protection Act, and sought restitution for harmed consumers. Changes in the manner that fees were awarded to outside counsel have resulted in savings to the State of West Virginia of \$1,164,375.00 from settlements finalized in 2013.

EXHIBIT 1

**TOP 10 COMPLAINTS
November 20, 2012 through November 19, 2013**

Type of Complaint	Complaints Received
Promotions	943
Autos/Motor Vehicles	678
Credit	475
Communication	430
Home Repair-Remodeling Services	414
Misc. Not Elsewhere Classified	369
Collection Agencies	365
Sales - General	359
Electronic Equipment	249
Solicitations	243

EXHIBIT 2

**Total Mediator and Attorney Mediation Monies and Value
November 20, 2012 through November 19, 2013**

Grand Total Money	\$533,453.02
Grand Total Value	\$3,060,817.73
Grand Total Debt Cancellation	\$360,305.54
<hr/>	
Grand Total	\$3,954,576.29

EXHIBIT 3

Savings from Outside Counsel/Attorney's Fees

Case	Gross Settlement Amount	Attorney Fees Paid	Amount Saved (compared to traditional 1/3 fee)
First Premier Bank	\$112,500.00	\$39,125.00	\$9,375.00
Bank of America (municipal derivatives)	\$1,375,000.00	\$300,000.00	\$158,333.33
Chase	\$1,950,000.00	\$487,000.00	\$162,500.00
Bank of America (credit cards)	\$1,950,000.00	\$487,000.00	\$162,500.00
Citigroup	\$1,950,000.00	\$487,000.00	\$162,500.00
G.E. Money Bank	\$1,950,000.00	\$487,000.00	\$162,500.00
Discover	\$1,950,000.00	\$487,000.00	\$162,500.00
HSBC	\$1,950,000.00	\$487,000.00	\$162,500.00
WFNB	\$260,000.00	\$65,000.00	\$21,666.67
Total			\$1,164,375.00