

Consumer Protection Programs



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Prepared by

Paul Ferguson and Paul Onsager

Wisconsin Legislative Fiscal Bureau
One East Main, Suite 301
Madison, WI 53703
<http://legis.wisconsin.gov/lfb>

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Consumer Protection Programs

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

The paper is divided into four sections: (1) the statutory authority governing consumer protection activities of DATCP and DOJ; (2) the consumer protection program and operations of DATCP; (3) the consumer protection program and operations of DOJ; and (4) appendices which briefly describe the consumer protection activities of other state agencies (Appendix I), the trade and consumer protection administrative rules of DATCP (Appendix II), a description of Wisconsin's minimum markup law (Appendix III), select court cases closed in 2011 following DATCP investigations and referrals for prosecution (Appendix IV), and select consumer protection cases prosecuted by DOJ (Appendix V).

Consumer Protection Statutory Authority

Prior to the 1995 biennial budget act, both DATCP and DOJ were provided broad authority under state trade practice statutes to regulate and prosecute fraudulent advertising and representations and unfair trade practices. DATCP was also provided authority to regulate product safety. On July 1, 1996, most of the state's consumer protec-

tion authority was consolidated in DATCP.

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

DATCP has rule-making authority, enforcement authority or both under other consumer protection provisions added since 1996, including: (1) the telemarketer no-call program; (2) prohibitions against using consumer loan information for solicitation; (3) allowing consumers via security freezes to restrict access to personal credit reports; (4) provisions concerning the privacy of certain consumer information; (5) requiring businesses with a statewide franchise for video services to provide sufficient consumer access; (6) prohibition of price gouging during emergencies; (7) soliciting contracts using checks or money

orders; (8) regulation of foreclosure consultants; and (9) a prohibition on using bisphenol A [BPA] in certain children's products.

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

Fraudulent Advertising and Representations

DATCP, and DOJ after consulting with DATCP, may commence an action in circuit court under s. 100.18 of the statutes, to prohibit advertising and other representations that are "untrue, deceptive or misleading." This statute, originally adopted in 1913 and often referred to as the Fraudulent Representations Law, prohibits fraudulent advertising or representations made by businesses. Specific actions which are prohibited under this statute include: (1) inadequate price or condition-of-sale disclosures related to combination sales, which are sales conditioned upon the purchase of another product or service; (2) false representation by a business to be a private party; (3) deceptive close-out sales; (4) failure of business owners to properly identify their business; (5) inadequate gasoline price disclosures; (6) advertising made without a good or service being offered to the consumer, known as bait-and-switch advertising; (7) misrepresentation of local energy resource systems such as wind or solar power; (8) deception in the use of terms such as wholesaler or manufacturer for price advertising; and (9) misrepresentation as a local business if a business operates outside a community or region.

DATCP, district attorneys and DOJ, after consulting with DATCP, may commence actions

in circuit court to bring an action on behalf of the state and receive a temporary or permanent injunction. An injunction is an order issued by a circuit court to restrain a business' untrue, deceptive or misleading practices. In addition to halting the fraudulent actions for most infringements, the court can include in an injunction a civil forfeiture of not less than \$50 nor more than \$200 for each violation and require restitution be paid to the victim of the business' fraudulent activities. Businesses found to be misrepresenting themselves as local or regional may be ordered to forfeit not less than \$100 and not more than \$10,000. Bait-and-switch advertising is punishable by up to \$10,000 in fines and up to nine months in jail.

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

In lieu of an injunction, DATCP or any district attorney may attempt to obtain a voluntary assurance of discontinuance of fraudulent or deceptive consumer practices from the businesses involved in such activities. Such assurances are not filed in court and may take the simple form of a letter or the more official form of a contract. In any case, the assurance is made in writing and specifies that, from that point forward, the conduct in question will be stopped. A voluntary assurance differs from an injunction in that such agreements are not admissible as evidence of a previous violation should the business later be brought to court on the same charges of fraudulent representation. However, a violation of the assurance is treated as a violation of state fraudulent representation statutes and subject to the remedies and penalties associated with such violations. Violations of voluntary assurances, how-

ever, do not carry possible additional civil penalties as injunction violations do.

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

Unfair Trade Practices

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

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

Administrative Rules

Generally, DATCP exercises its rulemaking authority to govern unfair business practices that have become common. Appendix II lists DATCP rules promulgated under the general unfair trade practices statute. The DATCP Consumer Protection Bureau administers these rules.

The 1995-97 budget act eliminated DOJ's rulemaking authority in the area of consumer protection. However, in areas related to unfair business practices where no DATCP rule exists, DOJ may: (1) file a written complaint with DATCP relating to allegations of unfair methods of competition in business or unfair trade practices in

business or both; (2) require DATCP to proceed, after proper notice, to the hearing and adjudication of the allegations; (3) permit a representative of DOJ, designated by the Attorney General, to appear before DATCP in such proceedings; and (4) entitle DOJ to judicial review of the decisions and orders of DATCP.

Special Orders and Injunctions

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

Penalties

DATCP or any district attorney has authority to commence an action in the name of the state to recover civil forfeitures for each violation of a DATCP rule or order issued under the state unfair trade practices statutes. DOJ, after consulting DATCP or at the request of DATCP, has authority to commence an action to recover a civil forfeiture for each violation of a court-ordered injunction issued under the state's unfair trade practices statutes. However, DOJ does not have the authority to recover a civil forfeiture for violation of an injunction issued under a DATCP rule or order.

Violators of the unfair trade practices statute are subject to: (1) criminal penalties for each violation of not less than \$25 nor more than \$5,000 and imprisonment in a county jail for not more than one year, or both; or (2) civil penalties of not less than \$100 nor more than \$10,000 per violation of a special order or injunction, in addition to

the potential for an order to be issued requiring restitution to be paid to the consumer. Criminal prosecutions are brought by district attorneys; civil prosecutions have generally been brought by DOJ for cases having statewide impact.

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

Telecommunications Services

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

The statutes specifically prohibit advertising and sales representations that in any manner make false, misleading or deceptive statements or representations in regard to the provision of telecommunication services, including the rates, terms or conditions for service. In addition, persons may not engage in "negative option billing" or negative enrollment for telecommunication services. That is, a person may not bill anyone for any telecommunication service that was not affirmatively ordered, unless the service is required to be provided by law, by the Federal Communication Commission or by the state Public Service Commission (PSC). Further, it is not considered an affirmative request if a person fails to refuse a proposal to provide a telecommunication service. Lastly, a person must provide written confirma-

tion of any services ordered through oral solicitation and a person may not charge a customer for any services a customer has canceled.

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

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

Telemarketing No-call List

2001 Act 16 created a program to register telemarketers and prohibit them from calling consumers who had their residential phone number listed on a no-call directory. 2007 Act 226 made mobile-phone numbers eligible for the no-call list beginning in June, 2008. 2011 Act 197 also expanded prohibited telemarketing practices to include unsolicited text messages.

The first no-call list was published on December 1, 2002, and took effect on January 1, 2003. This list contained over one million residential telephone numbers. The list is updated and published quarterly. Most telemarketers are prohibited from calling numbers on the list. Vio-

lations are punishable by forfeitures of up to \$100 per violation. As of October 1, 2012, there were 2,095,500 numbers on the no-call list. Although DATCP does not have specific information on the total number of mobile phone registered as of that date, the Department reports 56% of all phone numbers renewing or registering anew in the preceding quarter were for mobile phones. Additionally, the percentage of mobile phones being registered or renewed has been at or above 50% in each quarterly registration period since January, 2011. The most numbers ever included was 2,310,300 on July 1, 2011, while the fewest included since the list's creation was 779,700 on July 1, 2007.

Product Safety

DATCP is also responsible for the identification and regulation of both hazardous substances and consumer products that may present an unreasonable risk of injury to the public. In addition, the Department establishes packaging standards for household products to prevent hazards such as poisoning. DATCP has general authority to ban the sale or distribution of hazardous substances (s. 100.37) or any consumer product determined to present an unreasonable risk or imminent hazard to the public health, welfare or safety (s. 100.42). The Department also has specific statutory responsibilities related to several issues or product categories, which are listed later under the description of the Regulation and Safety Section in the Bureau of Consumer Protection.

DATCP Consumer Protection Program

Consumer Protection Bureau activities rely significantly on the administrative rules adopted under the authority of the unfair trade practices statute. The administrative rules provide detailed, industry-wide standards of conduct related to specific consumer protection issues. In addition,

the Bureau practices progressive enforcement of the state's consumer protection laws through the use of warning letters, assurances of compliance, special orders and formal prosecutions, when necessary.

The Bureau uses a program of prevention, education, mediation and enforcement to maintain compliance with DATCP rules. In addition, administrative rules are intended to reduce the possibility of arbitrary or inconsistent state regulation of businesses. Generally, rules have been adopted for those consumer issues in which unfair business activities had at one time become common. The Department adopts new rules and modifies current rules in response to new practices.

DATCP also has a Trade Practices Bureau that handles some of the workload related to the Unfair Sales Act and unfair trade practices. The Trade Practices Bureau is primarily concerned with complaints of unfair industry competition and practices, which are "business-on-business" complaints as opposed to "consumer-on-business" complaints. Examples of Trade Practice Bureau programs include: (1) regulation of product pricing practices known as minimum markup laws; and (2) the agricultural producer security program, which attempts to ensure that commodity dealers, storage facilities, and processors have enough financial security to meet their contractual obligations with individual producers of dairy, grains, and vegetables from whom they purchase. Appendix II contains a list of administrative rules related to trade practices. Appendix III summarizes the state's minimum markup law.

Program Funding

DATCP implements its consumer protection duties through the Bureau of Consumer Protection within the Division of Trade and Consumer Protection. Funding is provided from general purpose revenues (GPR), program revenues (PR) and segregated (SEG) revenues. In 2012-13, the

Bureau is authorized \$5,832,700 and 63.0 positions, consisting of: (1) \$1,533,100 GPR with 19.0 positions; (2) \$3,528,200 PR with 38.0 positions; and (3) \$771,400 petroleum inspection SEG with 6.0 positions. The Bureau also customarily receives revenues from purchase orders made by the United States Consumer Product Safety Commission (CPSC) for consumer protection staff to conduct investigations or monitor Wisconsin businesses' compliance with CPSC regulations. In 2011-12, the Bureau received \$6,900 FED for these purposes. Activities under federal contract are described later in greater detail.

Included in the Bureau's funding and positions is \$1,343,600 PR with 13.05 positions associated with weights and measures inspection. Although DATCP has organized the Bureau of Consumer Protection to contain these positions, it should be noted that weights and measures inspections involve both consumer protection and trade regulation issues.

Bureau of Consumer Protection program revenue consists of various fees: (1) weights and measures inspections; (2) telemarketer licensing and other fees under the no-call program; (3) assessments on telecommunications utilities levied by the Public Service Commission and transferred to DATCP; (4) automobile repair shops conducting mobile air conditioner installation, removal or repair work; (5) a 25% surcharge on fines and forfeitures for consumer protection violations; (6) sale of supplies and other materials; and (7) surcharges for violations of the state prohibition on bisphenol A use in children's products, although this appropriation has not received any deposits as of June 30, 2012. The Bureau uses segregated funding from the petroleum inspection fund for enforcement of the Unfair Sales Act and weights and measures activities related to fuel-dispensing facilities.

Consumer Protection Bureau Organization

Prior to December, 2009, the Bureau of Consumer Protection operated with a central office in Madison and regional offices in Madison, Wauwatosa, Eau Claire and Green Bay. The regional offices comprised 30.3 positions, including: (a) 8.8 in Madison; (b) 8.0 in Wauwatosa; (c) 7.0 in Eau Claire; and (d) 6.5 in Green Bay. Despite the central location of the Madison regional office, this office functioned similarly to the other three regional offices.

The central office staff consisted of 38.3 positions, organized as follows: (1) 4.4 positions, including 1.0 director and 3.4 other administrative staff; (2) 9.65 positions for consumer information and complaint receipt; (3) 0.5 position each for a Spanish-language and Hmong-language outreach specialist; and (4) 23.25 positions for regulation and safety, including the weights and measures program and environmental and product safety regulation.

Reductions in the Bureau's staffing and funding under 2009 Act 28, the 2009-11 biennial budget, prompted a restructuring of consumer protection operations. This restructuring included the closing of regional offices in December, 2009. Of the 21.5 positions in regional offices outside Madison, DATCP eliminated 5.8 positions in accordance with positions reduced under Act 28, and transferred the remaining 15.7 positions to the central offices in Madison. The centralized office reorganized into the administrative units detailed below. The current organization of the Bureau is shown in Table 1.

Table 1: DATCP Consumer Protection Staff (2012-13)

Administration	6.2
Consumer Information/Education	8.0
Complaint Administration	11.0
Investigation	10.0
Privacy Protection	3.0
Regulation and Safety Section	<u>24.8</u>
Total	63.0

Administration

The Bureau of Consumer Protection supports 6.2 administrative positions, including a director and other positions for: (1) program, policy and budget analysis; (2) executive staff assistance; (3) a public information officer, which has primary responsibilities of issuing press releases and disseminating information to consumers via mass media for questionable business practices of which the Bureau is aware; (4) a compliance specialist, assigned primarily to supporting investigative and enforcement activities; and (5) a portion of the administrator for the Division of Trade and Consumer Protection, of which the Bureau is a part.

Consumer Information and Education

The consumer information and education unit is often the first point of contact between the Bureau and consumers. The unit includes the following, with authorized positions noted in brackets: (1) the consumer protection hotline [5.0]; (2) an outreach specialist [1.0]; (3) outreach specialists for speakers of Spanish and Hmong [0.5 for each language specialty]; and (4) a manager for operations of the work unit [1.0].

The primary responsibility of the hotline staff is receiving phone calls and e-mails from individuals reporting potential violations of consumer protection laws. (The process for handling complaints is discussed in a later section.) In addition to live assistance offered through the hotline, the Bureau also responds to inquiries through an automated answering service known as interactive voice response (IVR), which has been operated by DATCP since being transferred from DOJ in 1996.

All contacts are cataloged in a database kept by the Bureau to identify trends and emerging issues in the state and to establish program priorities and direction. The database also helps hotline staff persons answer consumer inquiries as to

whether complaints have been filed against particular businesses.

Whereas the above positions are partly or primarily intended to respond to consumer inquiries, the outreach specialists seek to inform consumers about practices or entities that should be avoided, similar to the public information officer. The outreach specialist is primarily responsible for speaking to groups and making other interpersonal contacts to educate consumers about unfair or fraudulent business practices. Similarly, the Spanish- and Hmong-language outreach specialists work within the Bureau on translating consumer complaints and factsheets, and they also work with the respective communities to publicize consumer issues that are most pertinent to the Spanish- and Hmong-speaking communities.

Complaint Administration

The Bureau has allocated 11.0 positions, consisting of 1.0 unit manager, 9.0 consumer specialists and 1.0 licensing program associate, under its complaint administration unit for receiving, processing and initiating responses to formal, written complaints. This unit also administers the telemarketer no-call program, which is discussed later in greater detail. Whereas the consumer information unit receives and responds to consumers' initial inquiries, complaint administration is responsible for resolving disputes for which consumers have submitted a formal complaint. As opposed to the more general questions received on the hotline or IVR, formal complaints describe an alleged improper business action, and include detailed information on the alleged violation. Complaints may result in further investigation, mediation or one or more types of enforcement, which are discussed later in greater detail. Duties of the complaint administration unit include responding to complaints made against businesses headquartered outside Wisconsin but whose operations within the state are alleged to have violated state laws.

Under the Bureau's previous organizational structure, complaint administration was partly decentralized, as some complaints were handled in regional offices outside Madison. The persons handling complaints are now all located in Madison. However, DATCP reports each consumer specialist is assigned a geographic area to monitor consumer protection trends in the assigned area.

Telemarketer No-Call List. 2001 Act 16 provided DATCP with 5.5 staff and \$230,900 in program revenues in a continuing appropriation to administer the telemarketer no-call program. The Legislature has increased expenditure authority and associated positions in subsequent years in response to greater costs of program administration. For 2012-13, DATCP is allocated \$767,600 and 7.2 positions from its telephone solicitation regulation appropriation. DATCP allocates 5.7 positions for administration of the no-call program. Another 1.0 position is for a program and policy analyst funded from no-call list revenues but counted among central office staff. A one-half position is allocated to an outreach specialist. In addition, the Department is budgeted \$273,600 no-call PR with 4.2 positions in an annual appropriation for general consumer protection and consumer education, which supports positions divided among the complaint administration, consumer information and outreach, and investigation units.

DATCP licenses telemarketers, handles consumer complaints relating to telemarketing, and enforces the provisions of the no-call law, but DATCP contracts for maintenance of the residential no-call phone listing. The contractor is responsible for receiving resident registrations by phone and Internet, as well as distributing the full no-call list each quarter to licensed telemarketers and DATCP. Contract payments by DATCP totaled \$206,300 in 2010-11 and \$179,900 in 2011-12. Payments are budgeted at \$225,000 for 2012-13.

The Department administers the program under administrative rule ATCP 127. Telemarketers pay initial licensing fees of \$700 per year and annual fees of \$500 for renewal, and the Department collects annual fees of \$75 per phone line over three. The annual sum of fees is capped at \$20,000, and fees may be paid on a quarterly basis. Other possible fees include \$25 for each additional e-mail or compact disc copy of the no-call list, and \$1,000 for each additional hard copy of the no-call list. Consumers are not charged for registering, but must renew their listing every two years.

Revenues under administrative rule ATCP 127 were initially estimated at approximately \$470,000 in 2002-03 and \$550,000 annually thereafter. However, actual revenues were \$1.7 million in 2002-03 and \$1.5 million after three quarters in 2003-04. ATCP 127 allows DATCP to reduce or waive one or more of the quarterly fee payments by telemarketers if the Department projects a year-end balance in the telephone solicitation appropriation account that exceeds projected fiscal year expenditures by at least 15%. DATCP has waived quarterly payments due to large balances in the account, beginning with the quarterly payment due September 1, 2003. The Department collected one quarterly payment in each of fiscal years 2004-05 and 2005-06. The Department waived one quarterly payment in 2006-07, but has collected all quarterly payments beginning with 2007-08. Through June 2012, the cumulative amount of waived quarterly payments is estimated at approximately \$4.76 million.

DATCP also has transferred a total of \$7,259,500 from the appropriation balance to the general fund since 2003-04 under multiple yearly lapse requirements. These amounts are shown in Table 2. On July 1, 2012, the telephone solicitation appropriation had a balance of \$796,200. No-call revenues for 2011-12 were \$1.92 million.

In June, 2004, in response to a lawsuit filed by a group of businesses, a Dane County Circuit

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

2003-04	\$666,700
2004-05	62,000
2006-07	402,000
2007-08	2,038,000
2008-09	83,400
2009-10	1,424,600
2010-11	1,917,800
2011-12	<u>665,000</u>
Total	\$7,259,500

Court upheld the legality of ATCP 127, except for the contention that the rule allowed DATCP discretion on whether to reduce or eliminate quarterly payments based on the program's fiscal outlook. The court ruled that DATCP did not have discretion when program revenues exceeded projected expenditures by the specified amount, but rather must reduce or eliminate fee payments when this is the case. However, DATCP has continued to maintain balances in excess of the 15% specified under ATCP 127.81(5).

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

Securities. The complaint administration unit also holds statutorily required securities for fitness clubs and firms providing weight-loss and dating services. Generally, these businesses must provide a security of \$25,000 before being allowed to collect certain fees from clients prior to providing services. This is partly intended to prevent clients from losing money from operators that may accept payments without delivering services promised under a contract. The Department also holds surety bonds for time shares, which may be filed by time-share developers to protect purchaser deposits in such projects. As of December 31, 2011, the Bureau held securities of

\$15.5 million, including \$8.75 million for fitness centers, \$4.75 million in time-share sureties, \$1.25 million for dating services, \$400,000 for future service plans and \$312,000 for weight-loss centers.

Investigation

The investigation unit consists of 1.0 unit supervisor and 9.0 investigators and is responsible for gathering further information on complaints and assessing whether violations of law have occurred and require further enforcement action. Investigators previously were located in each regional office, but, as with the complaint administration unit, a centralized staff is intended to better collaborate on cases and better determine which consumer laws may have been violated in each case. Investigators work with DATCP's attorneys and the Department of Justice in developing investigative methods and evidence for cases and determining the appropriateness of potential enforcement actions. The procedures for investigating and closing cases are discussed later in greater detail.

Office of Privacy Protection

The Office of Privacy Protection (OPP) was created at the direction of the Governor in April, 2006. The Office's duties include: (1) providing education on identity theft to individuals, government agencies, law enforcement agencies and businesses, both through the DATCP Web site and in-person training sessions; (2) receiving complaints related to identity theft; and (3) providing identity-theft victim assistance. Victim-assistance activities may involve both individuals and businesses, including state agencies, that possess personally identifiable information of customers. If a business or state agency has experienced a data breach in its customers' personally identifiable information, and the incident created a "material risk of identity theft or fraud," OPP assistance would include supervision of statutorily required notices to potential victims.

It should be noted that the Department does not have statutory authority to conduct its own investigations of identity theft. DATCP reports it instead provides education to law enforcement agencies investigating identity theft.

The Office was authorized three positions upon its creation, which were administratively created by DATCP and the Department of Administration under a federal appropriation. Beginning with 2007 Act 20, OPP funding was changed from \$170,500 FED annually to \$102,300 annually from each of general purpose revenue (GPR) and program revenue (PR) transferred from the Office of Commissioner of Insurance (OCI). Each source continues to support 1.5 positions.

Under the Bureau's 2009 reorganization, 4.0 PR positions were added to OPP. Increased OPP staffing was intended initially to be more commensurate with needs for handling identity theft complaints. However, as of August, 2011, staffing has reverted to 3.0 positions, which DATCP believes most appropriately aligns staffing and other resources with current program needs. Total funding for 2012-13 is budgeted at: (1) \$111,500 GPR with 1.5 positions; and (2) \$89,000 OCI PR with 1.5 positions. The current positions include 1.0 agency liaison and 2.0 consumer specialists.

In 2011, the OPP received 1,263 contacts by e-mail, phone or walk-in, and 225 complaints related to identity theft were filed. OPP also provided support on 12 data breaches in 2011 and three in 2012 through June 30. The public also accesses information on OPP and identity theft through the OPP Web site, although information on Web site visits is not tracked separately.

Regulation and Safety

The Regulation and Safety Section enforces a number of laws and Department rules related to environmental regulation of consumer products and product safety as well as providing rulemak-

ing, educational, training and technical support to the Department's weights and measures staff. In 1998, the former environmental and product safety section was combined with the weights and measures technical section to form the Regulation and Safety Section. As part of Bureau restructuring initiated in response to 2003 Act 33 consumer protection reductions, DATCP transferred supervision of weights and measures investigation field staff, who are regionally located throughout the state and work out of their homes, from the regional offices to the Regulation and Safety Section in Madison. This restructuring included the creation of a field supervisor position in the Regulation and Safety Section to oversee these staff. The new combined Section consists of a Section chief, two field inspection supervisors and 21.8 staff, including 15 field inspectors, who carry out Department responsibilities related to the following statutes:

- Sale of Detergents Containing Phosphorus (s. 100.28)
- Reductions of Toxics in Packaging (s. 100.285)
- Sale of Nonrecyclable Materials (s. 100.29)
- Labeling of Recycled, Recyclable or Degradable Consumer Products (s. 100.295)
- Plastic Container Recycled Content and Labeling (s. 100.297 and s. 100.33)
- Antifreeze Content (s. 100.38)
- Recycling of Mobile Air Conditioner refrigerants (s. 100.45)
- Energy Efficiency Standards (s. 100.46)
- Products Containing or Made with Ozone-Depleting Substances (s. 100.50)

In addition, the Department is responsible for assisting municipalities and other governmental agencies and private-sector service organizations in conducting weights and measures regulatory work under Chapter 98 of the statutes. The statutes require municipalities with population of more than 5,000 to enforce state weights and measures laws in their jurisdiction, unless a municipality enters a contract with DATCP for

weights and measures inspection services. As of July 1, 2012, 114 municipalities had contracts for DATCP services. These contracts obligate DATCP to provide a total of about 7,900 hours of inspection services to the contracting municipalities.

Further, this Section maintains and staffs the state's metrology lab, which deals with the calibration of scales and other measuring devices, and motor vehicle testing equipment. In 2011, the Department tested approximately 8,800 weights and measures. Although weights and measures inspection is considered part of the Bureau of Consumer Protection, these inspection activities also affect activities between businesses. Business-to-business transactions are customarily considered as trade regulation by the Department.

Complaint Intake and Response Procedures

Initial Contact

A primary function of the Bureau of Consumer Protection is to review and respond to consumer inquiries and complaints. The majority of contacts to the Bureau come electronically via the Bureau's Web site or by telephone. Table 3 summarizes the types of consumer contacts made by DATCP in 2010 and 2011. In addition, DATCP reports the

Table 3: Summary of Consumer Protection Contacts

Contact Type	2010	2011
IVR Calls	47,883	40,076
Non-IVR Phone Calls	28,963	27,074
Presentation Audiences*	7,700	5,300
E-mail	418	423
Walk-Ins	193	160
Media Inquiries	20	257
Other**	38	11
Totals	85,215	73,301

* Estimated total audience of DATCP presentations to groups, which totaled 41 in 2010 and 40 in 2011.

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

Department's Web site in 2011 had 164,500 visits to Web pages describing consumer protection programs, complaint intake and consumer information of note to the public.

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

Hotline personnel often send factsheets to callers describing applicable laws and consumers' rights under them. The Bureau sent 9,462 fact sheets in 2010 and 9,211 in 2011. Hotline responders also refer callers to factsheets and other information available on the DATCP Web site. The staff may also refer callers to other agencies that have jurisdiction over the area of concern or that can provide further assistance. The Bureau made 1,745 such referrals in 2010 and 1,684 in 2011.

Written Complaints

In 2011, DATCP opened 9,754 written complaints in response to contacts, and initiated another 466 complaints on its own, for a total of 10,220 formal complaints. Total complaints in 2010 were 11,006, including 10,476 received from consumers and 530 initiated by the Department. In 2011, approximately 29% of complaints were related to either telemarketer violations of the no-call list (1,669) or other telecommunications practices (1,272), which were the top two sources of written

complaints. The Department in 2011 also received a number of complaints on landlord-tenant disputes (837), home improvement contracts and projects (338), which are typically among the top 10 categories of complaints received annually.

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

After receiving a complaint, DATCP sends a written response to both the consumer and the affected business. However, for many complaints, DATCP reviewers may find that no violation of the law exists. In such a case, the Bureau generally attempts to mediate disputes by sending letters informing the consumer and the affected business of their rights or responsibilities and proposing possible solutions to both parties. Although DATCP's primary statutory mission is to identify and prevent unfair business practices and not to represent individual consumers, the Department reports many complaints are resolved to the satisfaction of consumers by providing the involved parties such information. DATCP estimates that approximately 90% of written complaints are mediated by the Department each year.

Investigations

In some instances, the Department further investigates complaints to determine whether a violation has occurred and how significant the violation is. The Department possesses substantial investigative authority under general agency powers provided by Chapter 93, as well as specific investigative authority in the unfair trade practices (s. 100.20) and deceptive advertising (s. 100.18) laws. DATCP authority includes the ability to

subpoena documents and testimony, conduct investigative hearings, collect and analyze samples, and inspect and copy business records. DATCP attorneys and legal staff assist consumer protection staff with investigative activities.

Although most complaints are handled through some form of mediation, an estimated 20% of all complaints require some level of investigation, including interviews, data collection, case evaluations and, at times, undercover investigation. It should be noted that many cases that end in mediation may involve some level of investigation prior to resolution. Additionally, DATCP may mediate certain individual cases prior to conducting investigations. These circumstances generally arise from violations that affect multiple complainants or that indicate other possible wrongdoing by an accused party. Telecommunications, automotive repair, home improvement and telemarketing cases for several years have represented the majority of investigations.

DATCP officials have instituted a "tier" system that rates potential investigations.

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

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

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

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

staff.

DATCP conducted 122 formal investigations related to consumer complaints in 2010 and 181 in 2011. DATCP reports it maintains regular contact throughout the course of an investigation with DOJ, or local district attorneys' offices, if a case is more appropriately pursued at the county level. According to DATCP, this typically includes preceding a formal investigation by discussing with prosecutors on the most appropriate course for the investigation, such as critical evidence needed and potential means of enforcement. DATCP and DOJ also report the agencies meet at least monthly to discuss progress on ongoing investigations, although in the course of case development, it is common for agency staff to communicate daily on questions of law or determining the remaining responsibilities of each agency in closing the investigation and preparing the case for further action.

Investigations generally result in formal reports, known as summary investigative reports, of the case's facts and any violations DATCP believes to have occurred. These reports, which are referred to the prosecuting agency, include supporting evidence to be used in court proceedings. Upon referral to the prosecuting office, civil claims, or criminal charges if appropriate, are brought against the alleged violator, or the agencies may agree the case is not most appropriately pursued as a civil or criminal case. In such instances, alternative enforcement actions, which are discussed in the following paragraphs, may be pursued instead.

Enforcement Actions

The Department enforces consumer protection rules or statutes in several ways, including: (1) warning letters; (2) assurances of compliance; (3) special orders; and (4) formal prosecutions. A summary of enforcement actions taken by DATCP in 2010 and 2011 is shown in Table 4.

Table 4: Summary of Consumer Protection Enforcement Actions and Case Referrals

Action	2010	2011
Investigations	122	181
Warning Letters	1,012	1,288
Assurances of Compliance	148	182
Special Orders	1	0
Case Referrals		
Local District Attorney	33	24
Wis. Dept. of Justice	23	37
U.S. Attorneys/Agencies	23	2
Other*	<u>1</u>	<u>2</u>
Total Referrals	80	65
Actions Filed Pursuant to DATCP Referrals		
Local District Attorney	7	15
Wis. Dept. of Justice	1	2
U.S. Attorneys/Agencies	<u>0</u>	<u>1</u>
Total Cases Filed	8	18

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

Warning Letters

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

Assurances of Compliance

The Department requires a written assurance of compliance when the severity of the violation or the history of the violator indicates that a warning letter may not achieve compliance, but the Department considers formal prosecution unwarranted. The violating business must sign a statement assuring compliance, which the Department can use to facilitate compliance by other means, if necessary. Issuing an assurance of compliance

typically involves an in-person meeting with the affected business.

Special Orders

Special orders address unfair business practices that are not specifically addressed by current law or rules. Issuance of a special order generally takes six to eight months, and DATCP generally views a special order as a precursor to a new administrative rule. The Department first identifies a potentially unfair business practice that is not directly regulated by specific rules or statutes. DATCP, DOJ or both agencies review the practice. If it appears to be unfair, an independent examiner hears the case in a quasi-judicial proceeding and rules whether the practice is unfair. Finally, the DATCP Secretary issues a special order enjoining the unfair business practice. DATCP issued one special order in 2010 and none in 2011.

Formal Prosecutions

As described earlier, the Department prepares cases for formal prosecution by district attorneys or DOJ attorneys. Violations of consumer protection statutes and rules are customarily prosecuted if they are considered to be serious, have a major adverse impact on consumers or are recurring by the business. Table 4 shows cases referred in 2010 and 2011, as well as actions filed by prosecuting attorneys for DATCP-referred cases. Appendix IV provides a summary of select court cases developed by DATCP that were completed in 2011. The cases shown are not a comprehensive list. Rather, the list includes civil cases for which the court ordered \$10,000 or more in combined restitution, fines or forfeitures, and court costs, as well as criminal cases.

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

with DOJ and the defendant; and (4) consulting on settlement terms.

Consumer protection-related court actions may result in trials or other settlements, both of which may include court orders or injunctions that prohibit future conduct by a defendant. In addition, defendants may be made liable for civil forfeitures, penalties and restitution to Wisconsin consumers. General fines or forfeitures obtained in state courts are deposited in the common school fund. Additionally, fines and forfeitures for violations of consumer protection laws include a 25% consumer protection surcharge that is deposited to a DATCP program revenue continuing appropriation for consumer education. Although DATCP has expenditure authority of \$147,800 from this appropriation, revenues totaled \$76,500 in 2010-11 and \$32,500 in 2011-12. The Department also transferred \$16,400 to the general fund in both 2010-11 and 2011-12 to meet agency lapse requirements in 2009 Act 28 and 2011 Act 32. Any revenues to the appropriation exceeding \$185,000 in a fiscal year also are deposited to the state's general fund.

Information and Education

In addition to the procedures used in resolving complaints and enforcing consumer-protection laws, the bureau also attempts to engage in several early-stage measures to promote voluntary compliance by businesses and to increase consumer awareness of potentially harmful situations. The bureau's educational and informational activities include: (1) press releases and social media postings warning of new or existing consumer fraud schemes and seasonal consumer issues; (2) regular presentations and speeches by staff to consumers and businesses; (3) educational and training programs for consumers, in cooperation with consumer groups, educational institutions, and state and local agencies; (4) requests that television stations provide the consumer protection hotline telephone number before broadcasting advertisements for business opportunity plans, such as work-at-

home schemes; and (5) regular appearances on television and radio shows.

DATCP also distributes factsheets. The most widely distributed factsheet describes landlord and tenant rights and is available in Spanish and English. DATCP publishes 386 total factsheets and booklets, including 65 in Spanish, 24 in Hmong, and four in large print for the visually impaired. In addition, the Department maintains a Web-based reference known as "Law at Your Fingertips," which appears on the Department's consumer protection Web site but is maintained by the DATCP legal staff. The Department also provides information to local law enforcement agencies to increase their knowledge of consumer protection laws and rules. Staff members also regularly lecture at technical college law enforcement classes.

Surveys

DATCP complements on-site inspections by staff of the Regulatory and Safety Section with surveys to measure compliance with consumer-protection laws. DATCP staff may perform the following types of surveys:

1. Regular inspections of auto repair businesses to determine compliance with ATCP 136 (mobile air conditioning).
2. Surveys of retail stores to check for hazardous household substances or products.
3. Surveys of retail stores for scanner accuracy and price verification.
4. Review of advertisements, employment offers, and residential leases on a random basis to identify possible law violations.
5. Mail surveys to monitor price comparison advertising, initiated due to consumer complaints and Department oversight.
6. Product weight verification.

In 2011, the Department performed approximately 6,111 surveys, checking approximately 197,000 devices and packages. This included 43,400 scales and similar devices, 118,900 packages for weight tests, and 34,700 price accuracy checks. As part of this process, DATCP may inspect business premises, copy records, or sample and analyze consumer products.

In recent years, some notable actions initiated by the Bureau have pertained to weights and measures violations. These have included cases in 2010 against multiple sellers of frozen seafood, which were alleged to be including the weight of frozen packing ice with the weight of seafood in packages' declared weight. This would be a violation of provisions of Chapter 98 and ATCP 91 (selling commodities by weight, measure or count). The Department settled allegations with the sellers for approximately \$100,900 in forfeitures and costs. The Department also has regularly initiated cases in recent years regarding price misrepresentation in advertising or scanner inaccuracy.

Product Safety Activity

Ensuring safe products for consumers is a key element of the Department's consumer protection mission. Specific statutory directives enforced by DATCP product safety staff include: (1) labeling of bedding [s. 100.2095]; (2) mercury-containing dry cell batteries [s. 100.27]; (3) bisphenol A prohibitions [s. 100.335]; (4) hazardous substances [s. 100.37]; (5) flammable fabrics [s. 100.41]; (6) product safety [s. 100.42]; and (7) poison prevention in packaging [s. 100.43]. As the principal product safety agency in the state, the Department attempts to protect consumers from unreasonable risk of illness or injury from consumer products by:

- Identifying product hazards.
- Eliminating unsafe products or reducing risks of exposure to them.

- Providing the public with information they need to identify product hazards.
- Providing the public with information they need to compare and use products safely.

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

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

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

In-depth Investigations. In-depth investigations provide basic information for CPSC to use in as-

sessing product safety hazards. The investigations do not provide any interpretation, but rather are intended to present facts to CPSC that, in conjunction with parallel investigations from around the country, the agency will analyze to make determinations on product hazards. The Department last carried out CPSC product safety investigations in federal fiscal year 2006-07, when nine were conducted. Those investigations were prompted by all-terrain vehicle (ATV) deaths, carbon monoxide deaths and pool drownings.

In addition to product-safety investigations for the CPSC, DATCP may perform its own product-safety investigations, either in response to consumer complaints or on the Department's own inquiry. DATCP has not initiated any of these investigations since 2007.

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

DATCP staff members also inspect retail stores on assignment from CPSC to gather information on the effectiveness of CPSC-issued recalls. The Department performed 21 recall effectiveness checks in federal fiscal year 2010-11 and 20 in federal fiscal year 2011-12. The subjects of the recent effectiveness checks have included, among other products, swing sets, strollers, booster seats, motorcycles, vacuum cleaners, bicycles, various toys and certain appliances.

Further, DATCP has investigated or inspected sellers of various products at the request of the CPSC to ensure compliance with federal regulations or other enforcement actions. Specifically, the Department has investigated ATV sellers to determine compliance with a now-expired federal consent decree regarding sales of ATVs for use by

children that began in the 1980s. In 2009 through 2011, DATCP conducted inspections at retail sellers of portable generators to verify that generators marketed for sale met federal labeling requirements.

Consumer Product Safety Surveys. DATCP has performed several consumer product safety surveys in past years, either under contract from the CPSC or sharing departmental findings with the CPSC. In 1999, consumer protection staff surveyed records at 30 fire departments throughout the state. Investigators collected information about fires caused by consumer products and shared findings with CPSC. In 2002, under contract with CPSC, DATCP surveyed cigarette lighters to collect information on the presence of required child safety mechanisms.

In 2003, the Department surveyed second-hand stores to educate store employees about items that have been recalled or that are illegal to sell in the state but that had been found for sale at second-hand stores. This effort was supported by CPSC funds. In 2008-09 the Bureau conducted 15 visits to resale stores to promote the CPSC "Make Safety Your Business" campaign. Like the Department's self-initiated 2003 effort, Make Safety Your Business is intended to broaden awareness among second-hand stores and persons holding yard sales that reselling recalled products is illegal.

The Department receives press releases, consumer alerts, research articles and other information from the CPSC. Approximately 30 states actively share information on their state programs through a system coordinated by CPSC. The Department regularly uses e-mail to alert CPSC to serious product hazards or incidents so that state and federal agencies can respond quickly in a coordinated fashion. The product safety section also publishes and electronically distributes a monthly newsletter entitled "Keep Your Kids Safe" that summarizes and highlights all recalls related to children.

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

The Department was involved in the establishment of the International Consumer Product Health and Safety Organization (ICPHSO). ICPHSO was established in 1993 to provide an international forum for the exchange of information on consumer product health and safety programs, policies and issues. Its members include manufacturers and distributors of consumer products from around the world, product liability experts and government officials from the Americas, Asia and Europe.

DATCP also works with the standards organization ASTM International, and holds a seat on the ASTM Committee on Consumer Products. ASTM International is a voluntary organization for standards development in a variety of products. It was formerly known as the American Society for Testing and Materials, and was founded in 1898.

**Department of Justice
Consumer Protection Program**

Following the 1996 transfer of most consumer protection functions to DATCP, DOJ retained a small consumer protection section in its Division of Legal Services. During the 2011-13 biennium, DOJ formally created the consumer protection and antitrust unit in its Division of Legal Services. In 2012-13, this unit consists of 11.45 positions, in-

cluding: (1) 5.75 attorneys; (2) 2.0 consumer investigators; (3) 2.0 legal secretaries; and (4) 1.7 paralegals. Of this staff, 1.0 attorney is dedicated to antitrust matters, and the paralegals and legal secretaries assist with both caseloads. The remaining attorneys and investigators are dedicated to consumer protection matters. In 2012-13, DOJ estimates the consumer protection unit budget at \$943,000 GPR and 10.45 GPR positions, and \$46,900 PR and 1.0 PR position. The Department of Justice indicates that units within its Division of Legal Services are not separately budgeted.

Consumer Protection Enforcement Authority

Under the marketing and trade practices statutes (Chapter 100), DOJ has concurrent authority with DATCP to determine violations and to initiate prosecutorial proceedings relating to: (1) fraudulent representations prohibited under s. 100.18; and (2) telecommunication trade practices violations under s. 100.207. For each type of prohibited practice, DOJ may seek to restrain the activity by a temporary or permanent injunction and may enforce forfeitures. If DOJ brings an enforcement action under either of these statutory provisions, a court may take any necessary action to make whole any person who has suffered a financial loss because of the prohibited practice, provided that satisfactory proof has been submitted by the agency to the court.

Under the marketing and trade practices statutes, DOJ also has concurrent authority with DATCP to determine violations and to initiate prosecutorial proceedings to recover civil forfeitures for violations of an injunction relating to fraudulent representation, fraudulent drug advertising, unfair methods of competition or unfair trade practices.

However, before DOJ may commence any of these actions in circuit court, the agency must consult with DATCP. Under current practice, DOJ informs DATCP prior to filing these types of cases; however, DATCP does not have statutory au-

thority to preclude DOJ from initiating these types of actions. Once the agency has consulted with DATCP, DOJ is permitted to exercise its independent discretion in pursuing the matter.

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

Representing the State in Court

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

Enforcement Actions

During 2010-12, a total of 122 consumer protection cases and investigations were either referred to or developed by DOJ's consumer protection unit. Of this total, 85 cases were referrals from other state agencies, as follows: (1) DATCP referred 60 cases; and (2) the Department of Financial Institutions (DFI) referred 19 cases; and (3) other state agencies referred six cases. The remaining 37 cases were developed internally by DOJ. Of these latter cases, 24 were multi-state in nature and 13 were Wisconsin-specific.

During 2010-12, DOJ's consumer protection unit closed 104 consumer protection cases and in-

vestigations, with the financial recovery in these cases totaling \$48,142,100. Appendix V identifies the consumer protection cases completed by DOJ's consumer protection unit during 2010-12, in which the financial recovery in the case equaled or exceeded \$100,000. Appendix V also summarizes the consumer protection cases of a criminal nature concluded during 2010-12. These cases included investigations, litigation, prosecution, and negotiated settlements. For each listed case, the following information is provided: (1) case name; (2) case type; (3) source of the case; (4) case description; (5) resolution of the case; and (6) restitution or other monetary recovery, if any. During 2010-12, for the 25 cases summarized in Appendix V, the direct financial recovery totaled \$47,701,200.

Restitution Payments, Investigation Costs, and Related Recoveries

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

In many cases, it is possible to identify specific consumers to whom refunds or restitution can be made. In such cases, payments are made, whenever possible, to those directly injured. Frequently, a court order or a settlement agreement outlines the specific method by which restitution is made.

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

In other instances, a court judgment or settle-

ment agreement may simply provide that all or a portion of the restitution funds are to be distributed at the discretion of the Attorney General. In these cases, funds from multiple judgments or settlements may be pooled together for subsequent allocation at the discretion of the Attorney General.

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

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

If funds remain in the DOJ restitution appropriation after all reasonable attempts have been exhausted to identify eligible recipients, the residual funds are used for any of the other designated purposes provided by the terms of the settlement agreement or court order. In 2010-11, \$39,800 in expenditures for restitution and for other purposes authorized by the particular judgment or settlement was made from DOJ's restitution appropriation. In 2011-12, \$614,200 in expenditures for restitution and for other purposes authorized by the particular judgment or settlement was made from DOJ's restitution appropriation.

The Department utilizes its Division of Administrative Services gifts, grants and proceeds continuing appropriation to receive and allocate

settlement funds that are distributed at the sole discretion of the Attorney General. During 2010-12, \$34,102,200 in settlement funds to be allocated at the sole discretion of the Attorney General was deposited to this appropriation.

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

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

A state court may award reasonable and necessary costs of investigation to DATCP and reasonable and necessary expenses of prosecution, including attorney fees, to DOJ. When a person who violates the marketing and trade practices statutes is ordered to make these types of payments, these amounts are not deposited to the common school fund. Under s. 100.263 of the statutes, both agencies must credit these types of payments (and any such general payments to the state) to the state's general fund. However, DOJ is specifically authorized to credit 10 percent of the monies received for such costs, including attorney fees, to a

program revenue, continuing investigation and prosecution appropriation. The funds credited to this appropriation (under s. 100.263 and other statutory provisions) may be utilized by DOJ to provide funding for the expenses of investigations and prosecutions of alleged consumer protection and other violations pursued by the agency. This appropriation began the 2010-11 state fiscal year with a balance of \$725,900, received additional revenue of \$529,000 during the fiscal year, made no expenditures, and closed the 2010-11 state fiscal year with a balance of \$1,254,900. During the 2011-12 state fiscal year the appropriation received additional revenue of \$340,400, made no expenditures, transferred \$300,000 to the general fund as a part of 2011-13 biennial budget requirements, and closed the 2011-12 state fiscal year with a balance of \$1,295,300.

National Mortgage Settlement

Of the \$47,701,200 in direct financial recovery under the consumer protection cases closed during 2010-12, identified in Appendix V, \$30,191,800 is attributable to the multistate mortgage foreclosure settlement with Bank of America, J.P. Morgan Chase, Citigroup, Residential Capital, and Wells Fargo. On February 9, 2012, the Wisconsin Attorney General announced that Wisconsin, along with the U.S. Department of Justice, the U.S. Department of Housing and Urban Development, and 48 other states' attorneys general, entered into a mortgage settlement agreement with these financial institutions. Table 5 provides information on the mortgage modification relief, direct payments, and refinancing relief that the settling lenders agreed to under the mortgage settlement agreement.

Mortgage Modification Relief. The settling lenders agreed to provide \$16,331,600,000 in mortgage modification relief to homeowners in the form of: (1) first lien mortgage modifications, including partial principal write-downs; (2) second lien mortgage modifications, including partial

Table 5: Financial Terms of the Mortgage Settlement Agreement

Lender	Mortgage Modification Relief	Direct Payments	Refinancing Relief	Total
Bank of America	\$7,626,200,000	\$2,382,415,075	\$948,000,000	\$10,956,615,075
Wells Fargo	3,434,000,000	1,005,233,716	903,000,000	5,342,233,716
JPMorgan Chase	3,675,400,000	1,121,188,661	537,000,000	5,333,588,661
Citibank	1,411,000,000	413,041,577	378,000,000	2,202,041,577
Residential Capital	<u>185,000,000</u>	<u>109,628,425</u>	<u>15,000,000</u>	<u>309,628,425</u>
Total	\$16,331,600,000	\$5,031,507,454	\$2,781,000,000	\$24,144,107,454

principal write-downs; (3) additional transitional funding in excess of \$1,500 to homeowners who are selling or transferring their homes in a short sale (the property is sold for less than the amount owed on the mortgage) or deed-in-lieu of foreclosure (the property owner voluntarily transfers ownership of the property to the lender in order to avoid foreclosure); (4) payments and credits to homeowners in short sales and deed-in-lieu of foreclosure transactions, including partial principal write-downs; (5) waivers of amounts otherwise still owed to the lender after completion of a foreclosure sale; (6) forbearance for unemployed borrowers, including forgiveness of payment of arrearages; and (7) anti-blight activities, including principal forgiveness where the lender does not pursue foreclosure, and property demolition. As the value of the mortgage modification relief to the homeowner may in some instances exceed the credit given to the settling lender for the relief, the ultimate value of the mortgage modification relief may exceed the official settlement amounts identified here. When the settlement was first announced, it was estimated that \$60 million in benefits from these provisions could be received by Wisconsin homeowners.

Refinancing Relief. Under the settlement agreement, the settling lenders also agreed to provide \$2,781,000,000 in refinancing relief. When the settlement was first announced, it was estimated that \$31.3 million in refinancing benefits could be received by Wisconsin residents under the settlement.

Direct Payments. Under the settlement agreement, the settling lenders agreed to provide \$5,031,507,454 in direct payments as identified in Table 6. Of the direct payment amounts provided under the settlement, \$1,489,813,925 is set aside for cash payments to borrowers of the settling lenders whose homes were sold or taken in foreclosure between and including January 1, 2008, and December 31, 2011, who submit claims for harm arising from the sale or foreclosure. When the settlement was first announced, it was estimated that \$17.2 million in these payments to foreclosed borrowers could be received by Wisconsin consumers.

Table 6: Direct Payments under the National Mortgage Settlement

Recipient/Purpose	Amount
Direct Payments to States	\$2,539,915,614
Payments to Foreclosed Borrowers	1,489,813,925
Federal Payment Settlement Amount	911,777,915
State Financial Regulators	50,000,000
State Financial Regulation Fund	15,000,000
National Association of Attorneys General	15,000,000
Costs and Attorneys' Fees	<u>10,000,000</u>
Total	\$5,031,507,454

Table 7 identifies the direct payments made to the 49 settling states and the District of Columbia. The Wisconsin Attorney General received Wisconsin's direct payment under the settlement totaling \$30,191,806.

Table 7: Breakdown of Direct Payments to the Settling States

State	Amount	State	Amount
California	\$410,576,996	Connecticut	\$26,102,142
Florida	334,073,974	Alabama	25,305,692
Texas	134,628,489	Utah	21,951,641
New York	107,642,490	Louisiana	21,741,560
Illinois	105,806,405	Kentucky	19,198,220
Georgia	99,365,105	Iowa	14,651,922
Arizona	97,784,204	Kansas	13,778,401
Michigan	97,209,465	Mississippi	13,580,374
Ohio	92,783,033	Idaho	13,305,209
New Jersey	72,110,727	Arkansas	12,830,241
Pennsylvania	66,527,978	New Mexico	11,174,579
Virginia	66,525,233	New Hampshire	9,575,447
North Carolina	60,852,159	Rhode Island	8,500,755
Maryland	59,697,470	Nebraska	8,422,528
Nevada	57,368,430	Delaware	7,913,923
Washington	54,242,749	Hawaii	7,911,883
Colorado	50,170,188	Maine	6,907,023
Massachusetts	44,450,668	West Virginia	5,748,915
Indiana	43,803,419	Montana	4,858,276
Minnesota	41,536,169	District of Columbia	4,433,081
Tennessee	41,207,810	Alaska	3,286,839
Missouri	39,583,212	South Dakota	2,886,824
South Carolina	31,344,349	Wyoming	2,614,515
Wisconsin	30,191,806	Vermont	2,552,240
Oregon	29,253,190	North Dakota	<u>1,947,666</u>
		Total	\$2,539,915,614

Under the national mortgage settlement, these direct payments to the extent practicable:

shall be used for purposes intended to avoid preventable foreclosures, to ameliorate the effects of the foreclosure crisis, to enhance law enforcement efforts to prevent and prosecute financial fraud, or unfair or deceptive acts or practices and to compensate the States for costs resulting from the alleged unlawful conduct of the Defendants. Such permissible purposes for allocation of the funds include, but are not limited to, supplementing the amounts paid to state homeowners under the Borrower Payment Fund, funding for housing counselors, state and local foreclosure assistance hotlines, state and local foreclosure mediation programs, legal assistance, housing remediation and anti-blight projects, funding for training and staffing of fi-

nancial fraud or consumer protection enforcement efforts, and civil penalties.

The settlement then provides for the Attorney General of each settling state to submit general instructions for the use of these direct payments. The Wisconsin Attorney General submitted instructions providing that, "Money owed to the State of Wisconsin shall be made payable to 'Attorney General, State of Wisconsin,' and may be used for any purpose permitted under the Consent Judgment, as solely determined and directed by the Attorney General."

As indicated in Table 7, the Wisconsin Attorney General received a direct payment under the national mortgage settlement totaling

\$30,191,806. As of October, 2012, state DOJ staff indicates that of this amount, \$28,363,883 has been or is intended to be allocated as follows: (1) \$24,331,783 to be deposited to the general fund; (2) \$1,500,000 to the Wisconsin Housing and Economic Development Authority (WHEDA) for housing-related initiatives; (3) \$782,100 to offset prior budget reductions to tribal-related law enforcement grant programs and for victim and witness programming; (4) \$625,000 for assistant district attorney discretionary merit compensation; (5) \$625,000 for release to the general fund if a compensation plan is adopted or state law enacted that provides for merit-based pay progression for assistant attorneys general; and (6) \$500,000 to WHEDA for a possible strategic neighborhood revitalization/demolition program.

The remaining \$1,827,923 in national mortgage settlement funds has been retained by DOJ to be allocated at a later date at the discretion of the Attorney General. Department staff indicates that available balances may be utilized to: (1) provide additional support for other housing-related initiatives; (2) meet otherwise unfunded operational needs of DOJ; and (3) meet lapse requirements imposed by the Department of Administration.

Finally, under the national mortgage settlement, Wisconsin's Department of Financial Institutions (DFI), as a state financial regulator, received a separate \$1 million award under the settlement as a direct payment. Of this amount, \$618,700 will be transferred to WHEDA for a strategic neighborhood revitalization/demolition program. The remaining \$381,300 will be utilized to upgrade information technology in DFI's Division of Banking.

Report on Restitution Payments

Under s. 165.25(10) of the statutes, DOJ is required to submit a semiannual report to DOA and to the Joint Committee on Finance on the amounts received pursuant to a court order or settlement agreement to provide restitution to victims. DOJ's report is required to specify: (1) the amount of restitution received by the agency during the reporting period; (2) the persons to whom the agency paid restitution; (3) the amount paid by the agency to each recipient during the reporting period; and (4) the agency's methodology for selecting recipients and determining the amount paid to each recipient.

APPENDIX I

Summary of State Agency Programs Providing Consumer Protection Services

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

Department of Administration - Energy Issues. The Department of Administration's Division of Energy Services provides general information on energy matters to low-income consumers through the State Energy Office and the Home Energy Plus Program.

The State Energy Office publishes a limited supply of the complete book of Wisconsin Energy Statistics as well as a book of energy statistics highlights. The complete book and the highlights can also be found on the Office's website. The books are annually updated to present data from two years prior.

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

In 2011-12, Home Energy Plus distributed approximately 140,600 copies of its program brochure in English, Spanish, and Hmong, to local agencies and low-income heating and weatherization service providers. Local providers may download and duplicate these brochures. Local providers must conduct their own outreach activities, which may include radio, television and newspaper advertisements and providing information to local community-based agencies.

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

In calendar year 2011, regional ombudsmen opened 1,052 cases and closed 1,041, provided information and counseling to 26,832 individuals, and presented 900 educational programs. The Board's ombudsman staff and trained volunteers also made numerous unannounced visits to nursing homes and community care facilities and provided consulting and education services to these facilities as well as to resident and family councils. From October, 2010, to September, 2011, volunteer ombudsmen donated 12,584 hours. Finally, the Board provides consumers with information and assistance regarding Medicare, Medicaid, and private insurance policies through printed materials, a website, and the toll-free Medigap helpline. In calendar year 2011, the helpline received 8,233 calls.

Department of Children and Families. The child care regulatory program in the Department of Children and Families (DCF) licenses and regulates child care programs, children's residential programs, and child placing agencies in order to promote the health, safety, and welfare of children in regulated community care arrangements. Child care and out-of-home care providers and facilities are required to meet health and safety standards before receiving a license to operate. Once a license is issued, DCF may regularly inspect the facilities for compliance with these standards. In addition, DCF investigates complaints it receives regarding these providers and facilities. Violations can result in DCF assessing forfeitures, issuing correction orders, and other disciplinary actions.

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

Educational Approval Board. The Educational Approval Board (EAB) approves all for-profit postsecondary schools (other than schools of cosmetology), all out-of-state nonprofit colleges and universities and in-state nonprofit postsecondary institutions incorporated after December 31, 1991. The EAB monitors and periodically reviews approved institutions and programs and investigates consumer complaints regarding facilities, quality of instruction, course content, financial practices and misrepresentations by a school. The Board attempts to resolve complaints through mediation and may also hold hearings, suspend or revoke a school's approval, make a demand upon a school's surety bond or bring action in any court in Wisconsin. The Board manages student and financial records in the event of a school closing.

Department of Financial Institutions. The Department of Financial Institutions (DFI) was created as part of the 1995-97 biennial budget to consolidate regulatory functions related to financial institutions. DFI consists of four divisions: the Division of Corporate and Consumer Services, the Division of Banking, the Division of Securities, and the Division of Administrative Services and Technology. The Bureau of Consumer Affairs administers the Wisconsin Consumer Act and the Office of Financial Literacy provides information to the public on matters of personal finance. The Office of Credit Unions is attached to the Department for administrative purposes and is responsible for regulating the 194 credit unions chartered by the state.

DFI serves as the public custodian of charter documents creating Wisconsin corporations and other business entities, annual reports, and other documents submitted by those entities. There are approximately 360,000 businesses on file with the Department. DFI also examines and files documents under the Uniform Commercial Code, filing 150,400 documents in 2011.

The Department regulates state-chartered banks (204), savings and loan associations (three), and savings banks (12). The Department also licenses approximately 19,600 solicitors/collectors, adjustment service companies, collection agencies, community currency exchanges, insurance premium finance companies, loan companies, sales finance companies, sellers of checks, mortgage banking professionals, payday lenders, and auto title lenders. In carrying out its regulatory duties, DFI conducts safety and soundness and compliance examinations, informs the public and regulated industries of their rights and obligations under the law, and responds to complaints filed against firms and individuals regulated by DFI.

The Department is also responsible for regulating the offer and sale of securities, franchise investment offerings, and corporate takeovers. It does this by requiring registration of securities and franchise offerings (or by allowing certain exemptions from registration), and by licensing and monitoring broker-dealers, securities agents, and investment advisers. In 2011, the Division of Securities responded to 154 complaints, associated with both licensed and unlicensed entities. As a result of those investigations, seven warning letters and 36 administrative orders were issued, two matters were referred for criminal prosecution, and \$277,500 was offered or returned to investors.

DFI administers the Wisconsin Consumer Act, which governs consumer credit transactions. During 2011, the Bureau of Consumer Affairs received 1,339 consumer complaints and 3,635 inquiries. Subsequent investigations revealed 214 compliance problems under the Wisconsin Consumer Act, resulting in orders requiring merchants to correct their violations. A total of \$158,000 was returned to consumers as refunds, credits, or adjustments.

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

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

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

Office of the Commissioner of Insurance. The Office of the Commissioner of Insurance (OCI) regulates insurance companies and agents by ensuring that insurance companies are financially solvent and enforcing consumer protection laws. In 2011, OCI's Bureau of Market Regula-

tion received approximately 6,200 formal written consumer complaints and answered 35,000 telephone, written, and "walk-in" inquiries or requests for information. Most official complaints involve the handling of claims, but other issues brought up in these complaints include service to policyholders, marketing and sales practices, and underwriting. Following its investigation of a complaint, OCI may order license disciplines, demand restoration of benefits or rights to policyholders and levy forfeitures.

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

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

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

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

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

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

On July 1, 2011, 1,066 matters were pending disposition in the OLR. The OLR received 2,677 new grievances in the 2011-12 fiscal year. In 2011-12, 46 attorneys were publicly disciplined and no private reprimands were issued. [Private reprimands are generally imposed for an isolated act of misconduct, which causes relatively minor harm. These reprimands may be used as aggravating factors in future disciplinary matters.] Further, 208 attorneys entered the alternatives to discipline program. Finally, 34 cases were dismissed

with an advisory letter. On June 30, 2012, 1,170 matters were pending disposition in the OLR.

The OLR office is in Madison with a total staff of 27.5 positions: 1.0 director, 2.0 deputy directors, 13.8 investigators, 7.7 administrative and support staff, 1.0 litigation counsel, and 2.0 assistant litigation counsels. Total expenditures for the OLR were \$3,269,300 PR in 2011-12 and are budgeted at \$2,824,100 PR in 2012-13. Funding for the OLR is generated from assessments on attorney members of the State Bar of Wisconsin, costs recovered from attorneys disciplined under formal proceedings, and fees on attorney petitions for reinstatement.

Public Service Commission. The Commission regulates public utilities to ensure the reasonable and adequate delivery of service to the public. The Commission's consumer protection activities are the responsibility of the Division of Water, Compliance and Consumer Affairs. The Division's Consumer Services section reported 6,495 total contacts from consumers in calendar year 2011, and an estimated 5,610 contacts from consumers were received during calendar year 2012. Due to law and complaint process changes, there was a reduction in the total number of complaints handled by the Division from 2011 to 2012. Of the total contacts received, 4,910 became official complaints during calendar year 2011, and an estimated 2,400 contacts were handled as complaints during calendar year 2012. Most complaints concern adequacy of service, installation, disconnection, and billing issues.

Currently, approximately 60% of all complaints involve combined electric and gas service, 21% involve electric service, 4% involve natural gas service, 10% involve either water, combined water and sewerage service, or combined water and electric service matters, 3% involve telecommunications service, and 2% involve miscellaneous issues. Actions taken by the Division to resolve complaints include investigation, media-

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

Department of Safety and Professional Services. The Department of Safety and Professional Services (DSPS) administers certain activities and programs previously handled by the former Department of Regulation and Licensing (DRL) and the former Department of Commerce. The Department's Division of Enforcement, formerly a part of DRL, provides investigative and prosecutorial services relating to the licensed professions (such as medical doctors, nurses, dentists, and pharmacists) under the jurisdiction of 28 regulatory boards or the Department's direct licensing authority. As of October, 2012, the Department and its boards regulated 367,833 active credential holders in 156 different professions, occupations and businesses. The Department received 2,724 complaints involving regulated persons or entities in 2011-12. Outcomes of a complaint investigation may include dismissal of the complaint, informal resolution or formal disciplinary action. The Department and its regulatory boards have the authority to limit, suspend or revoke any credential. The Department has one state office located in Madison. Additional information on the former DRL activities administered by DSPS is available in LFB Information Paper #98, "Regulation of Occupations by the Department of Safety and Professional Services."

Department of Transportation. The Division of Motor Vehicles of the Department is re-

sponsible for the licensing of new and used motor vehicle dealers, recreational vehicle dealers, motor vehicle manufacturers and distributors, and salvage dealers. The Department investigates an average of about 1,200 complaints annually related to sales and lease practices, warranties, product quality and the motor vehicle lemon law. Most investigations involve insufficient disclosure of used vehicle condition. The Department's investigations may result in informal mediation, formal warnings requiring a written assurance that the business will discontinue a practice, license suspension or revocation, or the administrator of the Division of Hearings and Appeals may issue a special order against specific licensee practices. The Department conducts public appearances, publishes brochures and provides information on its Web site regarding vehicle purchasing and consumer protection. The agency employs regional investigators and operates a consumer assistance hotline.

Department of Workforce Development.

The Department enforces both civil rights and labor standards laws through the Civil Rights Bureau and the Labor Standards Bureau, which are located in the Division of Equal Rights. The Bureau of Civil Rights enforces anti-discrimination laws affecting housing, employment, and public accommodations. DWD received approximately 3,400 discrimination complaints in 2011, most of

which involved allegations of discrimination in employment (approximately 95% of the discrimination cases were employment related). Cases are investigated and may be conciliated or brought before an administrative law judge for a formal hearing. The Civil Rights Bureau also enforces the family and medical leave law and certain anti-retaliation laws.

The Labor Standards Bureau enforces labor standards laws, including laws governing minimum wage, overtime, and child labor. In 2011, the Bureau investigated approximately 3,000 cases, most of which involved unpaid wage claims from employees (about 2,600 cases). In addition, the Bureau annually determines the prevailing wage rates and hours of labor for local and state building construction projects and investigates any alleged violations of such wage rates and hours of labor.

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

APPENDIX II

Summary of DATCP Trade and Consumer Protection Administrative Rules

Consumer Protection Administrative Rules

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

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

Basement Waterproofing Practices (ATCP 111). Prohibits contractors from using the pressure pumping method to waterproof basements without a seller's and engineer's analysis, and regulates the guarantee of basement waterproofing services.

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

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

petuate the chain of investors.

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

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

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

Direct Marketing and No-Call List (Chapter ATCP 127). Establishes disclosure requirements, including the initial identification of the soliciting business firm and its products or services offered for sale. Prohibits unfair practices, such as false claims to be part of a survey or research project, false special offers or deceptive free gifts and unauthorized payments. Requires direct marketers to maintain sales records. Also, ATCP 127 establishes a program requiring most telephone solicitors to register and purchase a list of residential and mobile (cellular) telephone customers that do not wish to be solicited. Residential and cellular customers may sign up for two years at no charge.

Environmental Labeling of Products (ATCP 137). Establishes standards for advertising and labeling that makes environmental claims for consumer products (for example, products that are advertised as recycled, recyclable or degrada-

ble). Further establishes labeling requirements for plastic containers and provides information to operators of materials recovery programs needed to facilitate recycling or reuse of the containers.

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

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

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

Home Improvement Practices (ATCP 110). Prohibits deceptive practices, including model home misrepresentations, product misrepresentations bait and switch selling, deceptive gift offers, price and financing misrepresentation, and misleading guarantees. Establishes written guarantee and contract requirements and requires timely performance, except where delay is unavoidable and timely notice is given.

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

Mobile Home Parks (ATCP 125). Prohibits

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

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

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

Real Estate Advertising, Advance Fees (ATCP 114). Prohibits misrepresentation in the solicitation of real estate advance fees collected for listing or advertising the sale or lease of property, and requires that copies of all contracts be given to contracting property owners.

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

Residential Rental Practices (ATCP 134). Requires disclosure of known housing code violations and other conditions affecting habitability prior to rental. Establishes standards and procedures for the return of security deposits and earnest monies, and requires landlords to comply with repair promises. Prohibits certain unfair

rental practices, including the advertising and rental of condemned premises, unauthorized entry during tenancy, confiscation of personal property and unfair retaliatory eviction. Prohibits certain practices from inclusion in rental agreements, such as eviction other than by judicial procedures, the acceleration of rent payments, the imposition of liabilities on tenants or the removal of landlord liabilities.

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

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

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

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

Trade Practice Administrative Rules

Dairy Plant Payments to Milk Producers; Security (ATCP 100). Provides reasonable assurance that producers will be paid for their milk and prohibits price discrimination between individual producers.

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

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

Leaf Tobacco, Buying and Selling (ATCP 104). Prohibits a tobacco buyer or agent from engaging in any unfair trade practices in the business of buying leaf tobacco.

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

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

Public Warehouse Keepers (ATCP 97). Ensures public warehouse facilities are suited to

reasonably protect the products in storage. Requires warehouse contents be insured and storage contents be disclosed by warehouse keepers.

Sales Below Cost (ATCP 105). Generally prohibits sales below the seller's costs. Further, prohibits selling tobacco products, alcoholic beverages or motor vehicle fuel without required

markups between wholesalers and retailers. See Appendix III for further details.

Vegetable Procurement Practices (ATCP 101). Regulates vegetable procurement contracts to ensure producers receive compensation for their labors.

APPENDIX III

Unfair Sales Act/Minimum Markup Law

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

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

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

The table below shows how the minimum markup requirement for motor vehicle fuel sales is calculated, given average posted terminal prices, under current law. Transportation costs may vary based on factors including distance between a retail station and fuel terminal, but DATCP staff generally assumes a cost of about 2¢ per gallon in calculating the minimum required markup. Table 8 uses 51.3¢ for total taxes and fees, which includes the following: (1) a state tax of 30.9¢ per gallon of fuel; (2) a federal tax of 18.4¢ per gallon of gasoline (24.4¢ per gallon of diesel); and (3) a state petroleum inspection fee of 2¢ per gallon.

Below-cost sales are allowed under certain circumstances, including: (1) bona fide clearance sales; (2) sales of perishable merchandise; (3) sales of damaged or discontinued merchandise; (4) liquidation sales; (5) sales for charitable purposes; (6) contract sales to government bodies; (7) prices set to meet a competitor's

Table 8: Current Minimum Markup Law Calculations

Average Terminal Price	Transportation Cost	Taxes and Fees	Subtotal	Minimum Markup (9.18%)	Minimum Pump Price
\$2.00	0.02	0.513	2.53	0.23	\$2.76
3.00	0.02	0.513	3.53	0.32	3.85
4.00	0.02	0.513	4.53	0.42	4.95
5.00	0.02	0.513	5.53	0.51	6.04

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

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

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

In January, 2009, the Dane County Circuit Court ruled, in response to a challenge of the minimum markup law's validity under the Wisconsin Constitution, that the law was not unconstitutional beyond a reasonable doubt, and the law would continue to be in effect. However, in February, 2009, the United States District Court for the Eastern District of Wisconsin ruled

that the minimum markup law as it applies to motor vehicle fuel restrains trade in violation of the federal Sherman Act and does not meet criteria for state immunity. DATCP stopped enforcing the law for motor vehicle fuel after this decision. Provisions regarding tobacco, alcohol and other below-cost sales were not affected by the ruling, and DATCP continued enforcing these non-fuel provisions.

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

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

APPENDIX IV

**DATCP-Referred Consumer Protection
Court Cases Closed in 2011**

(Total Judgments of \$10,000 or More and Criminal Cases)

Case Name	Case Type	Where Referred	Case Description	Resolution	Forfeiture, Restitution and Other Payments	Other Conditions
Civil Cases						
ACT Distributing, Inc., d/b/a Kirby of Madison	Do-Not-Call List Violation	DOJ (Dane County)	Kirby of Madison was alleged to have failed to register as a telemarketer, as well as alleged to have solicited sales to persons registered on the do-not-call list.	Consent Judgment	\$21,000 in total payments, including \$18,000 in forfeitures and assessments, and \$3,000 in court costs; to be increased to \$50,000 if terms of consent judgment are violated.	Injunction against violating do-not-call laws, and required quarterly reporting to DATCP, for two years, on compliance with do-not-call program.
Advanced Auto Parts	Weights & Measures	Waukesha County DA	Price misrepresentation.	Settlement	\$12,967 in civil forfeitures.	
Bath & Body Works	Weights & Measures	Eau Claire County DA	Price misrepresentation.	Settlement	Total payments of \$11,000, including forfeitures of \$6,980, and other assessments and costs of \$4,020.	
BlueHippo Funding, LLC	Fraudulent Representations	DOJ (Dane County)	BlueHippo offered to sell computers, and was alleged to have withdrawn funds from customer accounts while failing to ship products in return.	Consent Judgment	Total payments of \$4,237,434, including forfeitures of \$3,543,242, restitution of \$398,048, and assessments and other court costs of \$296,144.	
Bruce Foods Corporation	Weights & Measures	Outagamie County DA	Providing short measures of cotton seed oil.	Stipulated settlement	Total payments of \$85,000, including forfeitures of \$54,403, and assessments and other costs of \$30,597.	
Credenciales USA; Hugo Loyo	Fraudulent Representations	DOJ (Milwaukee County)	Credenciales USA was alleged to have marketed and sold counterfeit "international drivers licenses" targeting non-English speakers in Wisconsin.	Default judgment (no response by defendant)	Total judgment of \$385,520, including forfeitures of \$250,000 and assessments and other costs of \$135,520.	

Case Name	Case Type	Where Referred	Case Description	Resolution	Forfeiture, Restitution and Other Payments	Other Conditions
Curves-Beloit; Erinne Brown	Fitness Centers (Financial Surety)	DOJ (Rock County)	Business closed but failed to refund prepayments, and failed to establish proof of financial responsibility.	Guilty Judgment	Total payments of \$79,600, including forfeitures of \$50,000 and assessments and other costs of \$29,600.	
First American Funding LLC; Michael Eisenga	Do-Not-Call List Violation	DOJ (Dane County)	First American Funding was alleged to have telemarketed residential mortgages without registering as a telemarketer.	Consent Judgment	\$750,000 judgment, but reduced to between \$144,000 and \$250,000 (based on future gross revenues), provided no further violations.	Enjoined from failing to comply with do-not-call registry, and must report to DATCP on a quarterly basis to ensure compliance.
Gray, Joyce	Violate special order	DOJ (Milwaukee County Court)	Gray was alleged to have required up-front payment for making special-occasion dresses, but failing to deliver either a product or a refund. This case alleged Gray continued such conduct in violation of law and of a 2008 DATCP special order prohibiting Gray from such activity.	Default Judgment	Total judgment of \$11,720, including \$6,000 in forfeitures and \$5,720 in other costs and assessments.	
Kraft Food Global Inc	Weights & Measures	Milwaukee County DA	Kraft was alleged to offer for sale underweight products.	Consent Judgment	Total payments of \$16,958, including forfeitures of \$11,000 and \$5,958 in other costs and assessments.	
Krist Oil Company	Weights & Measures	DOJ (Marinette County)	Krist Oil was alleged to have offered for sale underweight containers of liquefied petroleum gas (LPG).	Consent Judgment	Total payments of \$65,000, including \$29,627 in forfeitures and \$35,373 in other court costs and assessments.	
MJY Distributing, LLC	Do-Not-Call List Violation	DOJ (Fond Du Lac County)	MJY Distributing was alleged to have made calls to persons registered on the do-not-call list.	Consent Judgment	Total payments of \$28,000 ordered, including forfeitures, surcharges and fees; to be reduced to \$5,000 if defendant does not violate do-not-call laws for 27 months.	Enjoined from failing to comply with do-not-call registry, and must report to DATCP on a quarterly basis to ensure compliance.

Case Name	Case Type	Where Referred	Case Description	Resolution	Forfeiture, Restitution and Other Payments	Other Conditions
Criminal Cases						
Barrett, David F.	Criminal -- Home Improvement	Milwaukee County DA	Barrett was alleged to have signed contracts and accepted down payments for home improvements, but did not perform work promised.	Pleaded guilty to multiple misdemeanor counts of theft by contractor.	Restitution of \$4,745.	Suspended jail sentences of nine months per count; avoided if 36 months of probation, with conditional jail time, completed.
Joles, Steve J	Criminal -- Home Improvement / Theft-False Representations	Lafayette County DA	Joles was alleged to have misrepresented to consumers that their lightning rod systems were defective, thereby inducing contracts for repairs or replacement. Joles was also alleged to have violated requirements relating to rebates, warranties, providing a written contract and consumer rights to cancel services.	Pleaded guilty to two misdemeanor counts of theft and violating DATCP regulations.	Total payments of \$213 for court costs.	Sentenced to 6 months jail, to take effect if 1-year probation is violated.
Kaul, Scott A.	Criminal -- Home Improvement	Winnebago County DA	Kaul was alleged to have failed to disclose certain required information, as well as for accepting payment without providing services.	Pleaded no contest to two counts of theft in a business setting and one count of failing to disclose home improvement contract information, all misdemeanors.	Total payments of \$1,186, including \$1,120 in restitution and \$66 in court costs.	One year of probation imposed, but later vacated due to timely payment of restitution in full.
Stapel, Craig	Criminal -- Home Improvement	Winnebago County DA	Stapel was alleged to have: (a) failed to meet contract timelines; and (b) failed to deliver windows represented to consumers as being purchased with amounts prepaid.	Pleaded no contest to misdemeanor counts of failing to disclose home improvement contract information, failing to furnish waivers of contractor liens, and failing to list dates/times on a contract.	Total payments of \$3,415, including restitution of \$1,200, and assessments and other costs of \$2,215.	Two years of probation imposed.

APPENDIX V

Department of Justice Consumer Protection Cases Completed in 2010-12 (Total Judgments of \$100,000 or More and Criminal Cases)

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
Civil Cases								
Mortgage Foreclosure Settlement (Bank of America; J.P. Morgan Chase; Citigroup; Residential Capital (Ally Bank/GMAC); and Wells Fargo & Co.	Mortgage foreclosure	Multistate	The case involved allegations that in foreclosure proceedings bank representatives were signing foreclosure affidavits without reviewing the validity or accuracy of the sworn statements. The case also involved allegations of other service-related problems, including alleged deceptive practices in the offering of loan modifications.	A consent judgment with Bank of America, J.P. Morgan Chase, Citigroup, Residential Capital, and Wells Fargo was entered into in April, 2012. This consent judgment awarded states monetary payments, imposed injunctive relief, and required additional borrower relief. The Wisconsin Attorney General received a direct payment under this settlement totaling \$30,191,800 to be allocated at his discretion. Of this amount, \$24,331,800 was deposited to the general fund. Additional discussion of this settlement can be found in the body of the paper under the DOJ Consumer Protection Program section.	\$30,191,800			\$30,191,800
BlueHippo Funding, LLC, BlueHippo Capital, LLC	Deceptive sales practices	DATCP	The defendants were alleged to have engaged in deceptive practices relating to the financing and sale of personal computers.	Judgment was granted in November, 2011, in favor of the state and against the defendants for forfeitures and costs.		\$3,839,400	\$398,000	\$4,237,400
Cory C. Atkinson dba U.S. Fidelis, Inc., fna National Auto Warranty Services, Inc., d/b/a Dealer Services	Deceptive sales practices	Multistate	The defendants were alleged to have sold and marketed motor vehicle service contracts in a false, deceptive, and misleading manner, including: (a) representing that a consumer's motor vehicle warranty expired, was expiring, or was about to expire when such statement was not true or could not be substantiated; (b) representing or implying that a consumer's vehicle could be unsafe or subject to recall, when such was not the case or was not known; and (c)	A November, 2010, consent judgment requires the surrender of assets to fund consumer restitution, imposes injunctive relief, and awards forfeitures, and costs. The financial recovery included: (a) \$1,670,500 in civil forfeitures; (b) a consumer protection surcharge of \$417,625; (c) a penalty surcharge of \$434,330; (d) a jail surcharge of \$16,705; (e) \$13,000 in attorneys' fees, court costs, and investigative costs to DOJ; and (f) additional surcharges and court fees totaling \$203.50. Among other settlement terms, the defendants: (a) are permanently prohibited from		\$2,552,400		\$2,552,400

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
			misrepresenting the nature of the motor vehicle service contract as a "warranty," "factory warranty," or "extended warranty."	engaging in any telemarketing sales or telephone solicitations; and (b) must, in any future written solicitation, clearly and conspicuously offer consumers the option of being removed from the defendant's mailing list.				
Darain E. Atkinson dba U.S. Fidelis, Inc., fna National Auto Warranty Services, Inc., d/b/a Dealer Services	Deceptive sales practices	Multistate	The defendants were alleged to have sold and marketed motor vehicle service contracts in a false, deceptive, and misleading manner, including: (a) representing that a consumer's motor vehicle warranty expired, was expiring, or was about to expire when such statement was not true or could not be substantiated; (b) representing or implying that a consumer's vehicle could be unsafe or subject to recall, when such was not the case or was not known; and (c) misrepresenting the nature of the motor vehicle service contract as a "warranty," "factory warranty," or "extended warranty."	A November, 2010, consent judgment requires the surrender of assets to fund consumer restitution, imposes injunctive relief, and awards forfeitures, and costs. The financial recovery included: (a) \$1,670,500 in civil forfeitures; (b) a consumer protection surcharge of \$417,625; (c) a penalty surcharge of \$434,330; (d) a jail surcharge of \$16,705; (e) \$13,000 in attorneys' fees, court costs, and investigative costs to DOJ; and (f) additional surcharges and court fees totaling \$203.50. Among other settlement terms, the defendants: (a) are permanently prohibited from engaging in any telemarketing sales or telephone solicitations; and (b) must, in any future written solicitation, clearly and conspicuously offer consumers the option of being removed from the defendant's mailing list.		\$2,552,400		\$2,552,400
Abbott Laboratories (Depakote)	Deceptive drug marketing	Multistate	It was alleged that Abbott Laboratories engaged in unfair and deceptive practices when it marketed the drug Depakote for off-label uses. Depakote has been approved for the treatment of seizure disorders, mania associated with bipolar disorder and prophylaxis of migraines. However, it was alleged that Abbott Laboratories marketed Depakote for unapproved uses, including the treatment of schizophrenia, agitated dementia, and autism.	In May, 2011, 45 states (including Wisconsin) and the District of Columbia entered into a \$100 million consent judgment with Abbott Laboratories. Under the consent judgment, the multistate executive committee of Attorneys General subsequently awarded the Wisconsin Attorney General \$1,855,400. These funds may be used for any purpose permitted by state law, at the sole discretion of the Attorney General. The Attorney General applied \$3,300 from this award to offset investigation and prosecution costs incurred by the state. In addition, under the consent judgment Abbott	\$1,855,400			\$1,855,400

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
				Laboratories is: (a) prohibited from making false or misleading claims about Depakote; (b) prohibited from promoting Depakote for off-label uses; and (c) required to ensure that the compensation of its U.S. sales representatives be designed so that financial incentives do not encourage sales staff to engage in off-label promotion of Depakote.				
AstraZeneca Pharmaceuticals (Seroquel)	Deceptive drug marketing	Multistate	It is alleged that AstraZeneca Pharmaceuticals LP and AstraZeneca LP ("AstraZeneca"): (a) engaged in misrepresentations and deception when it marketed Seroquel for unapproved or off-label uses; (b) failed to disclose the drug's potential side effects to health care providers; and (c) withheld negative information in scientific studies regarding the safety and efficacy of Seroquel. Although a physician may prescribe drugs for off-label uses, the law prohibits pharmaceutical manufacturers from marketing their products for off-label uses. Seroquel is an antipsychotic drug. It is alleged that AstraZeneca unlawfully marketed Seroquel for a number of off-label uses including: (a) for use in pediatric and geriatric populations, specifically in nursing homes for Alzheimer's disease and dementia; (b) anxiety; (c) depression; (d) sleep disorders; and (e) post traumatic stress disorder.	In March, 2011, Wisconsin and 37 other states entered into a \$68.5 million consent judgment with AstraZeneca. Under the consent judgment, the multistate executive committee of Attorneys General subsequently awarded the Wisconsin Attorney General \$1,490,900. The consent judgment does not limit how the Wisconsin Attorney General may utilize this settlement award. The Attorney General applied \$3,700 from this award to offset investigation and prosecution costs incurred by the state. The consent judgment requires AstraZeneca to: (a) publicly post its payments to physicians on a website; (b) establish policies to ensure that financial incentives are not provided to marketing and sales staff for the marketing of Seroquel for off-label uses; (c) establish policies to ensure that AstraZeneca sales personnel do not promote Seroquel to health care providers who are unlikely to prescribe the drug for an FDA approved use; and (d) reference FDA approved indications when discussing selected symptoms of the drug, instead of promoting the drug by highlighting symptoms only.	\$1,490,900			\$1,490,900

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
Glaxosmithkline, LLC and SB Pharmco Puerto Rico, Inc. (Cidra)	Deceptive drug marketing	Multistate	It was alleged that the defendants GlaxoSmithKline, LLC, and SB Pharmco Puerto Rico, Inc., engaged in untrue, deceptive, or misleading practices when they manufactured and distributed certain lots of the drugs Kytril, Bactroban, Paxil CR and Avandamet, which were allegedly altered because the manufacturing processes used to produce these lots of drugs were substandard. The facility at which these drugs were produced is now closed. The drugs involved included: (a) Kytril, which is a sterile drug used to prevent nausea and vomiting caused by cancer chemotherapy and radiation therapy; (b) Bactroban, an antibiotic ointment used to treat skin infections; (c) Paxil CR, the controlled release formulation of the antidepressant drug, Paxil; and (d) Avandamet, a combination Type II diabetes drug.	In June, 2011, Wisconsin and 37 other states entered into a \$40.75 million dollar consent judgment with the defendants. Under the consent judgment, the multistate executive committee of Attorneys General subsequently awarded the Wisconsin Attorney General \$922,494. Under the consent judgment, this award may be used for purposes permitted by state law, at the sole discretion of the Attorney General. The Attorney General applied \$1,500 from this award to offset investigation and prosecution costs incurred by the state.	\$922,500			\$922,500
Dannon	Deceptive food labeling	Multistate	It was alleged that the Dannon Company, Inc., made unlawful claims in advertising, marketing, packaging, and selling Activia yogurts and DanActive dairy drinks. It was alleged that the company's claims regarding these products were not substantiated by competent and reliable scientific evidence at the time the claims were made. Specifically, it was alleged that Dannon represented that Activia helped to regulate one's digestive system based largely on the presence of one ingredient, a bacterial strain with purported probiotic benefits	In December, 2010, as a part of a multi-state settlement including the Federal Trade Commission, a \$21 million dollar consent judgment was entered into with Dannon Company, Inc. Under the consent judgment Dannon paid the \$21 million to the Tennessee Attorney General who then distributed the funds based on awards made by the multistate executive committee of Attorneys General. The Wisconsin Attorney General was awarded \$861,100. These funds may be used for any purpose permitted by state law, at the sole discretion of the Attorney General. The Attorney General applied \$28,300 from this award to offset investigation and	\$861,100			\$861,100

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
			<p>that Dannon trademarked under the name Bifidus Regularis. Dannon allegedly represented that Activia improved intestinal transit time with one serving per day for two weeks. However, the majority of studies allegedly demonstrated a benefit only for individuals consuming three servings per day for two weeks. Dannon allegedly represented that DanActive drinks provided consumers with immunity and cold and flu prevention benefits. Again, it was alleged that Dannon lacked adequate substantiation to support these marketing claims.</p>	<p>prosecution costs incurred by the state. Under the consent judgment, Dannon may not state or imply that its yogurts, dairy drinks, or any other food or drink containing a probiotic may be used in the diagnosis, cure, mitigation, treatment, or prevention of a disease. Further, under the consent judgment Dannon may not reference the health benefits, performance, efficacy, or safety of these products unless the representation is not misleading and is supported by competent and reliable scientific evidence.</p>				
Joseph Rensin dba BlueHippo Funding, LLC, BlueHippo Capital, LLC	Deceptive sales practices	DATCP	<p>The case involved allegations that the companies targeted low-income consumers with poor credit histories, offering to finance computers and other electronic merchandise. The companies allegedly deceived consumers to believe that they were purchasing computers on credit, and that after making a few modest payments, the consumers would receive the ordered computers and pay down the remaining balance in coming months. It is alleged that hundreds of consumers did not receive their ordered merchandise within the promised time period, and further that many never received their ordered merchandise at all. The state further alleged that many consumers were led to believe that they were entitled to free items with their purchase, yet many never received these free items.</p>	<p>Under the consent judgment entered in October, 2011, the defendant Joseph Rensin was required to pay \$160,000 to be applied towards restitution and to defray litigation costs. In addition, Joseph Rensin agreed to cancel more than \$500,000 in outstanding debt allegedly owed by Wisconsin consumers to the BlueHippo companies. Further, Mr. Rensin agreed to not use a similar business model to sell goods or services in Wisconsin for three years.</p>		\$10,000	\$650,000	\$660,000

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
Credenciales USA, LLC & Hugo I. Loyo	Deceptive sales practices	DATCP	The case involved allegations of fraudulent representations involving the sale of non-governmental driving permits.	A default judgment entered in April, 2011 requires the payment of forfeitures and costs, and imposes injunctive relief.		\$385,500		\$385,500
Publishers Clearing House	Multistate	Multistate	In the past, state attorneys general have alleged that Publishers Clearing House misled consumers in its mailings to believe that purchasing products promoted in the mailers would increase the consumers' chances of winning the sweepstakes. Through consent judgments in August, 2000, and again in July/August, 2001, the settling states and Publishers Clearing House resolved these claims. However, settling states subsequently alleged that Publisher Clearing House was not in full compliance with the prior consent judgments and that consumers could still be confused by its promotional mailings.	In September, 2010, Wisconsin along with 31 other states and the District of Columbia entered into a supplemental consent judgment with Publishers Clearing House. The supplemental consent judgment includes additional provisions designed to ensure that consumers are not misled or confused by Publishers Clearing House promotional mailings. The supplemental consent judgment also provides that Publisher Clearing House pay \$3.5 million to the settling states, of which amount Wisconsin received \$300,000. The \$300,000 received by Wisconsin may be allocated by the Attorney General at his sole discretion as permitted by state law. The Attorney General applied \$12,500 from this award to offset investigation and prosecution costs incurred by the state.	\$300,000			\$300,000
21st Century Legal Services, Inc.,	Deceptive sales practices; foreclosure	DATCP	The case involved allegations of deceptive marketing of mortgage refinancing and foreclosure consultant services.	A default judgment entered in November, 2010 requires the payment of restitution, forfeitures, and costs, and imposes injunctive relief.		\$272,600	\$27,100	\$299,700
Edward M. Zapencki d/b/a Fun Treasure Maps	Deceptive sales practices	DATCP	The case involved allegations that the defendant solicited small business owners to advertise on cartoon style maps targeted to various Wisconsin communities. It was alleged that dating back to 2007, hundreds of businesses paid for advertising on "Fun Treasure Maps" that have never been produced.	A consent judgment entered in February, 2012, requires Edward Zapencki to pay \$250,000 as follows: (a) \$200,000 for consumer restitution; (b) \$29,496.38 in civil forfeitures; (c) a consumer protection surcharge of \$7,374.10; (d) a penalty surcharge of \$7,669.06; (e) \$5,000 to reimburse DOJ for its attorney's fees and costs; (f) a jail surcharge of \$294.96; (g) and other surcharges and court fees totaling \$165.50. If the defendant distributes all outstanding maps for which advanced payments have been made by July 1,		\$50,000	\$200,000	\$250,000

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
				2012, the monetary settlement will be reduced by \$50,000. The settlement also generally prohibits the defendant from engaging in sales activities which result in advance payments from customers for goods or services to be delivered in the future.				
Verizon Long Distance, LLC	Telecommunications; unfair trade practices	DATCP	The case involved allegations of unauthorized billing of telecommunications customers.	A consent judgment entered in December, 2010 requires the payment of restitution, forfeitures, and costs, and imposes injunctive relief.		\$190,000	\$7,000	\$197,000
DirecTV	Deceptive sales practices/telecommunications	DATCP/ Multistate	DirecTV, Inc., was alleged to have engaged in the following activities in connection with its marketing and sale of satellite television services: (a) failing to disclose to consumers the price that the consumer would be charged and the commitment term for which the consumer would be required to maintain and pay for DirecTV services; (b) failing to disclose limitations on receiving certain price offers for DirecTV; (c) enrolling consumers in additional contracts or contract terms without clearly disclosing the terms to the consumer; (d) enrolling consumers in additional contracts when replacing defective equipment; (e) failing to disclose to consumers that a seasonal sports package would be automatically renewed; and (f) offering cash back to consumers when the consumer would instead receive bill credits.	In December, 2010, Wisconsin along with 48 other states and the District of Columbia entered into a \$13,250,000 consent judgment with DirecTV, Inc. Under the consent judgment DirecTV, Inc. paid \$185,000 to the Wisconsin Attorney General. Under the consent judgment, this award may be utilized for purposes permitted by state law, at the sole discretion of the Attorney General. The Attorney General applied \$4,300 from this award to offset investigation and prosecution costs incurred by the state. Under the consent judgment, DirecTV must: (a) clearly disclose all material terms to consumers; (b) replace leased, defective equipment at no cost except shipping costs; (c) not require consumers to enter into an additional contract when simply replacing defective equipment; (d) clearly disclose when a consumer is entering into a contract; (e) clearly notify consumers before a consumer is obligated to pay for a seasonal sports package; (f) clearly disclose all limitations on the availability of local channels; (g) not misrepresent the availability of sports programming; (h) not misrepresent that a consumer will get cash back if the consumer will actually receive a bill credit; and (i) clearly notify consumers	\$185,000			\$185,000

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
				that they will be charged a cancellation or equipment fee at least 10 days before charging the fee. The consent judgment also provides for restitution to aggrieved consumers.				
First American Funding Company, LLC	No-call violations	DATCP	It was alleged that First American Funding Company, LLC made an estimated three million telephone solicitations in 2010, and that in some months one-half or more of these phone calls were to telephone numbers on the state's "no call" list. It was further alleged that company representatives made misrepresentations during telephone solicitations and committed other violations of Wisconsin telemarketing laws.	Under the September, 2011, consent judgment, First American Funding Company, LLC must pay a minimum settlement amount of \$144,000 as follows: (a) \$81,470.07 in civil forfeitures; (b) a consumer protection surcharge totaling \$20,367.52; (c) a penalty surcharge totaling \$21,182.22; (d) a jail surcharge of \$814.70; (e) a court support services surcharge of \$68; (f) a court fee of \$50; (g) a crime laboratories and drug enforcement surcharge of \$26; (h) a justice information system surcharge of \$21.50; and (i) \$20,000 for state investigation and prosecution costs, including \$1,350 to be paid to DATCP. Depending on First American revenue earned during the 36 month period in which these payments are made, this initial settlement amount could increase to \$250,000. The settlement award could increase to \$750,000, if during the 36 month period in which installment payments are being made on the initial settlement, First American materially violates the terms of the consent judgment. Finally the consent judgment prohibits First American from: (a) committing future violations of the state's "no call" and other telemarketing laws; (b) misrepresenting that it is a local bank; (c) misrepresenting that a telephone solicitation concerns a problem with the consumer's existing mortgage; and (d) misrepresenting that First American is affiliated with the consumer's existing mortgage lender.		\$144,000		\$144,000

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
Janey, Michael D., and Auto Restore, Inc.	Motor vehicle repair	DATCP	Michael D. Janey and his company Auto Restore, Inc., restored and repaired vintage vehicles. The state alleged that the defendants violated the Motor Vehicle Repair Code, including failure to: (a) provide price quotations and estimated repair completion dates; (b) provide notice of additional repairs; and (c) return a motor vehicle when the customer refused to pay for unauthorized repairs.	Under a consent judgment entered in August, 2010, the defendants were required to pay \$90,000 to the State of Wisconsin towards restitution and/or forfeiture and costs. The ultimate financial recovery in the case totaled \$134,900. Under the consent judgment, the defendants were also required to return a motor vehicle to a customer which the state alleged had been illegally retained.			\$134,900	\$134,900
Relief Law Center, Inc., d/b/a USA Loan Auditors	Fraud; mortgage foreclosure	DATCP and DFI	USA Loan Auditors (a California company) was accused of misleading consumers in its mail solicitations. The state alleged that the company held itself out as an auditor of homeowners' lenders in its mail solicitations, when, in practice, it was soliciting consumers to provide loan modification services.	A default judgment was entered against the defendant in August, 2010, when the defendant failed to file an answer with the court to the state's allegations. The company is enjoined from further violations of Wisconsin's consumer protection laws when soliciting loan modification services and was ordered to pay \$111,900 to the state in forfeitures, penalties, and costs.		\$111,900		\$111,900
Skechers USA, Inc.	Deceptive sales practices	Multistate	It was alleged that Skechers USA, Inc., made health-related claims in the marketing, packaging, and sellings of its rocker-bottom shoe products, including Shape-ups, Tone-ups, and the Skechers Resistance Runner, that were not adequately substantiated at the time the claims were made. It was alleged that Skechers claimed that its rocker-bottom shoe products: (a) promoted weight loss; (b) burned more calories; (c) improved circulation; and (d) firmed, toned, or strengthened thigh, buttock, and back muscles.	In June, 2012, Wisconsin along with 43 other states, the District of Columbia, and the Federal Trade Commission entered into a consent judgment with Skechers USA, Inc. Under the consent judgment, up to \$40 million is allocated for refunds to consumers who purchased rocker-bottom shoe products. In addition, the consent judgment included a five million dollar settlement to the settling states. Under the consent judgment, the multistate executive committee of Attorneys General subsequently awarded \$110,900 to the Wisconsin Attorney General. This award may be used for purposes permitted by state law, at the sole discretion of the Attorney General. The Attorney General applied \$12,100 from this award to offset investigation and	\$110,900			\$110,900

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
				prosecution costs incurred by the state. The consent judgment prohibits Skechers from making the disputed representations unless Skechers has adequate substantiation.				
John R. Rassbach	Weights and measures fraud	DATCP	The case involved allegations of fraudulent billing in connection with fuel sales.	A judgment entered in June, 2012, awarded restitution and costs.			\$109,400	\$109,400
Federal Loan Modification Law Center, LLP	Fraud; mortgage foreclosure	DFI	Federal Loan Modification Law Center, LLP was accused of misleading consumers into believing that it was a part of a federal program to provide mortgage loan modification and foreclosure services. The defendant was accused of: (a) requiring up-front fees; (b) informing homeowners that attorneys would work on their behalf; (c) advising homeowners to cease communications with their lenders; and (d) advising homeowners to stop paying their mortgages. The defendant was also accused of not providing the promised services.	A default judgment was entered against Federal Loan Modification Law Center, LLP in August, 2010. The default judgment required the defendant to pay \$105,700 in restitution, forfeitures, and costs, and enjoined the defendant from further violations of state law.		\$94,700	\$11,000	\$105,700
Criminal Cases								
Daniel R. Brooks	Criminal	DATCP	The case involved allegations of theft by contractor.	A conviction (no contest plea) on one count of felony theft by contractor was obtained. The defendant was sentenced to 20 days in jail, placed on five years of probation, and ordered to pay restitution of \$41,627.57 (jointly with John R. Brooks).			\$41,600	\$41,600
John R. Brooks	Criminal	DATCP	The case involved allegations of theft by contractor.	A conviction (no contest plea) on two counts of felony theft by contractor was obtained. The defendant was sentenced to 60 days in jail, placed on six years of probation, and ordered to pay restitution of \$41,627.57 (jointly with Daniel R. Brooks).				

Case Name	Case Type	Source of Referral	Case Description	Resolution	Discretionary Settlement Funds*	State Award**	Restitution***	Total****
Joshua Burlin	Criminal	DATCP	It was alleged that the defendant falsely testified to DOJ that he had never: (a) listed fictitious addresses on the Internet for his locksmith business names and (b) posted fictitious consumer reviews regarding his own business or competing businesses. In addition, it was alleged that the defendant posted a phony ad on Craigslist stating that a competing locksmith business was for sale.	Convictions (guilty pleas) on one count of false swearing, and one count of identity theft, both felonies, were obtained. The defendant was placed on two years of probation.				
Kenneth Shong	Criminal	DATCP	It was alleged that the defendant, Kenneth Shong, while an inmate in the Wisconsin Prison System, operated an unauthorized and fraudulent "university" in Wisconsin.	A conviction (court trial) on one count of fraudulent writing was obtained. The defendant was sentenced to seven years in prison, three years extended supervision, and restitution of \$1,740.50.			\$1,700	\$1,700
Totals					\$35,917,600	\$10,202,900	\$1,580,700	\$47,701,200

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

** Due to third party administration of some settlement recoveries, DOJ cannot always determine the full amount of restitution received by Wisconsin consumers.

*** Amounts received as state awards include civil forfeitures, attorney fees, costs and penalties.

**** Total amounts recovered include funds awarded under default judgments. Default judgments are entered against defendants who fail to contest the Department's case, often by failing to appear.