



**ANNUAL REPORT TO THE GENERAL ASSEMBLY  
ON THE CONSUMER AFFAIRS ACTIVITIES OF THE  
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
FOR 2009**

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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 2009

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## 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.

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## 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 Committee on Agriculture, Chesapeake and Natural Resources, 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

During the year, OCA received 2,585 new written complaints, and closed 2,646 complaints, including several carried over from the previous year, which resulted in \$1,044,575 worth of consumer recoveries.

The top ten categories of consumer complaints involved credit issues, automobile repairs, electronics, automobiles sales, home improvement, direct sales, health spas, employment services, retail purchases, Internet services, and furniture purchases. The number of written complaints received by OCA during the last ten years, as well as the estimated value of consumer recoveries, is listed in the table below.

Year	Written Complaints	Est. Value of Recoveries
2009	2,585	\$ 1,044,575
2008	3,656	\$ 808,141
2007	4,278	\$ 1,942,596
2006	3,545	\$ 1,773,546
2005	4,120	\$ 1,913,632
2004	5,217	\$ 1,971,235
2003	4,440	\$ 2,135,801
2002	5,197	\$ 1,663,817
2001	4,605	\$ 1,565,291
2000	4,470	\$ 2,201,880
1999	4,076	\$ 1,406,035
Average	4,199	\$ 1,675,141

### 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. To facilitate delivery of these services, OCA's organizational structure is divided into three distinct functional areas, as follows.

- 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 July 1, 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 51,047 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.

### *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 48 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 citizen representatives, representatives from state agencies, 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 helped promote National Consumer Protection Week, a national consumer awareness effort spearheaded in February of each year by the Federal Trade Commission. The theme for 2009 was "Nuts and Bolts: Tools for Today's Economy."

- DISPUTE RESOLUTION AND INVESTIGATIONS UNIT

The unit offers alternative dispute resolution methods such as early neutral case evaluation, conciliation, mediation, or arbitration. Unit staff 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.

During the year, staff provided alternative dispute resolution services in 1,751 cases and investigated 393 complaints.

Unit staff works closely with the Office of Attorney General (OAG) 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. In June, the OAG obtained a judgment in the amount of \$596,293 in the Circuit Court for the City of Petersburg against HomeSpun Home Fashions, LLC. OCA had received 159 complaints from consumers who alleged that the company failed to deliver merchandise. Also in June, Virginia and 45 other states signed an Assurance of Voluntary Compliance with Dish Network. The agreement settled claims involving billing practices and other customer service issues. Dish Network agreed to pay approximately \$6 million to be divided up among the participating states. OCA had received 58 complaints against Dish Network.

In December, the OAG entered into a Consent Permanent Injunction and Final Judgment against Financing Alternatives Incorporated (FAI), and its president, George Christian, for approximately \$47 million. FAI had targeted consumers with poor credit histories, offering installment plans to buy computers and flat-screen TVs. Consumers agreed to allow FAI to deduct payments from their bank accounts, but FAI routinely failed to deliver the products. OCA received over 1,500 complaints from consumers nationwide regarding FAI's fraudulent practices. In 2007, the OAG filed suit in Chesapeake Circuit Court against FAI for numerous violations of the Virginia Consumer Protection Act. It is unclear how much, if any, of the settlement will be recovered from FAI or Mr. Christian.

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 State Corporation Commission, the Motor Vehicle Dealer Board, the Virginia Beach Consumer Affairs Division, and the Fairfax County Department of Cable Communications and Consumer Protection in the referral, coordination, and investigation of consumer complaints.

- 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 \$69 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 6,422 registrations to regulated entities.
- Monitored 48 openings and 105 closures of health spas.
- Granted 5,575 registrations to sellers 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 312 requests for information involving 570 organizations and 5,284 pages of related documentation.

The IRS reported that the Commonwealth of Virginia ranked fifth among states during the federal fiscal year for referrals to the IRS' Exempt Organizations Classification Unit for review, audit, or other action of non-profit organizations.

An investigation by unit staff resulted in the payment of \$61,000 to an orphanage in Honduras. The funds had been solicited by a Virginia non-profit on behalf of the orphanage, but were withheld due to conflicts between the charity and the orphanage. OCA was successful in mediating a resolution resulting in the transfer of funds to the orphanage.

OCA issued four warnings to the public during the year regarding unregistered charitable solicitations.