



*VIRGINIA DEPARTMENT
OF AGRICULTURE AND
CONSUMER SERVICES*

**ANNUAL REPORT TO THE GENERAL ASSEMBLY
ON THE CONSUMER AFFAIRS ACTIVITIES OF THE
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
FOR 2008**

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Commissioner**

Annual Report to the General Assembly on the Consumer Affairs Activities of the
Virginia Department of Agriculture and Consumer Services for 2008

Executive Summary

The Office of Consumer Affairs (OCA) in the Virginia Department of Agriculture and Consumer Services' Division of Consumer Protection serves as the clearinghouse for the collection, investigation, or referral of consumer complaints. OCA's legal authority to receive and investigate complaints regarding illegal, fraudulent, or deceptive business practices is provided in Title 3.2, Chapter 1 of the Code of Virginia.

OCA is committed to providing timely and professional services to consumers, businesses and regulated entities alike. To facilitate those services, OCA is divided into three functional areas. In addition to complaint intake, consumer counseling and the investigation of consumer complaints, OCA also administers seven regulatory programs, provides dispute resolution services, and conducts consumer awareness and education initiatives.

This report highlights key performance indicators in the consumer affairs activities of the Virginia Department of Agriculture and Consumer Services including complaint workload, total value of consumer recoveries, number of calls to the Consumer Protection Hotline, number of registrations granted and amount of surety held, as well as fraud prevention outreach efforts.

TABLE OF CONTENTS

| | Page |
|---------------------------------------|------|
| Executive Summary | i |
| I. Legislative Mandate | 1 |
| II. General Overview | 1 |
| III. Organization and Accomplishments | 1 |
| IV. Tables | 5 |

I. LEGISLATIVE MANDATE

This document complies with the provisions of § 3.2-102 of the Code of Virginia, which requires the Commissioner of Agriculture and Consumer Services to submit an annual report to the Chairmen of the Senate Committee on Agriculture, Conservation, and Natural Resources and the House Agriculture Committee, on his activities in the following areas:

- a. The establishment of mechanisms by which to receive complaints and related inquiries from consumers involving violations or alleged violations of any law designed to protect the integrity of consumer transactions in the Commonwealth; and
- b. The establishment and administration of programs that facilitate the resolution of such complaints and related inquiries.

II. GENERAL OVERVIEW

The Office of Consumer Affairs (OCA) in the Division of Consumer Protection serves as the clearinghouse for the collection, evaluation, investigation, or referral of consumer complaints. Title 3.2, Chapter 1 of the Code, provides the legislative authority for OCA to receive and investigate complaints regarding illegal, fraudulent, or deceptive business practices.

Specific statutes administered by OCA include the Virginia Consumer Protection Act, Automobile Repair Facilities Act, Collision Damage Waiver Act, Comparison Price Advertising Act, Extended Service Contract Act, Home Solicitation Sales Act, Legal Services Plan Sellers, Motor Vehicle Manufacturers' Warranty Adjustment Act, Pay-Per-Call Services Act, Prizes and Gifts Act, Telephone Privacy Protection Act, Virginia Anti-Price Gouging Act, Virginia Credit Services Businesses Act, Virginia Health Spa Act, Virginia Lease-Purchase Agreement Act, Virginia Membership Camping Act, Virginia Solicitation of Contributions Law, Public Telephone Information Act, and Virginia Travel Club Act. OCA also administers seven regulatory programs in the following areas:

- Charitable Solicitations
- Credit Services Businesses
- Extended Service Contracts
- Health Spas
- Legal Services Plan Sellers
- Membership Campgrounds
- Travel Clubs

III. ORGANIZATION AND ACCOMPLISHMENTS

OCA is committed to providing timely and professional services to consumers, to the business community, to contributors and customers of regulated entities, and to the regulated entities themselves. During the year, OCA received 3,656 new written complaints, and closed 3,616 complaints, including several carried over from the previous year, which resulted in \$808,141 worth of consumer recoveries. To facilitate delivery of these services, OCA's organizational structure is divided into three distinct functional areas, as follows.

A. COUNSELING AND INTAKE UNIT

The Counseling and Intake Unit handles the initial review and processing of all consumer complaints submitted to OCA. After all pertinent statistics and information are entered into the agency's computer system, complaints are worked by unit staff, assigned to another unit in OCA, or referred to the appropriate local, state or federal agency having specific jurisdiction. The unit also attempts to help resolve complaints that do not involve a violation of any statute or regulation administered by OCA, do not meet the criteria for formal dispute resolution, and are not under the jurisdiction of another agency. This involves contacting the entity named in the complaint and requesting their response to the allegations. Complaints are tracked until a final disposition is reached and recorded. In cases where no resolution is achieved, complainants are advised of any remaining recourse available to them. Records of complaints are maintained for three years.

The Consumer Protection Hotline and LiveHelp

The Consumer Protection Hotline has been in operation since 1996. The numbers for the Hotline are (800) 552-9963 throughout the state, and 786-2042 in the Richmond area. The Hotline is staffed from 8:15 AM to 5:00 PM during business days. This function is supported through the use of a Voice-Over-Internet Protocol (VoIP), Automated Call Distribution (ACD) system. During the year, counselors provided advice and guidance to more than 50,570 callers on a wide range of consumer issues. The unit also serves consumers through the use of Live Help, an instant messaging application that provides online assistance to visitors to the agency's website.

Hurricane Ike and complaints of gasoline price gouging

Telephone counselors, with assistance from their peers in the Office of Product and Industry Standards, handled more than 2,300 calls from consumers alleging gasoline price gouging shortly after Hurricane Ike had disrupted the flow of petroleum-based products from the Gulf of Mexico. Over the weekend of September 12-14, 2008, Commissioner Haymore directed staff to take Hotline calls 24 hours a day/seven days a week to accommodate the high volume of complaints. Voice mail was also added to the Hotline to handle overflow calls. The 24/7 schedule remained in effect for a week and resulted in more than 2,300 consumer calls about possible price gouging. Although most of the complaints were from the Southwest area of Virginia, the calls came from every corner of the state. Field inspectors in the Office of Product and Industry Standards followed up on each of the calls, and those which contained actionable information were shared with the Office of the Attorney General for possible legal action under Virginia's Post-Disaster Anti-Price Gouging Act.

Consumer Education and Fraud Prevention Efforts

OCA strives to prevent victimization of consumers through the distribution of meaningful educational materials via a network of consumer science instructors and speakers. OCA staff also participates in numerous outreach activities that are part of a larger effort to reduce the incidence of economic crime and improve the ability of the public to make more informed buying decisions. During the year, OCA conducted 37 significant public outreach efforts, including presentations to different entities such as civic associations, professional organizations, and senior citizen groups.

Consumer Affairs Advisory Committee

The Consumer Affairs Advisory Committee (CAAC) was established in 1997. Members include six citizen representatives, six representatives from state agencies, three representatives from local government entities that have consumer affairs programs in their respective localities, and a member from the Board of Agriculture and Consumer Services. At semi-annual meetings, members communicate the views and interests of Virginians on issues related to the agency's consumer education and fraud prevention programs. CAAC members also addressed or participated in several major projects during the year, including the LifeSmarts competition, which is a national event, styled as a game show, that tests high school students' knowledge of consumer and financial management issues, as well as National Consumer Protection Week, a national consumer awareness effort spearheaded in February or March of each year by the Federal Trade Commission. The theme for 2008 was "Financial Literacy: A Sound Investment."

B. DISPUTE RESOLUTION AND INVESTIGATIONS UNIT

The Dispute Resolution and Investigations functions were combined under one operational umbrella during the year to streamline and better coordinate internal review and discussion of complaints assigned to staff. The unit offers alternative dispute resolution methods such as early neutral case evaluation, conciliation, mediation, or arbitration. Unit staff also participates actively in the promotion and development of dispute resolution programs at colleges and community conflict resolution centers throughout Virginia. The unit also investigates violations of the Virginia Consumer Protection Act, Section 59.1-196 et seq. of the Code. The Code authorizes the Commissioner to make inquiries into alleged violations of the Act and, if necessary, to request that appropriate legal officials bring action to enjoin such violations. The Act gives broad powers to the Attorney General and local legal officials and delineates various misrepresentations and deceptions as prohibited practices if committed by a supplier in connection with a consumer transaction. The Act also provides for the enforcement of other consumer protection laws by declaring violations of those statutes as prohibited practices.

Unit staff works closely with the Office of Attorney General and local Commonwealth's Attorneys to obtain Assurances of Voluntary Compliance or injunctions to stop illegal activities, and to pursue civil and criminal prosecutions. Investigators submit summaries of their findings in each case, along with supporting documentation and exhibits. If required, they also provide

testimony during trials.

During the year, staff provided alternative dispute resolution services in 1,916 cases and investigated 1,118 complaints. The Office of the Attorney General brought two lawsuits in cases investigated by staff against businesses that allegedly violated the Virginia Consumer Protection Act. Financing Alternatives, Inc. is alleged to have defrauded consumers out of millions of dollars by taking orders for computers from consumers and not delivering the product. The lawsuit is pending in the Circuit Court for the City of Chesapeake. Similarly, a suit was filed in Petersburg Circuit Court against Homespun, a mail order furniture company. That suit is also pending.

Unit staff also continued to meet with top management of several companies in pursuit of voluntary compliance as the preferred method of complaint resolution. This strategy has expedited the resolution of numerous complaints. Staff also worked closely with the Department of Professional and Occupational Regulation, the Department of Game and Inland Fisheries, the State Corporation Commission, the Motor Vehicle Dealer Board, and the United States Postal Inspection Service in the referral, coordination, and investigation of consumer complaints that involve shared jurisdiction.

C. REGULATORY PROGRAMS UNIT

OCA's regulatory activities include the oversight of all registrations, surety management, and related investigations involving legal services plan sellers, professional solicitors, health spas, extended service contract providers, membership campgrounds, travel clubs, and credit services businesses. During the year, the unit:

- Maintained in excess of \$70 million in surety posted by regulated entities, which is typically used to refund consumers for the unused portion of their contracts if the regulated entities go out of business.
- Granted 5,873 registrations to regulated entities.
- Monitored the opening of 60 new health spas and the closure of 77 others.
- Granted 4,899 registrations to providers of legal service plans.
- Provided the public with information about charitable organizations in order to help individuals make informed decisions about their donations, including responding to 333 requests for information involving 558 organizations and 6,126 pages of related documentation.

IV. TABLES

A. NUMBER OF COMPLAINTS RECEIVED BY YEAR

| Year | Complaints | Numerical Difference | Percent Difference |
|-------------|-------------------|-----------------------------|---------------------------|
| 1999 | 4,076 | - | - |
| 2000 | 4,470 | 394 | 9.7% |
| 2001 | 4,605 | 135 | 3.0% |
| 2002 | 5,197 | 592 | 12.9% |
| 2003 | 4,440 | (757) | -14.6% |
| 2004 | 5,217 | 777 | 17.5% |
| 2005 | 4,120 | (1,097) | -21.0% |
| 2006 | 3,545 | (575) | -14.0% |
| 2007 | 4,278 | 733 | 20.7% |
| 2008 | 3,656 | (622) | -14.5% |

B. TOP TEN COMPLAINT CATEGORIES

| Category | Number | Pct. of Caseload |
|------------------|---------------|-------------------------|
| Electronics | 1,153 | 32% |
| Credit | 403 | 11% |
| Auto Repair | 304 | 8% |
| Furniture | 234 | 6% |
| Auto Sales | 154 | 4% |
| Home Improvement | 138 | 4% |
| Retail Stores | 100 | 3% |
| Mail Order | 90 | 2% |
| Medical billing | 82 | 2% |
| Health Spas | 71 | 2% |
| Top Ten Total | 2,729 | 75% |
| Other Categories | 927 | 25% |
| Total | 3,656 | 100% |

C. TOP TEN LOCALITIES FROM WHICH COMPLAINTS ORIGINATED

| Locality | Complaints |
|------------------------|-------------------|
| Fairfax County | 237 |
| Prince William County | 171 |
| City of Richmond | 118 |
| Chesterfield County | 116 |
| Henrico County | 110 |
| Loudon County | 85 |
| Arlington County | 67 |
| City of Virginia Beach | 65 |
| City of Chesapeake | 52 |
| Hanover County | 50 |