



Consumer Protection Division Office of the Attorney General January 18, 2023

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Consumer Protection Division

- Responsible for enforcement of Consumer Protection Act, Commercial Law Article, § 13-101, et seq., and related laws designed to protect Maryland consumers against unfair, abusive or deceptive practices.
- CPA was first enacted in 1967. Since that time, both responsibilities and challenges in protecting Maryland consumers have increased greatly.



Consumer Protection Act

- Prohibits unfair, abusive, or deceptive trade practices
- Deceptive trade practices include:
 - Misrepresentations
 - Omissions of important information
 - Violations of various other statutory provisions designed to protect consumers
 - *Method of soliciting or selling (e.g., Door-to-Door Sales Act, Layaway Sales Act, Telephone Solicitation Act, Maryland Telephone Consumer Protection Act)*
 - *Type of transaction (e.g., work-at-home offers, automotive repair, automobile warranty, vacation club membership, condominium sale, hearing aid sale, intrastate household moves)*
 - *Conduct during transaction (e.g., requiring telephone number in order to accept credit card, requesting credit card account number in order to accept check)*



Consumer Protection Act

- What are misrepresentations?
 - False, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind that has the capacity, tendency, or effect of deceiving or misleading consumers.
 - Do not have to prove actual harm.
 - Do not have to prove intent.
- Other Examples:
 - Representation that consumer goods, consumer realty, or consumer services have a sponsorship, approval, accessory, characteristic, ingredient, use, benefit, or quantity that they do not have.
 - Advertisement or offer of consumer goods, consumer realty, or consumer services without intent to sell, lease, or rent them as advertised or offered.
- What are material omissions?
 - Failure to state a material fact if the failure deceives or tends to deceive. A fact is “material” if the fact would have been considered by the consumer in making a decision to purchase.



Consumer Protection Act

- What are unfair practices?
 - A practice is unfair (1) if it causes substantial harm; (2) that cannot be reasonably avoided by consumers; and (3) it does not benefit the marketplace or consumers.
- Examples:
 - Failing to deliver promised goods or services
 - Selling illegal goods or services
 - Selling or marketing unapproved new drugs



Consumer Protection Act

- **What are abusive practices?**

- Abusive Standard is (1) whether a practice “materially interferes” with a consumer’s ability to understand a product or service, and (2) whether the practice takes “unreasonable advantage” of consumers.
- CFPB: An act or practice may be declared abusive if it “takes unreasonable advantage of” a consumer’s “lack of understanding” regarding “the material risks, costs, or conditions” of a consumer financial product or service, a consumer’s “inability” to protect his or her own interests, or a consumer’s “reasonable reliance” on the belief that the “covered person” was acting in “the interests of the consumer.”



Consumer Goods and Services

- “**Consumer**” means an actual or prospective purchaser, lessee, or recipient of consumer goods, consumer services, consumer realty, or consumer credit.
- “**Consumer credit,**” “**debts,**” “**goods,**” “**realty,**” and “**services**” mean, respectively, credit, debts or obligations, goods, real property, and services that are primarily for personal, household, family, or agricultural purposes.



Merchants

- “**Merchant**” means a person who directly or indirectly either offers or makes available to consumers any consumer goods, consumer services, consumer realty, or consumer credit.
- “**Merchant**” includes a person:
 - (i) Who directly or indirectly purchases or offers to purchase any consumer goods or consumer realty from a consumer; and
 - (ii) Whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.



Exemptions

The Consumer Protection Act does not apply to:

- ***Professional services*** of a CPA, architect, clergyman, engineer, lawyer, veterinarian, insurance company or producer authorized to do business in State, therapist, medical or dental practitioner, etc.
- A ***public service company***, to the extent that the company's services and operations are regulated by the Public Service Commission
- A ***television or radio broadcasting station*** or ***publisher*** or ***printer*** of newspaper, magazine, or other form of print advertising that is unfair or deceptive unless the broadcaster, publisher, or printer engages in unfair and deceptive trade practices in sale of its own goods or services or has knowledge that advertising is in violation of title



Mediation Unit

- CPD's Mediation Unit received over 9,400 consumer complaints in FY 2022 and nearly 29,000 calls and emails.
- The Baltimore office is staffed by a Director, who is an Assistant Attorney General, a Deputy Director, 4 Supervisors, 3 Support Staff, and a dedicated cadre of volunteers and interns who work to resolve consumer complaints through mediation.
- In FY 2022, the Mediation Unit recovered more than \$2.2 million for consumers.



Mediation Unit

In addition to Baltimore, the Division has offices that mediate consumer complaints in:

- Prince George's County - 2 Supervisors plus volunteers
- Hagerstown - 2 Supervisors (part-time in Frederick & Cumberland)
- Salisbury - 2 Supervisors



Top 10 Complaint Industries (2022)

Landlord/Property Manager

Used Auto Dealers

New Auto Dealer

Auto Manufacturers

Government Agency

General Merchandise

Warranty Company

General Contractor

Cellular Phone Service

Furniture Sales – New



Top 10 Complaint Practices (2022)

Failure to Honor Refund Request

Unsatisfactory Service (inc. rude treatment)

Habitability/Maintenance

Defective/Damaged Goods

Failure to Honor Cancellation Request

Failure to Deliver All Goods/Services (Some Goods or Services Delivered)

Unsatisfactory Workmanship

Failure to Deliver Any Goods/Services (No Goods or Services Delivered)

Other Rental Property Practice

Failure to Correct Defect within Statutory Warranty Period



Common Ownership Communities

- The Mediation Unit also handles complaints concerning:
 - Condominium Associations
 - Homeowner's Associations
 - Cooperative Associations
- While the Division is able to assist residents with complaints that involve application of the Condominium Act, HOA Act, and Cooperative law, we do not get involved in disputes over bylaws.



Health Education & Advocacy Unit

- The Division's Health Education & Advocacy Unit (HEAU) assists consumers with health care related complaints, including:
 - Insurance companies that deny claims for covered services (Appeals and Grievances)
 - Medical billing disputes
 - Charges for obtaining medical records
 - Problems with medical equipment such as wheelchairs and hearing aids
 - Obtaining financial assistance from hospitals and
 - Issues with obtaining coverage or premium assistance from the Health Benefit Exchange



Health Education & Advocacy Unit

- The HEAU serves as the consumer representative on many health-related boards and committees.
- The HEAU weighs in on federal and state health legislation and regulations to ensure that the interests of health care consumers in Maryland are represented.



Health Education & Advocacy Unit

- The HEAU handled nearly 2,000 complaints in FY 2022, helping patients recover or save over \$2.3 million.
- 436 were Appeals and Grievance cases mediated by the HEAU, resulting in 65% of medical necessity decisions, 56% of contractual coverage decisions, and 74% of eligibility denials being reversed or modified by the carriers.
- HEAU also received over 5,200 calls and 1,600 emails from consumers with inquiries or seeking assistance.



Health Education & Advocacy Unit

- The HEAU has a Director and Deputy Director, who are both Assistant Attorneys General, 5 Ombudsmen (one part-time), an Administrative Assistant, a Case Coordinator, and volunteers and interns who assist consumers in resolving their complaints.
- The HEAU submits an Annual Report of Appeals and Grievances complaints to the General Assembly, which is available on the Attorney General's website.



Enforcement

- When the Division receives a large number of complaints about a business or practice, or identifies a particularly egregious practice, the matter may become an enforcement action.
- While many enforcement actions are brought by the Division on its own, the Division also brings a number of actions jointly with other states.



Enforcement

In an enforcement action, the Division may obtain:

- Injunctive relief to prohibit future unfair, abusive, or deceptive conduct;
- Restitution and damages for injured consumers;
- Civil penalties; and
- Costs of investigation and prosecution.



Enforcement

- The Enforcement Unit includes subunits that concentrate on cases that concern:
 - Housing, including landlord-tenant and mortgage fraud
 - Complex Financial Transactions, including predatory lending and deceptive debt relief practices
 - Health Fraud, including marketing drugs for non-approved uses



Enforcement

Examples of recent enforcement actions include:

- Westminster Management, LLC (September 23, 2022) – Case litigated and settled with Final Order:
 - Westminster Management, LLC and 25 property owners agreed to injunctive relief, including requirement that they reasonably maintain more than 9,000 rental units in 17 residential communities in Baltimore City, Baltimore County and Prince George’s County.
 - Westminster also agreed to pay restitution of illegal fees charged to tenants and to claims procedure allowing tenants who lived in properties that were poorly maintained to recover rent payments.
- Final Order also imposed penalties of \$3,250,000.



Enforcement

- Navient (January 13, 2022) (Multi-State)
 - Settlement resolving allegations that Navient steered students into loan forbearance options that added to their debts and were not in their best interests and originated predatory subprime private loans to students attending for profit schools and colleges with low graduation rates, even though it knew that a very high percentage of such borrowers would be unable to repay the loans.
 - Navient agreed to forgive more than \$1.7 billion in subprime private student loan balances and will make \$95 million in restitution payments.
 - More than 1,100 Marylanders will be relieved from having to pay more than \$34 million in student loan debt and 11,836 Marylanders also received restitution payments totaling \$3,155,124.



Enforcement

- Cash-N-Go: The Division entered a Final Order against Cash-N-Go, a company making unlicensed consumer loans with interest rates of 360%, ordering it to pay over \$ 2.2 million in restitution to Maryland consumers and a \$1,200,750 penalty to the State of Maryland.
 - The Final Order was affirmed by the Circuit Court and Court of Special Appeals. Both reviewing courts rejected Cash-N-Go’s argument that the short-term, high-interest loans it offered consumers secured by the consumers’ motor vehicles were pawn transactions; instead they were found to be illegal consumer loans.
 - The Division found that at least 1,601 Maryland consumers were victimized by Cash-N-Go’s predatory lending activities.
 - The appellate court also affirmed the Division’s imposition of a penalty of more than \$1.2 million in addition to its restitution order because the company and its owner had been repeatedly warned their conduct was illegal but they continued to make illegal loans.



Enforcement

- Santander Consumer USA Inc. (May 19, 2020) (Multi-State) – Settlement resolving investigation of Santander’s subprime auto lending practices.
 - Santander was accused of making auto loans to consumers that were likely to default, resulting in repossession of the consumers’ vehicles. Santander agreed to reform the way it offered financing to consumers and was barred from requiring dealers to sell Guaranteed Asset Protection (GAP) products.
 - Santander agreed to more than \$500 million in debt relief for consumers, including more than 1,000 Maryland consumers who received waivers of \$13.7 million they owed Santander.
 - More than 9,000 consumers also were entitled to receive restitution payments totaling more than \$2.2 million. Santander also paid Maryland \$585,285.71.



Enforcement

- Koons Kia was accused of misleading consumers when it advertised prices that did not include added fees and when it separately charged consumers for freight when freight charges already included in its advertised prices. Koons returned nearly \$1.3 million in restitution to consumers and paid the Division \$100,000.



Enforcement

- Career Education Corporation (January 3, 2019) (Multi-State) – Settlement with for-profit education company Career Education Corporation (CEC) in which CEC will forgo collecting more than \$8.5 million in debts owed by 2,784 Maryland students.
 - Nationally, CEC agreed to more than \$493.7 million in outstanding loan debt held by 179,529 former students.
 - The settlement also required CEC to significantly reform its recruiting and enrollment practices and make a \$5 million payment to the settling states, from which Maryland received \$264,285.71.



Registration Units

The Division also administers several registration units, including:

- Home Builder and Home Builder Sales Representative Registration Unit
 - As of the end of FY 2022, 2,550 builders and 751 sales representatives were registered.
 - The Unit also administers a Guaranty Fund for consumers whose home builders fail to correct defects or other problems with new homes.
- Health Club Registration Unit
 - All health clubs, weight loss centers, and self-defense schools must register.
 - Those that collect advance payments of more than three months, or who collect any money prior to opening, must post a surety bond to protect consumers' payments.
 - As of the end of the 2021-2022 Registration Year, 416 businesses were registered, with 80 of those businesses posting bonds because they collect advance payments.



Registration Units

- Structured Settlement Transferee Unit
 - Purchasers of structured settlements are required to register with the OAG and provide information regarding structured settlements purchased from individuals
 - Intended to address abuses in which structured settlements were purchased from lead paint victims and other vulnerable individuals for pennies on the dollar and the victims were not provided the independent financial advice required by the law



Identity Theft Unit

- The Division's Identity Theft Unit:
 - Receives reports of data breaches and posts them on the OAG website.
 - Over 1,400 data breaches were reported to the Unit in FY 2022.
 - Ensures that consumers who were victims of data breaches receive timely notice of the breach and provides information about how to protect their personal information.
 - Assists consumers who are victims of identity theft with cleaning up their credit records and providing ID Theft Passports to victims.
 - In 2021 and 2022, the ID Theft Unit assisted a large number of consumers who were victims of Unemployment Insurance Fraud



Identity Theft Unit

- Helps consumers place and remove freezes on their credit reports or on their children's credit reports.
- Makes regular public appearances to educate consumers about how to protect their personal information and avoid becoming a victim of identity theft.



Opioids Unit

- The Opioids Unit investigates and litigates actions seeking equitable and monetary relief against a variety of actors involved in the manufacture, distribution, marketing, and sale of prescription opioids.
- These actors are alleged to have created or contributed to the State's opioid crisis through conduct that may have violated the Consumer Protection Act, the False Claims Act, and other statutory and common law duties.



Opioids Unit

- The Unit has commenced enforcement litigation, pursued the State's claims in bankruptcy litigation filed by industry participants, and is conducting ongoing investigations of numerous pharmaceutical manufacturers, wholesalers, pharmacies, and other involved individuals and entities.
- Since 2019, for example, the Unit has represented the State in the Purdue Pharma bankruptcy pending in the Southern District of New York, where Purdue Pharma's owners and former directors, members of the Sackler family, have sought to obtain third-party releases from liability for their involvement in the opioid crisis. Refusing to accept a smaller \$4.3 billion settlement accepted by most states, the Unit, working with a small group of other states, pursued litigation in which the Unit called Richard, Kathe, David, and Mortimer Sackler to the stand to answer for their involvement. Ultimately, that litigation and a successful appeal based on the record created from the Sacklers' testimony led, pending final approval by the courts, to a \$1.7 billion increase – \$6 billion total consideration – of the settlement amount reached by other states.
- This and other matters handled by the Unit, working alongside other states, have resulted in nationwide dispositions worth more than \$40 billion that are expected to provide at least \$785 million to the State Opioid Restitution Fund over 18 years for abatement of the opioid crisis.
- The Unit maintains its own active caseload of investigations and enforcement activity; and coordinates investigations with other state, local, and federal health and law enforcement agencies.



Education Unit

- The Division's Education Unit prepares educational materials for consumers. Educating consumers about their rights helps to prevent many problems in the first place.
- Some of the most popular publications are the Consumer Guide and the Landlord-Tenant booklet. All publications are available on the Attorney General's website.



Education Unit

- Additionally, the Unit arranges speaking engagements for representatives of the Division and, during non-pandemic times, provides outreach at events, such as the State Fair and Senior Expo.
- Despite the pandemic, the Division conducted more than 20 live and online consumer presentations across the State in 2022 to educate consumers, particularly senior citizens, about how to spot and avoid scams and other consumer protection issues.



Senior Asset Recovery

- As a result of legislation passed by ECM and the General Assembly in 2016, the Division is now able to bring actions on behalf of senior citizens or vulnerable adults who have been victims of financial exploitation to help them recover their assets.
- Since the program began in 2017, more than \$530,000 has been recovered on behalf of victims of financial exploitation.
- To report suspected financial exploitation of a senior citizen or vulnerable adult, please contact Pilar Rodarte, (410) 576-7054, prodarte@oag.state.md.us.



Questions?



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