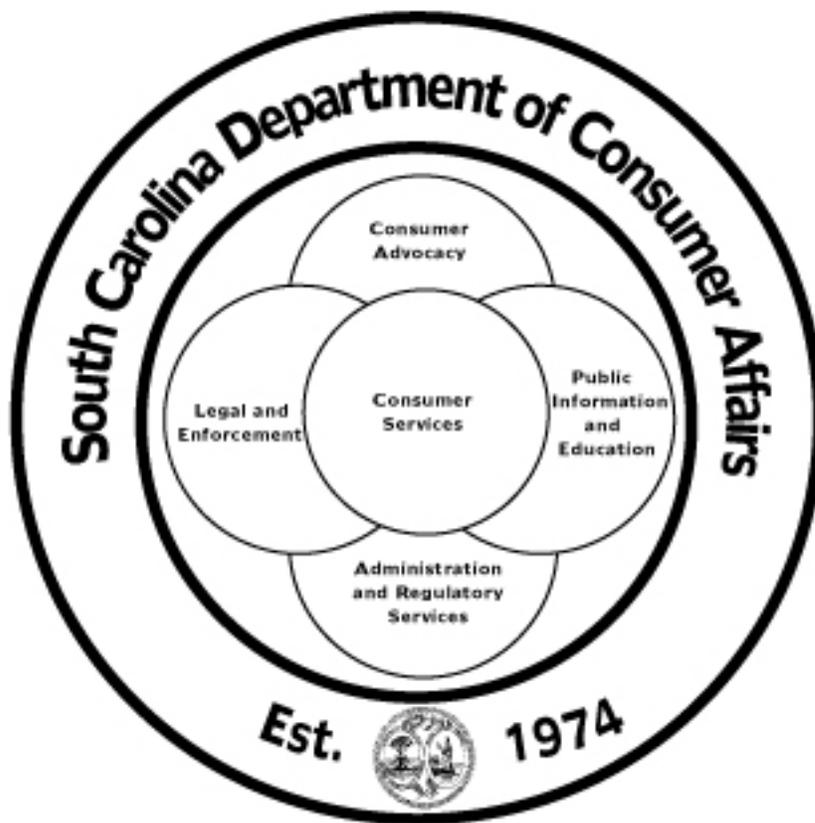


# The South Carolina Department of Consumer Affairs



## 30<sup>th</sup> Anniversary Commemorative Journal

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## Dedication

This book is dedicated to the memory of Colonel (ret.) Roy Harms, who was the first Deputy Administrator of the South Carolina Department of Consumer Affairs.





## State of South Carolina Office of the Governor

MARK SANFORD  
GOVERNOR

EXECUTIVE OFFICE  
OF THE GOVERNOR

March 21, 2005

Ms. Brandolyn Thomas Pinkston  
Administrator  
South Carolina Department of Consumer Affairs  
Post Office Box 5757  
Columbia, South Carolina 29250-5757

Dear Ms. Pinkston,

I am pleased to congratulate the Department of Consumer Affairs on its 30<sup>th</sup> anniversary. Your longtime efforts to protect consumers through education and advocacy are greatly appreciated. Best wishes for continued success and take care.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Sanford".

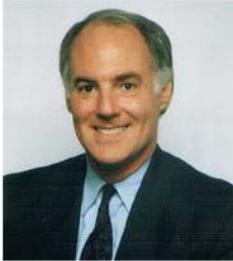
Mark Sanford

MS/rv



## Commission on Consumer Affairs

The Commission on Consumer Affairs is composed of nine members, one of whom is the Secretary of State. Of the remaining eight members, the General Assembly elects four other members from outside the legislature and the Governor appoints four members whose appointments are confirmed by the Senate. The Commission is the policymaking and governing authority of the S.C. Department of Consumer Affairs, appoints the Administrator and is responsible for enforcement of the S.C. Consumer Protection Code. The current members of the S.C. Commission on Consumer Affairs are:



*Chair*  
*Waring Howe Jr, Esq.*  
*Charleston, SC*



*Vice Chair*  
*Dr. Lonnie Randolph*  
*Columbia, SC*



*Barbara League*  
*Greenville, SC*



*Rev. Tony Macomson*  
*Cowpens, SC*



*Wayne Sims*  
*Columbia, SC*



*C. Wayne Powell*  
*Gaffney, SC*



*Louis Mayrant*  
*Pineville, SC*



*Ex Officio*  
*Secretary of State*  
*Mark Hammond*



## **Council of Advisors on Consumer Credit**

The Council of Advisors on Consumer Credit consists of 16 members who are appointed by the Governor. One of the Advisors is designated by the Governor as chairman. The Council advises and consults with the Administrator concerning the exercise of his powers under the South Carolina Consumer Protection Code and may make recommendations to the Administrator. Members may assist the Administrator in obtaining compliance with the South Carolina Consumer Protection Code. Current members of the Council of Advisors are:

*The Honorable C. Brian McLane Sr, Chair*  
*The Honorable Wendy J. Culler, Vice Chair*  
*The Honorable Sharon Crawley Bramlett*  
*The Honorable Alan D. Gardner*  
*The Honorable Ruth Ellen Hardee*  
*The Honorable Beatrice A. James*  
*The Honorable Richard A. Jones*  
*The Honorable Scott M. Malyerck*

*The Honorable Victor C. "Chip" McLeod, III*  
*The Honorable Cassandra Williams Rush*  
*The Honorable Alethea (Lisa) Samuel*  
*The Honorable John Page Seibels, Jr.*  
*The Honorable Ulysses S.G. Sweeney, III*  
*The Honorable William D. Van Hook*  
*The Honorable Brent A. Weaver*  
*The Honorable Frederick Eugene Williams*

### **Past Chairs of the Commission on Consumer Affairs and Council of Advisors on Consumer Credit**

The first Commission on Consumer Affairs, the department's policymaking and governing authority, was appointed on August 19, 1974. That commission appointed Irving D. Parker as the department's first administrator on September 30, 1974. The department's first office in Suite 600 of Columbia Building, on the corner of Main and Gervais Streets, was established the same day. The first members were appointed to the Council of Advisors on Consumer Credit on August 29, 1974.

#### **Commission on Consumer Affairs Chairs 1974 – 2005**

State Treasurer Grady L. Patterson, Jr. 1974 – 1979  
Secretary of State John T. Campbell 1979 – 1981  
Emil W. Wald 1981 – 1988  
Lehman A. Moseley, Jr. 1988 – 1995  
Dr. Lonnie Randolph, Jr. 1995 – 2000  
Barbara B. League 2000 – 2003  
Waring Howe 2003 – present

#### **Council of Advisors on Consumer Credit Chairs 1974 – 2005**

Alex Sanders 1976  
Leonard L. Hutchinson 1978 – 1987  
Carlton Whipple 1988 – 2000  
Joyce M. Smart-Buchanan 2000 – 2002  
C. Brian McLane, Sr. 2003 – present

## **Staff Leasing Roundtable**

The Staff Leasing Roundtable was established to assist the SCDCA Administrator, staff and the staff leasing industry with advising and consulting on the objectives of the South Carolina Staff Leasing Act. The first staff leasing summit was held on March 14, 2004. The Roundtable consists of seven professional employer organization (PEO) representatives, one industry representative, two SCDCA staff members and the SCDCA administrator. The members of the Staff Leasing Roundtable are:

- ◆ *Emmett Scully, Chair*
- ◆ *Chuck Cross*
- ◆ *Mary Etta McCarthy*
- ◆ *Elliott Powell*
- ◆ *Chuck Schellenger*
- ◆ *Lee Yarborough*

## **Mortgage Broker Review & Advisory Board**

The Mortgage Broker Review and Advisory Panel was organized to provide a means for the industry to have open dialogue with the Department. The Board has 12 industry representatives and the Administrator/designee as an ex-officio member. The members discuss issues affecting the industry, including proposed legislation. As representatives of the industry, the members are open to input for all in the residential mortgage industry, so contact them with your issues. The members of the Mortgage Broker Review & Advisory Board are:

- |                                    |                           |
|------------------------------------|---------------------------|
| ◆ <i>Lewis Burns, Chair</i>        | ◆ <i>JoLee Gudmundson</i> |
| ◆ <i>Joy Schofield, Vice Chair</i> | ◆ <i>Mark Ilderton</i>    |
| ◆ <i>Robert Beers</i>              | ◆ <i>David Krahn</i>      |
| ◆ <i>Elizabeth Coley</i>           | ◆ <i>Roy Schneider</i>    |
| ◆ <i>Larry Compton</i>             | ◆ <i>Chris Trimby</i>     |
| ◆ <i>LaTasha Gandy</i>             | ◆ <i>Howard Wright</i>    |

## **Administrators of the South Carolina Department of Consumer Affairs**

- ◆ *Irvin D. Parker 1974 - 1981*
- ◆ *Steven W. Hamm 1981 - 1994*
- ◆ *Phil Porter, 1995 - 2002*
- ◆ *Brandolyn Thomas Pinkston, 2002 - present*

## Who we are

The South Carolina Department of Consumer Affairs was established by the SC Consumer Protection Code, which was signed into law by the Governor on August 13, 1974. As the state agency designed to represent the interests of consumers, this department attempts to resolve complaints and seeks to inform and educate consumers, ultimately making them more aware of their rights and responsibilities in the marketplace. On July 25, 1978, the Consumer Advocacy Division was created and added to the Department.

## Our Mission

Our mission is to protect consumers from inequities in the marketplace through advocacy, mediation, enforcement, and education. The Department strives to be a **CREDIT** to our State by holding the following values as essential in our relationships and decision-making:

Competence

Respect

Equality

Dedication

Integrity

Timeliness





Brandolyn Thomas Pinkston  
Administrator

The State of South Carolina  
Department of Consumer Affairs

3600 FOREST DRIVE  
P.O. BOX 5757  
COLUMBIA, S.C. 29250-5757

Commissioners  
Waring S. Howe, Jr.  
Chairman  
Charleston  
Lonnie Randolph, Jr.  
Vice Chairman  
Columbia  
Mark Hammond  
Secretary of State  
Columbia  
Barbara B. League  
Greenville  
Louis Mayrant, Jr.  
Pineville  
Tony Macomson  
Coppens  
Wayne K. Sims  
Columbia  
C. Wayne Powell  
Gaffney

*Celebrating 30 Years of Public Service*

Achieving a continuous measure of success is no easy task, but during the last 30 years the Department of Consumer Affairs has blazed a trail of protecting consumers that has stood the test of time.

With a thirty-year tradition of results behind it, the Department continues to focus on emerging consumer issues in South Carolina, the nation and globally. **Using creative new approaches to consumer education and through dialogue and advocacy, we are helping to formulate and modify consumer laws, policies, and regulations.** The Department's impressive track record includes:

- Demonstrating its "global customer base" by **recovering over one million dollars in refunds, credits, and adjustments** for consumers living in South Carolina, other parts of the United States, as well as foreign countries last year.
- Opening its first satellite location in Gaffney on July 28, 2003. Additional sites were opened in Laurens and in Summerville. These efforts were made possible through a collaborative effort with the county administrators.
- Launching the BUYER BEWARE program to inform the public of **ALL** businesses or individuals who have not responded to written complaints or who have failed to provide resolutions as promised.
- Recovering **more than \$2 billion in rate reductions and refunds for consumers** (as of January 2005, resulting from reform of the Public Service Commission, the Department intervenes only in insurance cases).
- Continuing to successfully administer, interpret, and enforce the South Carolina Consumer Protection Code through licensing, registering, and ensures compliance, for: mortgage brokers loan originators, pawn brokers, physical fitness centers, continuing care retirement communities, motor clubs, staff leasing service, athletic agents, prepaid legal services and maximum rate and notification.
- Educating high school students about consumer marketplace issues through **LIFESMARTS—THE ULTIMATE CONSUMER CHALLENGE**. This competition, sponsored by the National Consumers League and the Department, offers students an opportunity to demonstrate their understanding of marketplace issues in the areas of personal finance, health and safety, environment/technology and consumer rights & responsibilities.

TELEPHONE (AREA CODE 803)  
ADMINISTRATOR  
734-4197  
ACCOUNTING  
734-4264

PUBLIC INFORMATION  
734-4191  
E-mail: [SCDCA@DCA.STATE.SC.US](mailto:SCDCA@DCA.STATE.SC.US)  
[www.scoconsumer.gov](http://www.scoconsumer.gov)

CONSUMER ADVOCACY  
734-4200  
(1) FAX: 734-4287  
(2) FAX: 734-4288

INVESTIGATORS  
734-4236  
ENFORCEMENT  
734-4238

CONSUMER COMPLAINTS  
734-4200  
WATS 1-800-922-1594  
VOICE/TT - 1-800-735-2905

During this 30-year celebration, a special thanks is extended to the nine members of the Commission on Consumer Affairs. They have been a powerful force and provided a sustained energy to our legacy. The Council of Advisors on Consumer Credit has also played a critical role in our mission.

And, finally, what cannot go unnoticed is the exemplary work of the Department of Consumer Affairs staff. Their vision commitment, and talent have helped to shape and strengthen this organization. They have shown a profound understanding of challenges in the marketplace and workplace, handling them wisely and with certainty.

For all who have helped shape our mission and purpose--I salute you. You have given us a mix of intellect, social values, creativity, self assurance, an optimistic spirit and common sense that will be a source of inspiration for many generations of consumers to come.

To celebrate this milestone, the Department has invited government, business and community leaders to submit a congratulatory letter or article for inclusion in this **30<sup>th</sup> Anniversary Commemorative Journal**. We truly hope that you find this document informative and resourceful.

With warm regards,



Brandolyn Thomas Pinkston



**South Carolina  
Department of Consumer Affairs  
Staff**

**Administrative Division**

Herbert Walker  
Linda Anderson  
Celeste Brown  
Monica Chapman  
Bryce Hoverman  
Cheryl Johnson-Mitchell  
Sharon Jones  
Jean Ray-Williams  
Melvin Rawlinson

**Administrator's Office**

Brandolyn Thomas Pinkston  
Dolores Hill

**Advocacy Division**

Elliott Elam  
Timmie Gibson-Hatten  
Hana Williamson

**Consumer Services Division**

Donna DeMichael  
Jackie Brabham  
Johanna Brooks  
Alice Brown  
Deborah Friday  
Lillian Gilmore  
Tiesha James  
Lauren Keilty  
Quianna Nathaniel-Couthen  
Carl Owens  
Valerie Rankin  
John Smith  
Latoya Spann  
Yvonne Washington

**Public Information &  
Education Division**

Leona (Sherry) Gore King  
Anna Albers  
Rose Dublin  
Regenia Gatewood  
Jordan Storm

**Legal Division**

Danny Collins  
Suzanne Barczak  
Barbara Childress  
Darlene Dinkins  
Michael Doherty  
Helen Fennell  
Elaine Gamble  
Dorothy Gargis  
Bryon Gibbs  
Carri Grube  
Martha Guinyard  
Charles Heyward  
William Kadlowec  
Charles Knight  
Kenneth Middlebrooks  
Barbara Morris  
Constance Rivers



## The Supreme Court of South Carolina

JEAN HOEFER TOAL  
CHIEF JUSTICE

1231 GERVAIS STREET (ZIP 29201)  
P.O. BOX 12456  
COLUMBIA, S.C. 29211  
TELEPHONE (803) 734-1584  
FAX (803) 734-1167  
E-MAIL: [jtoal@sccourts.org](mailto:jtoal@sccourts.org)

April 14, 2005

Brandolyn Pinkston  
Administrator  
South Carolina Department of Consumer Affairs  
3600 Forest Drive, 3<sup>rd</sup> Floor  
Columbia, SC 29250

Dear Brandolyn:

My heartfelt congratulations to you and your Commission as you celebrate the 30<sup>th</sup> anniversary of the creation of the South Carolina Department of Consumer Affairs.

As a law student, I participated in a research project for VISTA examining credit laws in South Carolina. As a freshman member of the South Carolina House of Representatives, I worked with Pete Parker to help draft and floor-lead passage of the sales and credit parts of the South Carolina Consumer Protection Code. Later, under Governor Riley's leadership, I floor-led legislation to strengthen the consumer advocate role, particularly in the adjudication of contested utility rate cases before the Public Service Commission.

The 1970s and 1980s were exciting years for the development of modern consumer credit laws, which included a reasonable rate structure and strong consumer protections. I am proud to have been a part of these significant reforms of South Carolina's laws. The South Carolina Department of Consumer Affairs has exceeded my highest expectations in its provision of balanced regulation and consumer protection.

With my kindest personal regards, I am

Sincerely yours,

Jean Hoefer Toal





STATE OF SOUTH CAROLINA  
THE SENATE  
COLUMBIA

GLENN F. MCCONNELL  
PRESIDENT PRO TEMPORE

P. O. BOX 142  
COLUMBIA, SC 29202  
TELEPHONE (803) 252-6610

April 11, 2005

Ms. Brandolyn Thomas Pinkston  
Administrator  
South Carolina Department of Consumer Affairs  
Post Office Box 5757  
Columbia, South Carolina 29250-5757

Dear Ms. Pinkston:

On behalf of the members of the South Carolina Senate, let me take this opportunity to congratulate the Department of Consumer Affairs on the occasion of its thirtieth anniversary. The Department of Consumer Affairs has long been a leader in efforts to educate and protect consumers in South Carolina. The Department's work has made our State better for those who are lucky enough to call it home.

Please accept my best wishes and hopes that the future will continue to be as productive as its past. With warmest regards, I am

Sincerely,

A handwritten signature in cursive script that reads "Glenn F. McConnell".

Glenn F. McConnell





Office of the Speaker  
South Carolina House of Representatives

P. O. Box 11867  
Columbia 29211  
(803) 734-3125

DAVID H. WILKINS  
SPEAKER

DISTRICT OFFICE  
408 E. NORTH STREET  
GREENVILLE, S. C. 29601  
(864) 232-5629

March 17, 2005

Ms. Brandolyn Thomas Pinkston  
Administrator  
South Carolina Department of Consumer Affairs  
Post Office Box 5757  
Columbia, South Carolina 29250-5757

Dear Ms. Pinkston:

On behalf of the South Carolina House of Representatives, please accept my heartiest congratulations as you and your colleagues at the state Department of Consumer Affairs mark 30 years serving South Carolina.

This is indeed a noteworthy milestone worthy of recognition. For three decades, the South Carolina Department of Consumer Affairs has been protecting our citizens from problems in the marketplace. Through advocacy, education, mediation and enforcement the SCDCA has fought on the side of consumers – helping to ensure a better, freer, and fairer business environment.

I wish you many more years of success. Again, congratulations on this important anniversary and thank you for your continued honorable service to the citizens of South Carolina.

Sincerely,

A handwritten signature in blue ink that reads "David".

David H. Wilkins  
Speaker of the House





## *Affordable Housing Coalition of South Carolina*

*Dedicated to the creation, preservation, and improvement of affordable housing for low income South Carolinians*

### **Congratulations on the 30<sup>th</sup> Anniversary of the South Carolina Department of Consumer Affairs**

As the lead advocate for Affordable Housing in South Carolina, we depend on the many State Agencies in South Carolina to broaden the support and caring of those most vulnerable in our great state.

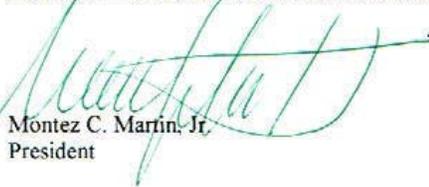
Our partnership with the SC Department of Consumer Affairs has been most cooperative and helpful and has produced many success stories that affect both directly and indirectly our efforts to provide affordable housing resources to low and very-low income South Carolinians.

This segment of our state's population often includes minorities, the elderly, and special needs people, often targeted by the unscrupulous because of their desperation to get out of debt and lack of financial literacy. One of the greatest successes in which we have had the pleasure in working the SC DCA and other large organizations was the passage of the "*South Carolina High-Cost and Consumer Home Loans Act*" which bans certain predatory lending practices that protects both the consumer and scrupulous mortgage lenders. After two years of work, this bill passed both the house and the senate, signed by Governor Sanford, and became effective in January of 2004.

The efforts of the SC Department of Consumer Affairs to protect consumers in South Carolina particularly where they pertain to affordable housing and homeless issues are second to none and are deserving of all South Carolina consumers trust and respect.

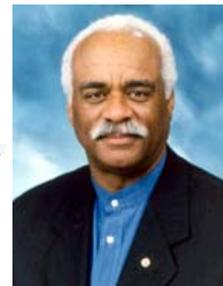
The Affordable Housing Coalition of South Carolina, Inc., is honored to have the SC DCA's Director, Brandolyn Pinkston on our Board of Directors. Ms. Pinkston keeps the Board apprised of affordable housing issues as they pertain to our state's low-income consumers' ability to own their own home or to rent economical, decent and sanitary housing.

On behalf of the Board of Directors and Membership of the Affordable Housing Coalition.....CONGRATULATIONS on 30 years of protecting all South Carolina's consumers.



Montez C. Martin, Jr.  
President

P.O. Box 1623 • Columbia, South Carolina 29202-1623  
Phone (803) 808-2980 • Fax (803) 996-0551 • AHCofSC@aol.com



 **FIRSTSUN EMPLOYEE LEASING, INC.**  
INDEPENDENT REPRESENTATIVES OF PROFESSIONAL EMPLOYER ORGANIZATIONS

April 1, 2005

The State of South Carolina  
Department of Consumer Affairs  
3600 Forest Drive  
Columbia SC 29250-5757

Dear Sirs and Madams:

On June 16, 1993, the Honorable Governor Carroll A. Campbell, Jr. signed into law the Staff Leasing Statute. This was an act to amend Title 40 of the SC Code of Laws, relating to professions and occupations by adding Chapter 68. Chapter 68 was added so as to regulate businesses that offer staff leasing services, and provides, in part, for licensing, fees, disciplinary action, and penalties.

The SC Department of Consumer Affairs played a critical role by agreeing to absorb this additional responsibility. Budgetary constraints were real, and there were no apparent additional funds to sufficiently regulate an entirely new, complex, and virtually unknown industry. However, protecting consumers was the mission of Consumer Affairs, and fortunately you understood the significant value staff leasing services offered employers and their staff.

As an industry professional for nearly 20 years established in Columbia, South Carolina, I continue to observe the very positive and proactive impact your department continues to have on the evolution of our industry. Immediately implementing the required licensing is a good example of how you made it more difficult for unscrupulous service providers to continue to operate in the state.

Forming the Staff Leasing Roundtable in April of 2003, the first of its kind in the country, was a profound decision of historical significance. For the first time, regularly meeting around a table are representatives from Staff Leasing, Consumer Affairs, the Workers' Compensation Commission, the Department of Insurance, Employment Security Commission, and other affected parties. This has resulted in unprecedented efficiencies in the interaction and cooperation between state agencies.

Under the leadership of Consumer Affairs, the Roundtable is now jointly working to further protect consumers by updating Chapter 68. One such change will be to recognize that our industry now refers to its members as Professional Employer Organizations ("PEO"). Continuing education requirements are also being proposed for the PEO principles doing business in SC. It appears to me, that the "roundtable" approach will result in bipartisan effort.

On this very special occasion, I am honored to have been asked by other PEO industry roundtable members to thank Consumer Affairs for its enlightened management of this industry. The PEO industry especially thanks you for your cooperative attitude. We are certain the department will continue to competently work to protect the consumers in the great state of South Carolina. Thirty years is a great start!

Respectfully submitted,



Elliott Powell  
President  
First Sun Employee Leasing Inc.



2711 Middleburg Drive, #311  
Columbia, SC 29204  
P.O. Box 11408 zip 29211



Office (803) 798-5020  
Fax (803) 798-7530  
Support (803) 254-1100

April 13, 2005

Mrs. Brandolyn T. Pinkston, Administrator  
Department of Consumer Affairs  
P. O. Box 5757  
Columbia, SC 29250-5757

Dear Brandi:

The South Carolina Bankers Association congratulates the Department on 30 years of successfully focusing on consumer issues in South Carolina.

You have used creative new approaches to consumer education and we are glad that we have participated on several projects to warn consumers about counterfeit cashiers check scams, credit life changes, South Carolina high cost and consumer loans, and other very important issues protecting consumers in South Carolina.

We look forward to continuing our relationship to educate the citizens of South Carolina and to help work with the Department to formulate and modify consumer laws and regulations.

Very truly yours,

Lloyd I. Hendricks  
President and CEO

/dst

**RICHARDSON, PLOWDEN, CARPENTER & ROBINSON, P.A.**

ATTORNEYS AND COUNSELORS AT LAW

CHARLES E. CARPENTER, JR. ◊  
FRANK E. ROBINSON II  
GEORGE C. BEIGHLEY  
FREDERICK A. CRAWFORD  
FRANCIS M. MACK, P.E.  
FRANKLIN J. SMITH, JR.  
LESLIE A. GOTTWALD III  
STEVEN W. HAMM  
DOUGLAS C. BAXTER ◊  
S. NELSON WESTON, JR. ◊  
WILLIAM C. MCDOW  
MARIAN WILLIAMS SCALISE  
STEVEN J. PUGH ◊

DAVID A. ANDERSON  
C. JO ANNE WESSINGER HILL  
STEPHEN C. LENKER, JR.  
ANTHONY E. REBOLLO, III ◊  
STANLEY D. COPELAND  
BARBARA A. CHESLEY ◊  
ADAM S. TESH  
MURRILL V. TRAW  
DREW HAMILTON BUTLER  
LYDIA LEWIS MAGEE  
KENYA CARVER MILLER  
CARMEN V. GANJEHSANI ◊  
MASON A. SUMMERS

C. CLIFF ROLLINS  
TYNIKA A. ADAMS  
SPECIAL COUNSEL  
EUGENE H. MATTHEWS ◊  
L. HAROLD HANLIN  
OF COUNSEL  
GEORGIA ANNA MITCHELL  
NINA REID MACK  
RETIREE  
DONALD V. RICHARDSON III  
CHARLES N. PLOWDEN, JR.

- ◊ ALSO MEMBER VIRGINIA BAR
- △ ALSO MEMBER GEORGIA BAR
- ▽ ALSO MEMBER TEXAS BAR
- ALSO MEMBER NORTH CAROLINA BAR
- ◆ MEMBER GEORGIA BAR
- ★ CERTIFIED SPECIALIST IN BANKRUPTCY LAW BY THE SUPREME COURT OF SC
- ✦ TN, MO
- ✦ CERTIFIED SPECIALIST IN FINANCIAL AND BANKING LAW BY THE SUPREME COURT OF TN

April 29, 2005

Columbia  
Email Address for Steven W. Hamm  
shamm@rperclaw.com

Brandolyn Pinkston  
Administrator  
South Carolina Department of Consumer Affairs  
3600 Forest Drive, 3<sup>rd</sup> Floor  
Columbia, South Carolina 29204

Re: *“Thirty Years of Service”*

Dear Brandy:

The Department of Consumer Affairs has a long and distinguished record of service to the citizens of South Carolina. I write to congratulate you and your fine staffs as you celebrate your thirtieth anniversary of service. I am very proud and grateful that I had an opportunity to work at the Department for almost eighteen years. I was privileged to work with you and many great State employees as we worked to educate and assist citizens on a wide range of important issues.

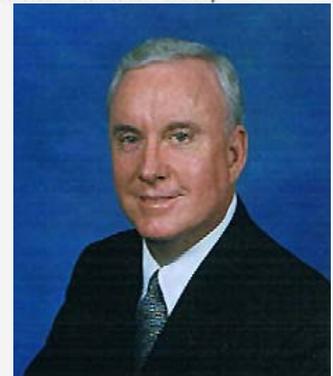
Please extend my best wishes to the Commission on Consumer Affairs and extend my thanks for their leadership during the past thirty years.

Sincerely,



Steven W. Hamm

SWH/ceb



COLUMBIA OFFICES: 1600 MARION STREET • COLUMBIA, S.C. 29201 • MAIL, P.O. DRAWER 7788 • COLUMBIA, S.C. 29202  
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## SOUTH CAROLINA FINANCIAL SERVICES ASSOCIATION

KEN KINION  
President

DERRAL L. OGBURN  
Executive Director

April 21, 2005

S. C. Department of Consumer Affairs  
Brandolyn Thomas Pinkston, Administrator  
3600 Forest Drive  
P. O. Box 5757  
Columbia, SC 29250

Dear Brandolyn:

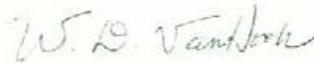
On behalf of the South Carolina Financial Services Association and myself, *congratulations* to the Department of Consumer Affairs on its 30<sup>th</sup> anniversary. I would also like to congratulate you and your staff for the continued service you have provided to the state of South Carolina.

The successes the department has enjoyed over the years and the far reaching educational programs are a true asset to everyone in South Carolina. The *Life Smart* contests, which are the financial educational programs for teens, have proven to be a fun and entertaining way to inform our youth about being responsible consumers and citizens. As chairman of the South Carolina Financial Services Association Foundation, I can assure you that you will have our continuing support for this educational program.

Since becoming a member of the Council of Advisors on Consumer Credit, I have a better understanding of the work that is involved in your department. There is a willingness and spirit of cooperation between your department and the business community to work for the betterment of all the citizens in our state.

Again, thanks to you and your staff on a *short* thirty years.

Sincerely yours,



W. D. VanHook

Number One Main Street Building  
1200 Main Street, Suite 513 • Columbia, SC 29201  
Telephone 803-256-7801 • Fax 803-799-7621

# SCADA

SOUTH CAROLINA AUTOMOBILE DEALERS ASSOCIATION

Administrative Offices  
1517 Laurel Street / Columbia, S.C. 29201-2696  
(803) 252-0205  
FAX (803) 252-5965

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Sumter

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**EXECUTIVE VICE PRESIDENT**

Patrick E. Watson, Columbia

April 26, 2005

Brandolyn T. Pinkston  
Administrator  
SC Department of Consumer Affairs  
P O Box 5757  
Columbia, SC 29201

Brandolyn,

On behalf of the franchised new car and truck dealer members of SCADA, please let me take a moment to congratulate you and the other folks of the Department of Consumer Affairs for your thirty years of service. Under the direction of Pete Parker, Steve Hamm, Phil Porter, and now you, the Department has been a very valuable aid and tool to both the consumers and small business men and women of our state.

The Department has played many roles over the years, but none more important than that of continuing to offer the opportunity for business and consumer leaders to sit down together at the table of compromise and reason for the purpose of preserving the integrity and honesty of our state's free enterprise system of buying, selling, swapping and servicing goods. For this the Department is to be commended and complimented.

Again, best wishes to the Department, but more important, to the fine women and men who are the Department. Thank you for what you have done and will continue to do.

Sincerely,



Patrick E. Watson  
Executive Vice President



"SERVING THE FRANCHISED NEW CAR AND TRUCK DEALER"

H. KELLEY JONES

ATTORNEY AT LAW

TELEPHONE  
803-254-0953  
803-254-1027  
FAX # 803-254-1048

1226 PICKENS STREET, SUITE 203  
COLUMBIA, SOUTH CAROLINA 29201

April 20, 2005

SC Department of Consumer Affairs  
3600 Forest Drive, 3rd Floor  
P.O. Box 5757  
Columbia, SC 29250

Dear Friends:

On behalf of Pre-Paid Legal Services, Inc. of Ada, Oklahoma, which I have the privilege to represent, congratulations to the South Carolina Department of Consumer Affairs on three decades of outstanding, dedicated service to the citizens of South Carolina!

From a fledgling new agency of modest origin, established 30 years ago by the General Assembly, the Department has grown in status and well-deserved reputation to a true monumental giant in championing all aspects of consumer rights in the state.

Coincidentally, Pre-Paid Legal Services, Inc. was also established just over three decades ago to fill an important consumer need and is by far the largest provider of prepaid legal services in South Carolina. And, we're proud of our relationship of regulation with the Department, its outstanding administrator, Brandolyn Pinkston, and the entire staff and look forward to many more decades to come.

Again, congratulations on a continuing job well done!

With warm regards, I am

Sincerely,



H. Kelley Jones

Congratulations to the SC Department of Consumer Affairs for a job well done protecting and educating consumers in our state for the last 30 years. As a member of the Council of Advisors on Consumer Credit, I am proud to be associated with such an outstanding state agency. My work as Deputy Treasurer for Richland County allows me to see firsthand the importance of financial literacy in our state and nation. The Department has been aggressive in its work to promote financial literacy through a variety of efforts. With renewed interest from the State Legislature in this worthwhile issue, I am confident that children in South Carolina's public schools will benefit from specific financial education that helps them function better as consumers in our society.

I look forward to working with the Department of Consumer Affairs, the Department of Education, and all other interested parties in making sure we make financial literacy in South Carolina a reality.

Brent A. Weaver,  
Member  
Council of Advisors on Consumer Credit



American Pawn Exchange  
11 West Lee Road  
Taylors, SC 29687

April 20, 2005

Ms. Brandolyn Thomas Pinkston, Administrator  
SC Department of Consumer Affairs  
3600 Forest Drive, Suite 300, P.O. Box 5757  
Columbia, South Carolina 29250

Dear Ms. Pinkston:

It is truly with heartfelt gratitude that I congratulate you on thirty years of public service to the people of South Carolina.

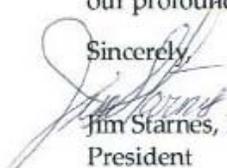
During your years of service, and especially in your tenure with the Department of Consumer Affairs, you have approached your responsibilities with exceptional insight and an uncommon energy. Indeed, rare is the person who can foster the public weal by so astutely promoting the interests of the consumer in an atmosphere that remains conducive to good business.

Few people realize that as many as one-million South Carolinians have neither a bank account nor credit cards. Therefore many of the citizens who are outside the financial mainstream look to pawnshops for their most basic financial services. We serve the working families of our state who often face unexpected needs for a short term loan. Our stores help keep folks' electricity on, rents paid, and cars working.

As past president of the SC Pawnbrokers Association and a director of the National Pawnbrokers Association, I know that you have been a key link in setting meaningful standards of accountability for our industry. You have been instrumental in seeing that the important lifeline which we offer consumers is routinely available to all South Carolinians on a fair and equitable basis.

I can attest to the vitality and optimism which you, as administrator, have instilled in the Department of Consumer Affairs. You embody the highest ideals of service to the people. Brandolyn, you've earned our heartfelt congratulations for your achievements, our profound gratitude for your selfless service, and our best wishes for the future.

Sincerely,



Jim Starnes, R.G.  
President

Cc: The Honorable Mark Sanford, Governor of South Carolina  
The Honorable J. Verne Smith, Senator  
Chairman of the Senate Labor, Commerce, and Industry Committee  
The Honorable Harry F. Cato, Representative  
Chairman of the House Labor, Commerce, and Industry Committee.

voice 864.268.2468 • fax 864.242.1399



## South Carolina Lieutenant Governor Andre Bauer

### *Protecting Senior Consumers*

In the past year, the Office of the Lieutenant Governor has worked on a number of fronts to protect seniors and vulnerable adults from abuse, neglect and exploitation.

A major focus of the Lieutenant Governor's Office on Aging is the long-term care ombudsman program, which annually investigates more than 5,000 complaints regarding residents of more than 1,400 facilities. We are pleased that we are adding five new ombudsmen this year, which means South Carolina will finally meet the national average of one ombudsman for every 2,000 long term care beds. In addition, we are launching a new volunteer ombudsman program.

Lt. Governor André Bauer also worked with South Carolina's police chiefs and sheriffs on two major projects. One dealt with distributing training materials on behalf of the Adult Protection Coordinating Council. These materials will help law enforcement investigate complaints, and enhance interviewing techniques and inform officers about new HIPPA privacy requirements concerning medical records. In addition to providing these materials, the Adult Protection Coordinating Council is planning daylong training sessions this fall to provide more in-depth training.

Police chiefs, sheriffs and Lt. Governor Bauer also worked together on Project ChildSafe, which distributes free safety kits to gun owners to promote safe storage of firearms in the home.

The Lieutenant Governor's Office on Aging also works with volunteers to provide services to seniors under I-CARE (Insurance Counseling Assistance and Referral for Elders). This program helps seniors with insurance issues.



*Above: The 2003 SCDCA Focus Group involved community members from throughout the state.*

- ◆ **August 13, 1974:** The South Carolina Department of Consumer Affairs is established by Act 1241 of 1974, as amended.
- ◆ **August 19, 1974:** First Commissioners appointed to the South Carolina Department of Consumer Affairs.
- ◆ **August 29, 1974:** First members appointed to Council of Advisors on Consumer Credit.
- ◆ **September 30, 1974:** Irvin D. Parker appointed first administrator of the South Carolina Department of Consumer Affairs.
- ◆ **November 1, 1974:** South Carolina Department of Consumer Affairs becomes operational.



## Sue Berkowitz

### *Payday Lending: Look at the Numbers*

Ten years ago, a joint Legislative Study Committee was convened to look at the small loan industry and how it impacted low-income borrowers. Many recommendations were made by this committee that was subsequently adopted by the Legislature, some of them to limit the amount of interest on small loans. It was almost shocking at that time to know that those who were desperate for money were being charged loan rates of 135%. The Legislature ensured that small loan companies could no longer charge these rates, and limited all small loans under \$600 to rates between 60-80%.

I remind you about this history of the small loan industry because we are faced with lending trends by a new type of small loan business that has grown tremendously over the past three years and charges rates that far exceed what was limited by the legislature in 1995. Deferred Presentment, commonly known as Payday Lending, has increased the number of loans made in this state by a tremendous amount. As of 2005 there are over 900 businesses that hold a license to make these types of loans.

Payday loans are made to individuals who have a checking account. The consumer can write a check to the lender for up to \$300.00. The lender will then hold this check from two weeks to 30 days, usually the consumer's next payday. The charge can be up to \$15.00 for every \$100.00 borrowed. This charge translates into interest charges of almost 400%. Loans cannot be renewed or "flipped". But this does not mean that lenders cannot make repeated payday loans. Once a borrower has paid off one loan with a lender, he or she can then immediately take out another. Unfortunately, many consumers end up taking out loans from more than one lender at a time. Consumers have reported taking out as many as 19 loans. This happens when consumers use one payday loan to pay an existing loan that is coming due. The consumer ends up taking the same \$300.00 and using it to pay off the next lender. He finds himself in terrible debt owing multiple loans with no way to ultimately pay all the loans in full.

In 2000 those licensed in South Carolina to make payday loans wrote **2,659,550** contracts that resulted in approximately **\$91,021,340** in charges made during that time. During fiscal year 2003, 3,565,877 loans were made with charges of **\$122,532,407**. In a three-year **period 9,762,480 people in South Carolina entered into payday loans, paying out approximately \$320,029,105 in fees.** South Carolina only has three million adults over age 8, which amounts to 1.25 loans for every eligible citizen. Since we know that not all South Carolinians use this type of lending, we can assume that many consumers get caught in a web of numerous loans to keep themselves going. Although \$45.00 does not sound like a huge charge for a loan, if you are forced to pay this amount to three or four lenders, twice a month, it can get quite costly. Ending the constant rewriting of contracts and limiting the total number of loans to any consumer at one time could help many of the financial problems we see these loans cause. We must remember, it is very costly to be poor and payday lending is just one example.

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*Sue Berkowitz is an attorney and executive director of South Carolina Appleseed Legal Justice Center.*

- ◆ **June 30, 1976:** Act 686 was signed into law by the Governor James Edwards, which amended the S.C. Consumer Protection Code by restoring to it sections governing maximum charges on consumer loans and licensing provisions for certain lenders.



**Joan Brown**  
**Pro Bono Director for South Carolina Bar**

### ***Pro Bono Assistance on Consumer Law Cases***

Case Scenario: John, a paraplegic who had lost both legs and the use of one hand, owed various sums to numerous finance companies, whose interest rates ranged from 63.79 percent to 91.99 percent. Although John was struggling to pay as much as he could on these loans, his creditors were still harassing and threatening him because he could not catch up on his payments. In fact, he was so strapped for money that he could afford to eat only every second or third day. Unfortunately, John did not have enough income to go through Consumer Credit Counseling, so he was sent by them to the South Carolina Centers for Equal Justice (legal services) for help. Legal services' statewide intake program, Legal Aid Telephone Intake Service (LATIS) sent the case on to Pro Bono since the Chapter 7 bankruptcy John wanted is not within the legal services program priorities. Pro Bono contacted a local lawyer who immediately accepted the case and ultimately was able to get John relieved from the oppressive debt he owed.

**The Pro Bono Program.** The South Carolina Bar Pro Bono Program is dedicated to hiring free legal services to the indigent population of South Carolina. When the local legal services office either has conflicts with the parties involved, or the cases are not within legal services' program priorities, LATIS sends the applications to Pro Bono. When Pro Bono receives the applications, a staff member endeavors to refer the cases to volunteer lawyers. Most of the cases Pro Bono receives come through LATIS.

**Pro Bono and Consumer Law.** Consumer issues are frequently the reasons for client applications for Pro Bono assistance. For example, in 2004, 376 Chapter 7 bankruptcy intakes and 44 miscellaneous consumer law intakes, such as collection, contracts, public utilities and unfair sales practices were received by Pro Bono.

In addition to case referral, the Pro Bono Program has several special projects programs such as Ask-A-Lawyer, free legal clinics and Law Schools for Non Lawyers. As part of efforts to increase access to the justice system, these programs provide individuals with interaction with volunteer lawyers for basic legal information on many issues, including consumer law.

Ask-A-Lawyer is a statewide hotline, which operates half days, five days a week. Volunteer lawyers answer the telephones and provide general information to callers across the state. This is a very popular program and provides an exceptional service to the public. The lawyers who participate in the Ask-A-Lawyer program answer calls on a myriad of issues, with consumer issues being a frequent subject of those calls. In 2004, approximately 20 percent of the calls received by the Ask-A-Lawyer Program were about consumer issues, including bankruptcy, automobiles and automobile insurance, the lemon law, debt collection, credit problems, contracts and homeownership. Of the calls received, 708 were general consumer questions, 268 were bankruptcy questions, and 334 were contract questions. Because Ask-A-Lawyer volunteers cannot give legal advice or represent the callers, volunteer lawyers may refer callers with consumer issues to several resources, including the Department of Consumer Affairs for assistance.

- ◆ **September 29, 1976:** Act 686 of 1976, which added the South Carolina Consumer Protection Code those portions of the Uniform Consumer Credit Code which pertained to loans and licensed lenders, became effective.
- ◆ **July 25, 1978:** The Division of Consumer Advocacy created by Act 644 as a new division within the SC Department of Consumer Affairs with the designation of the administrator of Consumer Affairs as the Consumer Advocate. Steven W. Hamm was named as head of division. The Act also altered the composition of the Commission on Consumer Affairs, increasing its

Free legal clinics are held by volunteer lawyers in conjunction with senior centers, other agencies and civic groups. In 2004, they conducted a total of 69 clinics on various legal topics, including consumer law. The newest component of the special projects portion of the Pro Bono Program is the Law Schools for Non Lawyers. Included in the curriculum are several consumer law topics, including Bankruptcy Law, Real Estate Law, Consumer Law, and Debt Collection.

Traditional Pro Bono efforts focus on indigent representation; however, the Ask-A-Lawyer Program, legal clinics and Law Schools for Non Lawyers are available to all citizens of South Carolina, regardless of income. In many instances, a lawyer on the telephone, at a clinic or in a classroom can provide just the solution that is needed. These programs allow those individuals whose incomes are above the federal poverty income guidelines to have free access to lawyers for information or referral to the appropriate entity, such as the Department of Consumer Affairs, for help.

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*Joan S. Brown is a 1988 graduate of the USC School of Law. She was a staff attorney for legal services, worked in private practice, served as Executive Director of Legal Aid Telephone Intake Service (LATIS) and now serves as Pro Bono Director for the South Carolina Bar.*



*Above: Persons from all over the state participated in the 2003 SCDCA Community Focus Group.*

◆ **Spring 1980:** Acts 326, 337, 411, 433 and 475 passed which provided substantial changes to S.C. Consumer Protection Code (CPC). These changes included clarification of the law regarding usury; retention of minimum charge for consumer credit sales/loans repayment; brought State Chartered Credit Unions under the code; allows 90 days for Insurance Commissioner to approve or disapprove forms and rate schedules; provides escalator provision for designated dollar amounts in CPC; increased allowable rates for revolving charge accounts and for non-supervised lenders; conformed to three-month CPC notice provision to Federal Reserve Board; addresses mail order loan territorial



**Dr. Shirley S. Carter**

## ***How Advertising Impacts Consumer Choice***

The ubiquitous nature of advertising in today's marketplace suggests its impact on consumer choice and behavior is far-reaching. Consider for example, the proliferation of advertising messages with which the average consumer is bombarded by the time he or she becomes an adult—millions of advertising pitches for products, services and ideas, consciously and subliminally. This article explores how advertising impacts consumer choice, awareness and decision making from both the traditional perspective of advertising media and the more current thrust among marketers to use a multiple media approach and selective targeting to reach the consumer.

### Advertising and Traditional Media

As consumers, we have an overwhelming number of product choices, brand choices, retail choices and information choices, no matter what purchase we are considering, from buying a house, automobile or homeowner's insurance, a new car, or booking airline and hotel reservations. Until recently, our primary media choices were newspaper, television, radio, billboards, direct mail, inserts and transit advertising. Traditionally, advertising has played the role of universal influence in mass communication and indefatigable effect upon American society. Consumers traditionally attend to advertising for information about a product or service, as a source of entertainment, and to aid in the decision-search process. Producers and marketers have depended upon advertising's function in a free marketplace and its role as a mirror of the enlightened economic self-interest on which our capitalistic system functions. Mass Media increasingly have relied on the economic role of advertising as the vehicle for the delivery and transmission of news, information, entertainment, and the cultural values prevalent in our society.

Because of the pervasive nature of advertising, it has the potential to affect consumers in an obtrusive manner with unintended consequences. Advertising critics claim that one of its most harmful social effects is its predilection to cause over-consumption and dissatisfaction in the quality of life among lower-income and under-educated people. Another criticism of advertising has been that it tends to promote attitudes and lifestyles that promote acquisition and consumption at the expense of other values. Critics have also blamed advertising for transmitting a distorted view of reality that extols the virtues of the so-called good life, and inadequately or stereotypically portrays women, the elderly and ethnically and culturally diverse Americans.

Proponents of advertising who counter that advertising does not create societal trends—a culture of consumption, narcissism, ethnocentricity, discrimination, pursuit of a higher quality of life—it merely reflects what already exists have refuted such criticism.

### Advertising and New Media

Perhaps nothing demonstrates today's dual dependency on advertising in traditional media and new media more than television advertisements that ran during the 2005 Super Bowl, Grammy and Academy Awards telecasts. Advertisers spent an estimated \$2.4 million for each 30-second commercial during the Super Bowl for one of the year's largest television audiences. However, those same advertisers will place as much value on the \$1.50 per mouse click they spend on the Google Internet search site, at any hour on any day, for a few words of plain text that will link prospective customers to the advertiser's Web site, according to a recent *New York Times* article on Web advertising.

◆ **June 12, 1981:** Act No. 107, the S.C. Private Personnel Act, was passed. This legislation licenses, regulates and monitors the activities of employment agencies or individuals engaged in obtaining employment for others and designates the S.C. Department of Consumer Affairs, among others, as an agency responsible for investigating complaints from consumers about the activities of employment agency type businesses, as well as using their enforcement jurisdiction and authority when appropriate.

We define advertising as the preparation and promotion of messages about products, services and ideas that are paid for by an identified sponsor. From the traditional mix of advertising media such as newspapers, television, radio, billboards, direct mail, inserts, and transit advertising, consumer and marketer choice expands to today's multiple media options of the Internet and mobile advertising. This accelerating trend toward new media suggests the need for consumers to become more savvy and better informed in their use. In the past five years, the Internet has become an important source of information for consumers with more than 160 million Internet users in 2003 alone, according to a recent article in the *American Behavioral Scientist*. The November 2004 edition of *eMarketer* forecasts a 28.8% growth rate, and an annual spending figure of \$9.4 billion. According to *eMarketer*, seven factors drive consumers' Internet advertising choice:

- The consumer is in control
- The Internet delivers on the corporate mandate for marketers to be more accountable
- The economy continues to plug along with reasonable growth
- Broadband is changing the Consumer Internet landscape
- The crack in the foundation of the \$60 billion TV industry is widening
- Search continues to evolve and draw more dollars
- With increasing numbers of Americans online, marketers have greater opportunities to reach consumers who are interested in a given category.

Researchers have identified several types of ad formats found on the Internet: banners, pop-ups, sponsorships, Web sites paid keyword search listings and advergames (Faber et al, 2004). A brief description of each follows:

- Banner ads are graphic images displayed on an HTML page used as an ad. They typically appear as rectangular-shaped boxes located at the top, sides, or bottom of the page, and are used primarily to build Web traffic by allowing consumers to click them to be hyperlinked to advertised Web sites for more information. They are the predominant form of new media advertising, representing 55% of all online ads and 32% of all new media advertising revenue.
- Pop-up ads. Perhaps one of the most annoying of the formats, pop-up ads appear in a separate window on top of the content a user is viewing. The pop-up window will not go away until the user actively closes it. Research suggests however, that pop-up ads yield more click-throughs, more favorable attitude toward the brand, and higher purchase intention than standard banner ads.
- Commercial Web sites. The inclusion of commercial Web sites as an advertising format is debatable, but many proponents of this type of advertising point out that home pages in some cases resemble ads in physical appearance and perform the same basic functions—to inform and to persuade—as other advertising messages.
- Internet sponsorships. Internet sponsorships, or advertising fragments, are messages that are restricted to the brand name or to a few words that summarize the brand's unique selling propositions (USPs).
- Paid keyword search listings. According to researchers, half of all Web users report using search engines, and as a result, a growing number of advertisers have begun using paid search listings as a form of advertising to get their site noticed when consumers use search engines. Paid keyword search listings provide marketers an opportunity to effectively target consumers at the right point in time.
- Advergames. Web-based games that incorporate advertising messages are called advergames. Their advantage is that they enhance brand awareness and may evoke positive attitudes toward the promoted brand and game sponsor.

- |   |
|---|
| <ul style="list-style-type: none"><li>◆ <b>July 1, 1981:</b> Irvin D. Parker resigned as administrator/consumer advocate of the department.</li><li>◆ <b>August 4, 1981:</b> Roy C. Harms appointed acting administrator of the department; Steven W. Hamm appointed acting consumer advocate of the department.</li><li>◆ <b>September 22, 1981:</b> Steven W. Hamm appointed administrator/consumer advocate of the department.</li></ul> |
|---|

Another potentially effective new form of advertising media is mobile advertising, which takes advantage of our perpetual wired state: cell phones, pagers, PDA's, etc. The advantage of mobile advertising is its ability to reach people at exactly the moment purchase decisions are being made.

Consumers in the twenty-first century will continue to use traditional media advertising, but increasingly will look to new media as additional sources to better inform the decision-search process. Information flexibility, the consumer's ability to tailor information to needs and desires, and information accessibility, the consumer's ability to control when and where information is available, are the two primary reasons why new media advertising will continue to appeal to the more savvy consumer. Research supports the notion that the more the consumer feels in control of advertising information received, the more likely that information will guide future purchase decisions.

Whether new media advertising will pose a greater risk to protecting consumer rights than traditional advertising media, its efficacy as a powerful information source that will guide consumer behavior will continue to gain the notice of those of us in academia, the media industry, and government agencies such as the Department of Consumer Affairs.

*Shirley Staples Carter is director of the School of Journalism and Mass Communications in the College of Mass Communication and Information Studies at the University of South Carolina. Previously, she served as director of the Elliott School of Communication at Wichita State University in Kansas from July 2000 until July 2003. She has held other leadership and academic posts in Virginia, Florida, Louisiana and Texas.*

*Right: SCDCA attorney Danny Colins makes a presentation at the Automobile Advertising Forum in 2003.*



◆ **May 31, 1982:** Act 385, the Consumer Protection Code Revision Act of 1982 was signed into law by Governor Richard W. Riley. The act deregulates interest rates and provides for a business established maximum rate structure. All first mortgage loans were removed from the S.C. Consumer Protection Code. Consumer protections were increased by strengthening the provisions on unconscionability, requiring other state agencies to investigate complaints, providing the S.C. Department of Consumer Affairs with authority to investigate unfair trade practices and to file suit on behalf of consumers when the actual



**Larry Compton**

### ***Working Together to Produce Proactive Legislation***

Financing a home today is a complicated and confusing process even for the well-informed homebuyer. Consumers are constantly bombarded with offerings of home loans through radio, TV, newspaper, direct mail and telemarketing. Weeding through those solicitations to find a reputable company can be a frustrating experience in itself. The huge array of mortgage programs in the market place only adds to the perplexity. Once the homebuyer has decided on the company and the loan, the process begins with signing of the application, authorizations, and at least eleven disclosures. For the majority of mortgage loans there are several other disclosures. In order to understand the various documents, disclosures and financing options, homebuyers need a knowledgeable mortgage originator to explain and navigate the process.

Due to the complexities and ever-changing rules of home financing, mortgage originators must undergo constant training in order to keep pace. Employers have traditionally provided training and education for their originators, however the extent and quality of that training and education can vary from company to company. So how can homebuyers have confidence that the person originating their mortgage has the knowledge to explain disclosures, propose the mortgage that suits their needs, and understand the legal and program requirements of getting their home financed?

Recognizing the necessity for mortgage originators to have the knowledge to properly serve homebuyers, the South Carolina Department of Consumer Affairs (SCDCA) in a joint effort with the South Carolina Mortgage Brokers Association (SCMBA) formulated language for legislation requiring the licensure of mortgage originators. The new regulation became effective January 13, 2005 and requires that all originators working for mortgage brokers in South Carolina to be licensed by March 31, 2005. The originator licensing requirements include the submission of the licensing application, a satisfactory South Carolina Law Enforcement Division (SLED) background check, eight hours of continuing education each year, and licensing fees.

Both government and industry have praised the passage and implementation of this regulation. Consumers and the mortgage broker industry will benefit from this coordinated effort. The background checks will help ensure that people with criminal histories will not slip into the industry. Mortgage originators must be listed under a mortgage broker's license and cannot work for multiple brokers, thus helping to keep track of the originators and the loans they produce. The continuing education requirements will provide homebuyers with a greater sense of certainty that the person handling their home financing will have the knowledge to do the job correctly.

While mortgage brokers originate two thirds of all mortgages across the nation, only a few states require originator licensing. South Carolina is among the leaders taking the action necessary to protect consumers and increase the level of professionalism in the industry. The SCMBA has embraced the changes as a demonstration of their members' desires to improve the quality of their services. As a further expression of support, the SCMBA is offering 8 hours of continuing education at no additional cost to members attending their annual convention held May 3 - 6 in Myrtle Beach. A variety of courses will be available and the SCDCA has graciously agreed to teach one of those classes.

- ◆ **July 1, 1982:** Act 358, the Consumer Protection Code Revision Act of 1982 became effective.
- ◆ **December 1983:** Governor Richard W. Riley designated the S.C. Department of Consumer Affairs as an official liaison with the U.S. Consumer Product Safety Commission.

The many people from the SCDCA and the SCMBA should be commended for coming together to produce pro-active regulations that will have a long-term positive impact on home financing in South Carolina. Leading the way to change is difficult at best. Finding common ground in the objectives of government and industry is extraordinary. The good people involved in this endeavor have paved the way for others to follow. I am grateful for the opportunity to have worked with them and proud that the result will *make* for an improved financing environment for South Carolina homebuyers.

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*Larry Compton is the current President of The South Carolina Mortgage Brokers Association (SCMBA) and is President of Heritage Mortgage, Inc. in Duncan, South Carolina.*

*Right: The SCDCA partnered with the Federal Trade Commission to present the program "How to Advertise Consumer Credit" for Mortgage Brokers in 2004.*



◆ **May 23, 1984:** The Motor Club Services Act, Act 400 of 1984, was signed into law by Governor Richard W. Riley. The law applies to towing service, bail and arrest bond service, emergency road service, claims adjustment service, legal service, map service, emergency travel expense service, merchandise and discount service, travel touring and travel information service, financial service, check cashing service, personal property registration service, credit card service, insurance service and buying and selling service to club members.



**Wendy Culler**

### ***The Need for Financial Literacy for South Carolina's Young Consumers***

As the song states “ Our children are our fixture, let them lead the way.” Are we setting them up for failure? We teach our children how to drive a car, to use good table manners and about the “birds and the bees” but we send them out into the world financially unprepared. When I was growing up there weren't a lot a borrowing choices. If you wanted a home loan you went to the Savings & Loan, if you wanted a car you went to the dealer, if you needed a refrigerator you went to Sears & Roebuck. That was the extent of it. Today our young people are being targeted the minute the cap and gown comes off. Credit card companies are setting up camp at colleges, sending out mass mailings and department stores are training their staff to “cross sell” their cards. How many times have you heard “You can get a 10% discount on your purchase if you fill out a credit card application today”? Why not? Our society is on a personal gratification kick. What is it they say on television? “ Don't leave home without it!!” “Priceless”, “No credit, Bad credit, No Problem.” Well, it is a problem, a big problem!

We are seeing more and more young people through our financial counseling department that are virtually bankrupt at 22 years of age. They were able to get all that was offered to them, but now they are unable to pay for it. Good credit is more important today than ever. These young adults are going to be denied apartment leases, insurance coverage and quite possibly the job of their dreams due to poor credit ratings. I once had a young college student tell me that she had been irresponsible with her credit in the past and she just wanted to start her credit over again. It was right then that I felt a strong need to make it a quest of mine to educate and inform.

I am fortunate to work for an organization that agrees with my quest. Once the word got out that there was someone available, free of charge, to help with financial literacy it was “on from there.” Our department conducts classes for the middle and high schools, area colleges, Head Start parent meetings, local civic organizations and churches. We discuss credit issues, checkbook balancing, budgeting, how to calculate debt rate, finance charges, credit reporting, and the importance of good credit.

I see the wheels turning; I hear the questions asked, I know I'm getting through. I just hope I don't teach myself out of a job!!!

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***Wendy Culler, a native of Buffalo, New York, has been in the financial services industry since 1980. She began her employment at Founders Federal Credit Union in 1984 and was instrumental in implementing the Financial Counseling Department at Founders in 1990.***

*Right: Wendy Culler answers questions at the 2004 Credit: Life or Debt Conference sponsored by SCDCA.*





**Palmer A.D. Fielding**  
**President, Keen Teens**  
**Columbia Chapter of Jack & Jill**

### *Why Teens Need to Understand Consumer Credit*

Teens need to understand consumer credit so that they will make wise choices about using debit cards, learn to create and stick to a budget, and prevent and solve financial difficulties. They will also be more aware of protecting themselves from financial predators. In many ways, they will gain a sense of financial freedom about not getting into debt that we cannot get out of.

Credit is such a big responsibility that if we don't use it wisely, it can keep us in bondage that has life-long implications. We owe it to ourselves to become educated about how credit works to prevent problems that can damage our lives in the short and long run.



*Above: The 2004 Credit: Life or Debt Conference, sponsored by SCDC and the Columbia Chapter of Jack & Jill of America, taught students about credit and how to use it wisely.*

- ◆ **June 20, 1985:** Act No. 153 of 1985 was signed into law by Governor Richard W. Riley. The act amended the Consumer Protection Code to make it clear that it was unconscionable to charge excess prepaid finance charges, no matter how those charges were designated, if they substantially exceeded that usual and customary charges for a particular type of loan. The intent of the act was to prevent misrepresentation of rates and the charging of unconscionable rates no matter how they were disclosed or identified.



**Dottie Garrick**

### ***A Personal Perspective*** **The Need for Consumer Education**

The coming year is very troubling. Consumers are having difficulty making their voices heard in this unsettled time. Working families struggle to emerge from the recession; unemployment rates are high; and the nation is at war. Industry is already mounting additional major campaign to gut our most important federal and state consumer protections. And this gutting will be far worse than what has been attempted before.

Consumer education affects both the efficient functioning of the nation's economic system and the well being of society. At a time when worker efficiency is essential to our nation's success in the global marketplace: family financial difficulties are reducing productivity for too many workers. Financial difficulties also affect the health of individuals and their families, adding more pressure to an already stressed health care system.

Credit is the lifeblood of the community. Loans enable consumers to invest in their future by buying a home, to get the education they need to find decent jobs, to buy a car that will carry them to and from work, school and other daily activities.

Poor consumers have always paid more for homes, groceries, insurance, household goods and especially credit. As more consumers sink into poverty they are lured deeper into debt by financial predators.

Poor consumers aren't the only ones hurt by predatory lending. Middle-class consumers are also forced to borrow money to pay their bills. Fighting the credit predators won't be easy. Consumer laws won't solve anything unless they are accompanied by grassroots activism that educate consumers about their rights and develops non-profit alternatives that offer credit at a fair price. Without real reform and grassroots efforts consumers will continue to sink deeper into debt.

I founded Columbia Consumer Education Council, Inc. (CCEC) in 1994, which is a non-profit, non-partisan grassroots consumer education and advocacy organization. The mission of the organization is to educate, inform, advocate and empower consumers to protect themselves from fraud and abuse in the marketplace and workplace. CCEC is committed to providing services and programs to empower those consumers who are left out of the mainstream of society – the have-nots. Our volunteer staff's main objective is to provide consumer education with dignity, respect and compassion. We also work with local, state, and national consumer groups on issues that protect consumer's rights.

Many consumers are not savvy enough to help themselves out of desperate situations, whether it's due to unemployment, underemployment, homelessness or other circumstances. CCEC provides assistance in helping consumers gain knowledge and skills in becoming self-sufficient. We realize in many cases at the grassroots level it takes more than just disseminating reports, brochures, news releases and public service announcements to inform and educate the consumer. Therefore, we provide one-on-one assistance to individuals and families with their problems. In many circumstances the organizations that are funded and in position to help the consumers with their complaints seems to be more abusive than the predators -- poor consumers are big business.

◆ **June 24, 1985:** Governor Richard W. Riley signed Act 165 of 1985, the Physical Fitness Services Act into law. The act provides that everyone providing physical fitness services, for profit, in South Carolina must pay a yearly fee and obtain a Certificate of Authority from the S.C. Department of Consumer Affairs. Organizations utilizing membership contracts must post a bond of file a statement of financial responsibility. All operators must submit a certified copy of their charter from the Secretary of State, copies of membership agreements and contracts and a list of all outlets. Organizations that had been in business for five years, at the time the legislation was enacted, were exempt from the bonding requirement.

In a U.S. Department of Education examination of literacy skills, it was revealed that only a small percentage of Americans over the age of 15 could do moderately complex tasks needed to function in the marketplace. Between 40 and 44 million Americans are unable to calculate the total cost of a purchase, determine the price difference between two items, or complete a simple form.

Individuals and families able to handle the complex financial decisions of daily life experience an enhanced quality of life. They have the personal satisfaction of being in control of their lives and are more likely to be satisfied with their social and economic environment.

Recent surveys suggest that consumer education has not kept up with the rapid changes in the marketplace. We have not yet reached a desirable level of knowledge and skill in managing personal financial resources.

*"Consumer and economic actions lie at the heart of modern life. Consumer education, like the general education curriculum, is part of that foundation on which students may begin to build their personal lives, and on which we must begin to build a more responsive and humane world." -- Hayden Green, Educator and Textbook Author*

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*Dorothy M. Garrick is founder and president of the Columbia Consumer Education Council (CCEC), a non-profit and non-partisan grassroots consumer education and advocacy organization established in 1994. The organization is dedicated to empowering consumers to protect themselves from fraud and abuse in the marketplace and workplace.*



*Above: The 2001 Institute for Teachers instructed teachers on financial literacy and consumer issues.*

- ◆ **January 1, 1986:** Act No. 121 of 1985 became effective, which regulates rent-to-own businesses, consumer rental-purchase agreements (rent-to-own businesses) and requires rental-purchase businesses to file a notification form with the S.C. Department of Consumer Affairs.
- ◆ **May 6, 1986:** Act No. 401 of 1986, which authorized a two-dollar minimum charge for property insurance, became effective.



**Steve Hannan**  
***South Carolina Department of Consumer Affairs Thirtieth Anniversary Celebration***

I have worked with three of the Administrators of the Department of Consumer Affairs during my tenure as the Administrator of the Howard County Maryland Office of Consumer Affairs. Steve Hamm and myself served on the Board of the National Association of Consumer Agency Administrators together as we redesigned that organization to move forward into the 1990's. He was a man of intelligence and savvy in the design or processes and procedures both for his Department and the Association.

I worked with both Phil Porter and Brandolyn Thomas Pinkston on a distance-learning project. I came to learn from the Department in the middle 1990's how South Carolina and in particular the Department were using innovative communication techniques to project consumer education to parts of South Carolina where the Department could not physically locate itself. That experience influenced the work that I did back in Maryland and also influenced Brandolyn, who has now begun to open satellite offices in those areas where we were broadcasting in the late 20th century. I applaud the Department of Consumer Affairs for its imaginative answers to the question of how do you best serve your citizens and celebrate with it, its thirty years of service to the citizens of the State.

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*Stephen D. Hannan, in addition to being the current President of NACAA, is also the Administrator of the Howard County, Maryland, Office of Consumer Affairs*



*Above: Staff from the South Carolina Department of Consumer Affairs help Laurens consumers at the Laurens County satellite location in 2002.*

- ◆ **May 12, 1986:** Governor Richard W. Riley signed into law Act 412 of 1986 (also called the Statute of Repos) which provides that no action for damages arising out of the defective or unsafe condition of an improvement to real property may be brought more than 13 years after substantial completion of the improvement. The act requires the S.C. Department of Consumer Affairs to publish notice of owners' or possessors' right to enter into any contractual agreement. The notice extends any guarantee of an improvement being free from defect beyond the 13 years as provided in the act.



## South Carolina Secretary of State Mark Hammond

### *How to Protect Yourself When Donating to Charities*

As Secretary of State, one of the duties I am charged with is the regulation of charities in South Carolina. Fighting charitable and telemarketing fraud is one of the issues I am most concerned with. South Carolinians are among the most generous people in the world, but we must guard against those who would take advantage of that generosity. We utilize several public service campaigns throughout the year to encourage wise giving. Many are familiar with our annual Scrooge & Angel lists, which highlight the best and worst charities with regard to money spent on the causes they represent. I always stress that there are numerous charities that are eligible to receive the “Angel” award, above and beyond the list we publish each holiday season. But how do you, the donor, know your dollars are being spent on the cause you meant them to fund? The Secretary of State’s Office should be a primary resource for you. There are over 6,000 charities registered, and financial information is kept on record for each of them. Call the Charities division at 1-888-CHARITI (242-7484), and they can tell you the actual percentage of dollars an organization spends on programs, or whether they are registered at all. Information is also available on the Secretary of State’s webpage at [www.scos.com](http://www.scos.com). Please note that religious organizations are not required to file this information with us. It is best to use your own scrutiny, knowledge, and good judgment when giving money to these charities. There are also several websites that can be helpful in researching charities, especially those that operate nationally. They include [www.guidestar.com](http://www.guidestar.com), [www.charitynavigator.org](http://www.charitynavigator.org), [www.charitywatch.org](http://www.charitywatch.org), and [www.give.org](http://www.give.org).

If you are solicited for a charitable donation by phone, chances are the caller is a paid professional fundraiser. Before you send a check, ask:

- Are you a volunteer or professional solicitor?
- Is the company you work for registered with the Secretary of State’s Office?
- Where is the charity for which you solicit located?
- Is my contribution tax deductible?
- What percentage of my donation goes to your company?
- What percentage of my donation goes to the charity?

You can also ask the solicitor to mail you a copy of the most current financial report on file with the Secretary of State’s Office. Also, if you do not personally know the caller, you should beware of the following: high-pressure tactics, requests for cash (never give cash), and solicitors who will not provide you with their address or phone number, or those who fail to provide you with a copy of his/her registration after you have requested it. If you receive a questionable solicitation, please call the Charities Division at the toll free number listed above. Many unscrupulous telemarketers have been discovered and shut down through information provided by ordinary citizens.

South Carolina was recently ranked 9<sup>th</sup> nationally for charitable giving, and this is something we can all be proud of. I would like to encourage South Carolinians to continue in this tradition, but to give wisely. Check it out before you write the check I hope these tips will help you to make smart choices when choosing your charities. Thank you for the privilege of serving as your Secretary of State.

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| <ul style="list-style-type: none"><li>◆ <b>June 3, 1988:</b> Act No. 16-17-445 of 1988 became effective. The act placed restrictions on unsolicited and automatically dialed consumer telephone calls and designated the department as the enforcement agency.</li><li>◆ <b>July 1, 1988:</b> Act No. 166 of 1987 became effective, which expanded the responsibilities of the Division of Consumer Advocacy’s to include the analysis of auto insurance rate and recoupment filings.</li></ul> |
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South Carolina Secretary of State Mark Hammond was born in Lancaster, SC and has been a lifelong resident of Spartanburg, S.C. He received a Bachelor of Arts Degree in Political Science from Newberry College in 1986, and went on to obtain a Masters in Education from Clemson University in 1988. He served as Spartanburg County Clerk of Court from 1996 to 2003. On November 5 2002, he was elected as South Carolina's 41<sup>st</sup> Secretary of State. Secretary Hammond is dedicated to efficiency, accountability, and customer service within state government. While in office, he plans to push an aggressive agenda of reforms targeting charity and trademark fraud and telemarketing abuses. Secretary Hammond is an ex-officio member of the S.C. Consumer Affairs Commission and Legislative Council.

On a personal note, Mark and his wife Ginny have 3 children — Matthew, Ross, and Grace.



*Left: The Fraud Task Force at its inaugural meeting in 2005. The group contributes to a bimonthly newsletter, The Fraud Alert, which contains information about fraud and scams.*

*Right: Secretary of State Mark Hammond speaks at the 2003 Hispanic Consumer Education Institute, a 2-day conference sponsored by the SC Department of Consumer Affairs and the Direct Selling Education Foundation. The Institute focused on consumer issues directly affecting the Hispanic Community.*



◆ **July 1, 1988:** Act No. 491 of 1988 became effective, which defines, clarifies and limits the charges and fees that may be imposed in connection with a pawn transaction and designated the department as the enforcement agency.



**Waring Howe**  
**Chair, South Carolina Commission on Consumer Affairs**

### ***Consumer Affairs Protects Citizens From Fraud***

*“Hey, Louie, we’ve pocketed around million, point two already from these boobs in their Florida paradise. It’s probably about time we pulled up stakes before some government dog finally gets wise to our game. Where’d you think we oughta go next?”*

*“Rocko, that’s an easy call. There’s hardly an educated soul in all of South Carolina, and they’ve probably got more easy - target, good - hearted old coots than anywhere. If they haven’t retired here in the Sunshine State, they go down there to Myrtle Beach, Charleston, and maybe Hilton Head if they’re loaded.”*

*“We gonna use the same plan; whatta ya think, huh, Lou?”*

*“Sure, they pay twenty-five bucks to think they’ll get discount coupons for exotic cruises; that’ll work there like that Rolex Betty got you in Tijuana. We got this thing down. A P. O. box, two phones, and our schmoozy, supremely sincere voices, and we’re rolling once again.”*

*So off to Florence, S.C. they went. Only this time, because a dozen or so individuals contacted the South Carolina Department of Consumer Affairs’ (SCDCA) Complaint Analysts, Rocko and Louie’s “Doable Cruises” was written several times about their scam. Of course, neither of them responded to the inquiries, and the “business” was placed on the SCDCA’s Buyer Beware List. The two started feeling a lot of official heat, and hundreds of consumers saw their business listed on the SCDCA’s website. Between getting so nervous and so few people falling for their fraud, the two confidence men headed west.*

Businesses, even legitimate ones, and consumers inherently have almost opposite interests and objectives. Businesses want to maximize their profits, and out compete their rivals in the process, and consumers, at least the thoughtful ones, desire to get the best value and quality for the goods and services they purchase. In a given transactional arrangement, consumers are usually at a disadvantage from the outset. Those on the business side, because they are in the business to sell or offer whatever it is, have more experience and specialized skills to succeed in the transaction. And, they know it. Consumers are for the most part everyday people who know smatterings about various matters, think the best of people, even strangers, and depend on those perceived to have greater knowledge for guidance. This rather glaring one-sidedness is often too tempting for the greedy and too challenging for the less astute. Naturally, this commonplace configuration screams for the need for intervention. Governmental regulators and lawyers become necessary to try to level the playing field and influence the participating parties to adhere to standards of fairness.

It was thirty years ago that the SCDCA was established, and greater protection for consumers has certainly been accomplished as a result. Those legislators and others who spearheaded its creation in 1974 have a legacy of having assisted those who very often needed help the most. Over the years, the staff at the SCDCA and some lawmakers have added very innovative new programs and services which advance the core mission of this state agency. From intervening on behalf of consumers in public utilities and insurance rates matters, to assisting unsophisticated borrowers of money, to mediating disputes between consumers and

◆ **October 1, 1988:** Act No. 544 of 1988 becomes effective. The act clarifies the steps that must be taken by a loan broker before funds from a consumer can be earned and retained. The bill also requires loan brokers to register with the department and to escrow any funds paid by a consumer until the broker secures a loan for the consumer. An amendment to Act 544 was made April 26, 1989, with Act 52. The 1989 amendment replaced a penalty of \$1000 with a “penalty of no less than \$2500, in the discretion of the administrator,” and added provisions relative to decreasing the bonding requirement.

businesses, the SCDCA by its very existence makes those who desire to be honest more honest and impedes the unscrupulous whenever and wherever its jurisdiction allows.

It is a great honor for me to serve as the Chairman of the Commission, which oversees and formulates the policies for this critically important governmental entity. In as monumental a way as I can, I applaud what this agency has done to date, but a few ideas of how better results can be achieved jump out at me, as well. The SCDCA already attempts to educate our state's citizens as much as possible about the services offered by them and about known unsavory business practices. There could never be too much of this to take place, and citizens could do better about paying attention to the SCDCA's information and be better about seeking to learn about what the SCDCA does. The average citizen could also be more affirmative and active in taking the necessary measures to report the deceptive and other forms of improper actions on the part of businesses. Too often too many people are too passive and too shy. And, perhaps most importantly, I have a challenge for our lawmakers, in both our legislative and executive branches. All public high school seniors ought to be required to take a semester - long course on consumer issues which most definitely should include learning about the prudent ways to purchase on credit. So many decent, well - intentioned people were never offered the chance to acquire foundational knowledge about interest rates, revolving credit accounts, the importance of a sound credit history, how to approach the purchasing of big-ticket items, the downside of using multiple credit cards, what is living beyond one's means generally, the basic objectives of businesses, common deceptive practices, among many other financial matters. Not only does government have the responsibility to educate our citizens for education's sake but also to help our public learn how to function in everyday circumstances. It is in government's interest to make such a high school course mandatory, as so often it is our citizens who are too far down in financial holes who demand so much in the way of governmental services.

Lastly, it should be clear that the SCDCA stands out as a state agency which earns a far greater return for ordinary citizens and for state government compared to what is invested into it with public funds. For that indisputable reason, it ought to receive even greater support from state government, especially financial, than it has.

Thirty years of excellent service to our citizens thus far, but the SCDCA has many challenges ahead as more Louies and Rockos find their way to the Palmetto State.

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*Mr. Howe is a lifelong resident of Charleston, South Carolina. He began his legal career in a practice started by his father in 1949.*

*Right: Automobile dealers discuss advertising issues at the 2003 Automobile Advertising Forum.*





**Frank Knapp, Jr.**

### ***Small Businesses Need The Department of Consumer Affairs***

My Webster Pocket Dictionary defines “consumer” as “one that consumes, especially using products or services for personal needs.” By this definition, small businesses are not consumers. In fact, some would argue that consumers and small businesses have competing interests in the market place.

So why am I, the president of The S.C. Small Business Chamber of Commerce, writing to congratulate the S.C. Department of Consumer Affairs on their 30 years of service?

First, most small businesses are reputable and community oriented. They provide the goods and services all of us use every day and they do so at a fair price that allows them to be profitable so they can stay in business. Small businesses understand that without the consumer, they’re out of business.

But from time to time there will be those who try to abuse the positive relationship between the small businesses and consumer, either to unfairly reap more profits or to gain a marketing advantage over competitors. In the former case, the rest of the small business community suffers from a generalized negative image. In the latter case, small businesses find themselves at an unfair competitive disadvantage.

The Department of Consumer Affairs assists in dealing with unscrupulous business owners that cause damage to the rest of the small business community. The Department does this job with a fair and balanced approach realizing that even good businesses sometimes accidentally stray and only need a nudge, not a hammer, to return to the correct path. There is a service that is needed and they do it well.

But small businesses are consumers also. They buy goods and services from other businesses and can benefit just as much from the intervention of the Department of Consumer Affairs in these business-to-business transactions. And then there are the regulated industries—electricity, gas, telecommunications, insurance, etc. The Department has a tradition of intervening in these ratemaking cases to insure that revenue increase requests are actually needed. Over the years, small businesses have benefited financially from this watchdog role.

So regardless of what my dictionary says, congratulations Department of Consumer Affairs. Your services have helped keep our small business community healthy for 30 years and we look forward to a continued positive relationship.

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*Frank Knapp, Jr., co-founded The SC Small Business Chamber of Commerce in February of 2000. He serves as the president and CEO of the statewide advocacy organization.*

◆ **June 5, 1989:** Act 142 of 1989. An act typically known as the “Lemon Law” became effective. It is designed to enforce express warranties on motor vehicles. The act provides for the manufacturer’s reasonable attempts to cure, then replacement of the motor vehicle or a refund of the purchase price. The department was directed to enforce the new act.



**Dr. Louis Lynn**

### ***Clemson Extension Programs Help Educate Young Consumers***

Nationally, teens spend about \$375 billion a year, an average of \$103 each per week, according to Teenage Research Unlimited. In addition to their own money, young people also influence billions of dollars of household spending, beginning as early as pre-school.

Unfortunately, access to money has not translated into financial skills. The national Jump\$tart Coalition for Personal Financial Literacy conducts regular studies to measure high school seniors' knowledge of personal finance. Sadly, the scores were lower in 2004 than in 1997.

This lack of skill can translate into disastrous results. From 1990 to 1999, bankruptcies increased 51% among people under age 25. The only other group to experience an increase of this magnitude was people over age 65 according to the National Endowment for Financial Education®.

The good news is that as little as 10 hours of personal financial education can positively affect students' spending and saving habits, greatly improving their money management skills for a lifetime, according to the endowment.

The Clemson University Cooperative Extension Service offers just such programs for youth in all 46 counties of South Carolina. In addition, an adult education program is offered on the Internet. Called Financial Security in Later Life, this program serves as a national model. It was developed by a nationwide team co-chaired by Nancy Porter, Clemson Extension Family Resource Management Specialist.

Clemson Extension financial education programs for South Carolina youth include:

**The High School Financial Planning Program®** helps meet a state mandate that all public high school students must receive instruction in personal finance. It provides instruction materials on financial planning, career choices, budgeting, savings and investments, credit and insurance. This program is offered through a partnership of Clemson Extension, the National Endowment for Financial Education, and the South Carolina Credit Union League. Free student workbooks, instructor manuals, and in-service training for teachers, are provided for teachers to incorporate into courses such as economics, social studies, mathematics, and family and consumer sciences. Since January 2000, this program has reached 72,745 South Carolina students.

**Mini-Society®** teaches entrepreneurial, economic, and citizenship concepts to youth, ages 8 to 12. Participants establish their own society, print their own money, open businesses, and create their own government. These activities can be conducted in classrooms or after-school programs. Since 1999, Clemson Extension has provided facilitator training at no charge through grants from the Kauffman Center for Entrepreneurial Leadership. In exchange, each training participant agreed to teach two sessions of the program to youth in their community. In the past five years, 200 adult volunteers have been trained who, in turn, have delivered this experience to more than 1,600 youth.

**Consumer Judging** teaches decision-making skills in the marketplace to 4-H members, ages 9 to 19. Educational activities teach young consumers to make knowledgeable, rational purchasing decisions and to understand their rights and responsibilities as consumers. Training sessions are available at no charge

◆ **June 5, 1989:** Act 144 of 1989. Amended the Consumer Protection Code to delete the requirement that a consumer incur additional debt after notification of a change in terms in revolving charge and loan accounts. The act also required such a notification to state that the consumer may pay the existing balance under the terms in effect, if the customer chooses to cancel the account. In addition, §37-2-405 and §37-3-402 were amended to exempt all credit transactions and all consumer loans from the code's requirements if the contracts specified a formula for determining the rate of finance charge upon refinancing a balloon payment.

through Clemson Extension. The program culminates with a statewide consumer judging contest that attracts some 150 participants each year. During the contest, participants make consumer decisions on products such as disposable cameras and CDs, and then explain their decisions to a judge.

**Money My Way®** helps young entrepreneurs ages 12 to 15 build a solid foundation for turning a hobby, skill, interest or 4-H project into a business venture. The step-by-step planning process includes examples and forms that can be used for business planning, financing, pricing, marketing and bookkeeping. Nearly 900 youth participated in this and a companion program called Financial Fitness for Youth in 2003 and 2004.

**JumpStart Coalition for Personal Financial Literacy®** has recently established a state affiliate in South Carolina, with Clemson Extension represented on the executive board. This program will provide educational materials and a statewide speakers' bureau to empower children and young adults to make informed responsible financial decisions.

The future of South Carolina's economy is in the hands of our young people. Through these and other programs, Clemson Extension is helping our youth become informed consumers and judicious financial planners.

For more information on these and other programs, contact Nancy Porter, Clemson Extension Family resource management specialist, [nporter@clemson.edu](mailto:nporter@clemson.edu).

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*Dr. Lynn is the President and Chief Horticulturist of ENVIRO AgScience, Inc. He provides daily leadership for all aspects of landscaping, lawn care, and design. Dr. Lynn holds an adjunct professor appointment at Clemson University.*

*Right: Students compete in the 2005 LifeSmarts competition, a program designed to help teens learn life skills.*



◆ **June 8, 1989:** Act 164 of 1989 became effective. Increases maximum allowed for assumption fees under the South Carolina Consumer Protection Code from the lesser of \$250, or one percent of the unpaid loan balance to the lesser of \$400, or one percent of the unpaid loan balance.



## South Carolina Attorney General Henry McMaster

### *Attorney General's Tips for Investors*

Historically, most investors have generally purchased stocks, bonds and mutual funds through their local brokerage firm. Today's investors are being offered investments in annuities, viatical settlements, pay telephones and a host of other opportunities. Unfortunately, registered broker-dealer agents are not always involved in the offer. Products rarely heard of five or ten years ago are being sold with increased frequency to today's investors. Many unpleasant investment experiences can be avoided through education, and the odds of losing your money to investment fraud should decrease dramatically.

To protect investors, South Carolina Attorney General Henry McMaster offers the following tips:

**Check It Out.** Investors should thoroughly research both the offeror of any investment opportunity and the opportunity itself. Ask the person offering the investment or advice if he/she is registered with the Securities Division of the State Attorney General's Office. Generally, people offering securities or giving advice about investment opportunities must be licensed with the Securities Division. If the promoter indicates he/she is not registered, and /or claims no licensing is required because the investment opportunity doesn't require registration, proceed with caution. If you have questions, check the product and seller out with the Securities Division to be sure they are properly registered, if such registration is required.

**Fully Understand The Investment.** With any investment, be sure you ask questions and fully understand both the investment itself and the benefit for the promoter if you invest. Reputable securities professionals should not mind explaining, in terms you can understand, any product they offer, why they think that product best suits your investment needs, and the existence and amount of commission or compensation they receive for selling the product.

**Get It In Writing.** Reputable professionals should not mind putting any verbal representation or assurance they give you in writing if you ask. With most investment opportunities, a prospectus or other type of written offering document should be available. Read, and be sure you fully understand, all such documents. If there is a difference between what is in writing and what you are being told verbally, ask for an explanation. In South Carolina as in many states, printed cautions and warnings generally trump oral promises of profits, so get any important assurances an agent may make to you in writing.

**Truth In Advertising.** Focus on the advertising and decide what is fact and what may be fiction. Many opportunities today are being offered over the Internet. Some Internet offerings identified recently are touted as "safe and suitable for almost everyone!" When a claim like this is made, it is almost guaranteed to be a scam. Just as people come in all shapes and sizes, different people have different financial backgrounds, goals and needs. What may be an appropriate investment for one person may be highly unsuitable and much too risky for another.

**False Guarantees.** Look out for claims of "guaranteed" returns on investment products. Licensed securities agents are not permitted to guarantee their clients that a specific result, such as a definite gain or a guarantee of no loss, will be achieved as a result of the client purchasing a recommended product. Receiving a guarantee of any sort should raise a caution flag. Likewise, be aware of products touted as "IRA Approved." The IRS awards no such designation, and almost any product can be put in an IRA if the promoter can find a custodian willing to accept the product.

**Seniors Take Caution.** Seniors generally can afford to take less risk with their savings than other investors, and need to be especially careful to check out the credentials of any person with whom they do investment business. In the last few years, the Securities Division has seen a tremendous increase in the number of suspicious investment products offered to seniors, the aggressive manner in which such products are often sold, and the number of unregistered people selling the products. Every week, the Securities Division identifies advertisements in the newspaper where promoters claim designations such as “certified senior advisor” or “senior planning specialist.” If you see similar ads, don’t be impressed by a title alone. Ask the agent what the designation means and what was needed to acquire it.

**Beware The Jack-Of-All-Trades.** Be cautious of promoters offering a long list of other services, such as tax, insurance and trust advice, along with their investment advice. This is not to say there are no professionals who can legitimately offer tax, trust, insurance, and investment advice, but they are few and far between. Traditionally, insurance agents sell insurance or “risk management” products, securities professionals sell securities and/or offer investment advice, and tax professionals, including CPA’s and certain attorneys, offer tax advice and planning. Generally, only licensed attorneys are permitted to engage in trust planning.

**Too Good To Be True?** Trust your instincts. If an investment opportunity sounds too good to be true, it most likely is. Suppose you get a hot stock tip at work from an unknown person offering to make you lots of money when the stock being touted goes public. If you don’t know the person, consider why you are being offered the tip and not someone else. If the tip is represented as a “sure thing,” ask yourself why the promoter would offer it to you, rather than to his friends and family.

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Henry McMaster was elected Attorney General for the State of South Carolina in 2002. As Attorney General, McMaster has led the fight to protect our children from Internet predators and has taken the lead on prosecuting domestic violence by placing volunteer pro-bono prosecutors in courts across the state.

*Right: SCDC  
investigator Barbara  
Morris talks to SC  
Attorney General Henry  
McMaster at the 2003  
Law Enforcement  
Forum.*



- ◆ **July 1, 1990:** Act 97 of 1990. The State Continuing Care Retirement Community Act. The act requires that the department to issue a license to persons filing an application in accordance with §37-11-30 of the South Carolina Code of Laws; if the department is satisfied that (a) the individuals responsible for the conduct of the affairs of the applicant are competent and trustworthy and have good reputations; (b) The continuing care retirement community is financially responsible and can meet its obligations to residents; (c) The operator has demonstrated a willingness and the potential ability to assure that the health care or health-related services will be of good quality; (d) The operator has complied with all requirements of DHEC concerning the furnishing of nursing, medical or other health-related services.



## Cathy Monetti

### *Teach Your Children Well: Rearing smart shoppers in a hype-filled world*

My daughter is like many 12-year-old consumers today: smart, brand-conscious, and extremely needy. Every day there is something new on her I-absolutely-must-have-it list.

Her first word was “Da-Da.” Her first sentence was “I want a Happy Meal.” Swear.

This from the child of a mother who understands all too well the tactics employed by marketers when they have identified a target audience. One would think I could do a better job of shielding her — and I suppose I could. But as both a marketing professional and a mother, I think my real responsibility is in teaching her how to be a good consumer, rather than trying to protect her from the realities of a competitive marketplace. The truth is, she will be a member of a target audience of one kind or another for the rest of her life.

Equally as important, and perhaps more so, it is my job to say NO. At 12 years old, she has little money to spend. (Apparently, an anomaly!) But what she does have is the ability to greatly influence my buying decisions.

Here are the facts. Experts estimate corporations spend \$15 billion a year aimed at kids under 13. For that advertising investment, they’ll get a \$35 billion return from kids spending their own money.

But consider this head-turner. This year, kids under 13 will influence more than \$650 billion in family spending.

It’s a powerful statistic and one that explains why marketers place such an emphasis on the 0-12 demographic. Opportunities to reach this young audience abound and new ones are being developed every day. Youth-driven cable television, product placement in movies and videos, soft drink contracts at schools, cross-promotions for products, free promotional giveaways — you name it.

This type of direct-to-kids marketing bypasses adults (by design) and has many parents in an uproar. Activist groups are working with legislators to create limits on the types of tactics advertisers may employ. And they are finding support from such groups such as the American Academy of Pediatrics and the American Psychological Association.

What’s a mother (or father) to do? I suggest successfully battling the myriad messages out there targeting your kids comes down to one simple solution: Be a parent.

◆ **June 12, 1991:** Act 132 of 1991. Amends the Code of Laws for South Carolina, 1976, by adding Chapter 13 to Title 37. Provides for the regulation of subleasing and the loan assumption of a motor vehicle. It prevents brokers from engaging in business without being bonded, disclosing buyers’ and sellers’ rights and duties and obtaining the lienholders written authorization to allow the sale or sublease. Authorizes the department to promulgate regulations and provide a penalty for violations.

(1) *Learn to say no.*

We live in a world today in which many of us are time-starved, activity-stretched, and new-toy-obsessed. We believe it is possible to have it all, and we are teaching that value to our children — both by providing it to them and by example. Psychologists believe we are giving our children more “things” to make up for the fact that we feel guilty about short-changing them in the categories of time and attention.

What most kids really need is not more stuff, but more parenting. Take note the next time your child (or grandchild) asks for an item. Chances are good your response will be “No.” Then they will continue to ask and ask and ask with escalating emotion until you finally give in, worn down and sure that one more Barbie, one more cookie bag in the grocery cart, one more Matchbox car will truly bring them joy. But the treasure rarely makes it out of the car, forgotten and tossed aside as soon as the victory is won.

(2) *Teach financial responsibility.*

Give your child an allowance and require them to use their own money for the ancillary items they “can’t live without.” You can find lots of information online that can help you develop your own family allowance strategy, but here is how it works at my house:

Allowance begins at age 6. You receive a dollar amount that is half your age, with a dollar increase each birthday. (When my child was 6, I stipulated that of the \$3.00, \$1.00 went into her piggy bank to save up for something big, \$.50 was for church offering and \$1.50 was hers to spend on anything she wanted.) I encourage her to discuss her options with me so I can steer her toward meaningful purchases, but if she ultimately chooses to blow it on a candy machine or video game, that’s her choice.

Rules:

**Decide ahead of time what parents will pay for and what allowance must cover.**

This will eliminate 95 percent of arguments, I promise. In our plan, parents pay for clothes, food (except impulse at the check-out candy), school supplies, and fees and equipment for extra-curricular activities. Allowance pays for all extras — fingernail polish, CDs, magazines, earrings, etc.

**Allowance is not a paycheck for “chores.”** This is important because allowance must be given consistently to teach good financial management. (I consider chores a responsibility for living in our house, not something that requires payment.)

**No advances.** This teaches the need to “save up.”

**No exceptions.** Believe me, allowance will not lessen the begging. It just gives the powerful parental response of “Sure you can have it, when you save up enough money.” If you give in and make the purchase for them — “just this once” — there is no value in allowance as a financial management lesson.

(3) *Teach your child to be a smart shopper.*

It will be particularly easy if there is limited money to spend via an allowance. Suddenly, your child has to balance the desire for the item with the amount of investment required. You will find that in little time, every purchase will require thought, research, examination, and discussion. And it’s in this “discussion” that you can have a dramatic impact, teaching valuable lessons about making good consumer choices.

Look for marketing messages targeted to kids and talk about them with your child. Ask questions that encourage critical thinking. What do you think about that commercial? Do you think their claims are true? Do you think “Sugar Frosted Part Wheat Bear-O’s” really are nutritious?

Discuss past purchases. Was it a good choice? Was it worth the money? Would you make the same purchase again?

◆ **July 1990:** Act 456 of 1990. The Athletic Agents Act requires athlete agents to register biennially with the department — on forms to be provided by the department, and to pay to the department a registration fee of \$300. The department shall issue a certificate of authority entitling the holder to operate as an athlete agent for two years. The department may revoke or suspend the registration of an athlete agent for cause or for a violation of any provision of this chapter.

Lead by example. Take advantage of opportunities to teach your child about quality, workmanship, and value through the choices you make as a consumer.

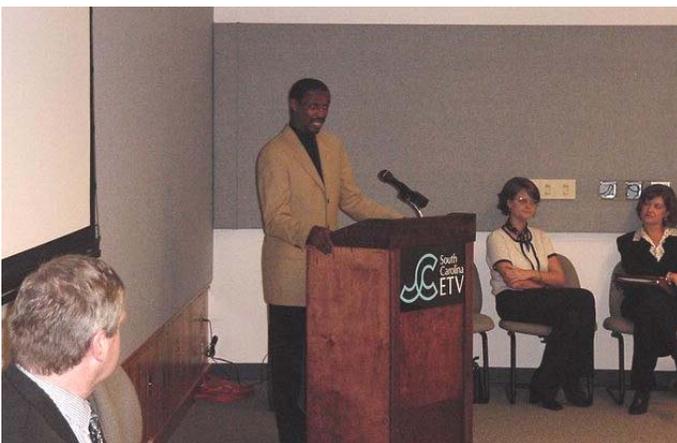
(4) *Realize you are doing more than simply reducing the whining.* You are teaching skills your child will use for the rest of his or her life. These important lessons not only impact the pocketbook, but help form a healthy value system *you* have created.

You can do it. Start now.

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*Cathy Rigg Monetti founded C.C. Rigg's, a studio dedicated to exceptional advertising in October of 1987. Today, she serves as president and creative director of RIGGS, an integrated marketing, advertising and public relations firm headquartered in Columbia, S.C. She is also co-founder of the national Create-A-Thon Network, a small agency partnership that has donated more than \$5.2 million in marketing and advertising services to non-profits in North America in the past three years.*

*Below: Ads Demand Sense, a conference designed for 4<sup>th</sup> and 5<sup>th</sup> graders, teaches students about advertising, consumer issues, and how to become better informed. The program, held at SCETV, included programs by members of the Columbia Advertising Council and SCDC.*



◆ **July 1990:** Act 63 of 1991: Requires the Consumer Advocate to serve on the Solid Waste Advisory Council. The Consumer Advocate must also participate in waste disposal cases as part of the Atlantic Interstate Low-Level Radioactive Waste Compact, which was implemented by Act 357 of 2000.



## Jeff Moore

### *What South Carolina Has Done About the Financial Exploitation of the Elderly*

Over the last 10 years or so, the financial exploitation of the elderly has become a high-profile issue. As our society ages, those elderly among us have grown in numbers, and with this growth we in the law enforcement community have seen an increasing number of financial scams aimed directly at the elderly.

South Carolina, recognizing this criminal activity, began over a decade ago to address financial exploitation of the elderly. Working within the framework of the Adult Protection Coordinating Council (APCC), a statutorily established body to study and make recommendations on the vulnerability of the elderly, South Carolina passed the first law ever passed in the state that specifically recognized financial exploitation as a crime against the elderly.

Since the passage of this law, the Sheriff's Association, the S.C. Attorney General's Office and the APCC began a series of training programs to prepare law enforcement offices on how to investigate a financial crime against the elderly, and prosecutors on how to prosecute the offenders. It should be noted that the crimes are often very difficult to investigate and prosecute for a couple of unique reasons. Most of these crimes are committed by family members or trusted friends, and the victim often denies the allegation made against a trusted family member or friend. Unfortunately, the victim will often refuse to cooperate with the investigator. A reluctant and uncooperative victim makes law enforcement's and the prosecutor's job nearly impossible. Still, major cases have been successfully investigated and prosecuted in Richland, Sumter, and Beaufort counties.

To augment local efforts, the Department of Public Safety's Office of Justice Programs has a number of Child/Elder Abuse prosecutors and investigators around the state and at the state level. With increasing awareness and resources, South Carolina can and will continue to investigate and prosecute these cowardly and selfish crimes against some of the most vulnerable among us: our elderly citizens who have given our state and nation their best over a lifetime. We can give them no less than our best today.

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*Jeff Moore is the Executive Director of the S.C. Sheriff's Association, and has served in that position for 22 years, where he oversees the daily operations of the organization, including implementing policy, training, and all matters related to the General Assembly.*

*Right: SCDCA staff assist consumers at the Gaffney Satellite location in 2002.*



- ◆ **July 1, 1991:** The law added certain allowable fees under the South Carolina Consumer Protection Code, reduced allowable credit life premiums and added allowable administrative remedies under the Pawnbroker Act, the Physical Fitness Services Act and the Unfair Trade Practices Act. Credit life premium reductions were effective January 1, 1993.
- ◆ **July 1, 1992:** Act 452 of 1992 regulates loan brokers (other than mortgage loan brokers previously regulated) and prevents the taking of advance fees for loan brokering as well as certain other deceptive practices. It is aimed at curbing advance fee loan frauds. The department is given broad authority to investigate violations and require violators to cease and desist the violations



**Pete Parker**  
**30 Years Ago: Why South Carolina Needed A  
Department of Consumer Affairs**

Before the second world war, *consumer credit* was not a major part of commerce. By the late 1960s, it was thriving. The more progressive states had begun to address problems peculiar to that market. As they did so, people who made a living from abusive practices simply moved to more tolerant states. The more tolerant states, typically agrarian states, became a “dumping ground for fraud artists.”

The laws governing market transactions arose out of dealings between *business professionals*, experienced in their contract dealings. Typically lawyers drafted or reviewed and enforced the contracts. In that setting courts paid little attention to claims of deception or overreaching. Contracts were generally enforced unless “fraud in the procurement” could be proved. Ignorance of contract terms or of the law, was no excuse.

In the “consumer” market, those laws helped spawn an epidemic of deceptive, overreaching *consumer contracts*. Even the most educated citizens often fell prey to the *tricks* of that trade. Abuse merchants developed a keen sense of the many ways ordinary citizens can be duped.

In 1967 South Carolina was teeming with transient abuse merchants. One of my early assignments when I became an assistant attorney general that year, was to look into complaints of citizens who reported consumer market problems. There was little we could do except give them tips on mitigating damages and avoiding future problems. “Sanctity of contracts” remained an overwhelming obstacle to consumer protection in our courts. Arguments that a contract was *unconscionable* or that the consumer *did not in fact* have the ability to read and understand if, fell mostly on deaf ears.

Among several notable obstacles to consumer help was the “holder in due course doctrine.” Abuse merchants quickly sold their contracts to a financier – holder in due course – and “disappeared.” Debtors usually tried to handle disagreements by withholding payments, triggering “default” penalties. The financier initiated a collection action. The abuse merchant was nowhere to be found. No matter how badly the abuse merchant had abused the debtor, the financier could nevertheless enforce the contract according to its terms.

The state of the usury law was another significant factor in consumer abuses. The usury law historically limited “interest” to 7% and everybody “knew” that. That rate was too low to support a consumer credit market. But legislatures were loathe to enact adequate “interest” rates for consumer credit. So the consumer credit industry thrived on a combination of legal interest plus an imaginative array of “fees and charges” and some cute ways of stating rates to sound like 7% or less, such as 7% discount, 1.5% or 2% per month. The cost of consumer credit was always far higher than 7% per annum but few consumers knew it. For that reason, a common consumer complaint involved a foreclosure or repossession against a debtor who was convinced he or she had already paid far more than was due.

- ◆ **June 10, 1993:** Title 39 of the South Carolina Code was amended by Act 161 of 1993, Unfair Trade Practices Below Cost Gas Pricing, to prohibit the predatory use of below cost gasoline pricing and allow the administrator to investigate violations. Act 161, limits circumstances in which motor vehicle fuel retailers can sell below their costs and empowers the department to investigate violative predatory pricing.

A major obstacle to consumer self-protection was inability to read and understand preprinted contracts. Aside from the small print, they typically used legalese even attorneys had difficulty with. These were usually presented for signature after a verbal “explanation” by the abuse merchant, and usually with a great deal of high pressure. Even if a citizen knew what was in the contract, enforcement of rights was problematic because the amount in dispute was usually too small to justify legal fees and there was no generally available public entity to help them understand or enforce their legitimate rights. More often than not, they just paid what was demanded to avoid harassment or bad credit.

These concerns were not unique to this state. Most other agrarian states were slow to outlaw developing consumer abuses. This produced a “movement” to seek federal remedial legislation. A result of that was a federal “Unfair and Deceptive Trade Practices Act,” the “Truth in Lending Act,” and an “Unfair Debt Collection Practices Act.” Significantly, those laws did not depend exclusively on regulatory agencies for enforcement. In many cases, a state’s attorney as well as private attorneys could bring actions to enforce these laws on behalf of consumers, because they could recover their fees and some penalties from violators. In some cases, they could bring class actions, making it possible to act for a group of consumers who had been cheated out of amounts too small for practical enforcement through case-by-case action.

Although those federal laws were quite helpful in improving the lot of consumers, they did not address most concerns. That would require more comprehensive legislation with *public and private enforcement potential*. While those federal laws were being enacted, responsible business interests and consumer advocates, spurred by fear of federal preemption of state consumer protection laws, were pressing for development of the Uniform Consumer Protection Code, to serve as a model for state legislatures to address local problems.

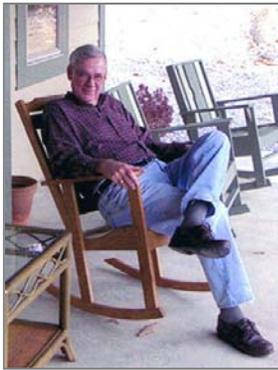
The South Carolina Consumer Protection Code is this State’s version of that Uniform Code, enacted after about seven years of intensive lobbying by a coalition of concerned creditor groups and consumer activists. Private as well as public enforcement of the new law was provided for. The oversight entity would be a separate new Department of Consumer Affairs, governed by a commission consisting of the chief regulator of consumer lending (the State Treasurer) and *six citizens who could have no connection to or financial interest in any of the creditor groups impacted by the new law* – reducing the potential for the proverbial fox guarding the henhouse.

In summary, South Carolina was teeming with abuse merchants by the late 1960s, taking advantage of the knowledge that citizens, especially elderly and less educated citizens, do not read and understand contracts at the point of sale. They knew that if they could get a signature by “hook or crook,” they could sell the contract and leave the consumer helpless in an action by a holder in due course. Moreover, the amount involved in most consumer contracts is too little to warrant the cost of a private lawyer.

The state sorely needed a law making a wide range of abusive market practices *unprofitable*, with inducements for private attorneys to help enforce rights. It needed a *single oversight agency* with the resources and responsibility to warn citizens of developing abuses from all sources, to assist with putting citizens in contact with appropriate enforcement mechanisms, and in some cases, to enforce such laws itself. This oversight agency should be tasked with informing the legislature of developing consumer abuses and lobby for remedial legislation. And importantly, the oversight agency must be relatively insulated from undue political pressure initiated by influential business operatives.

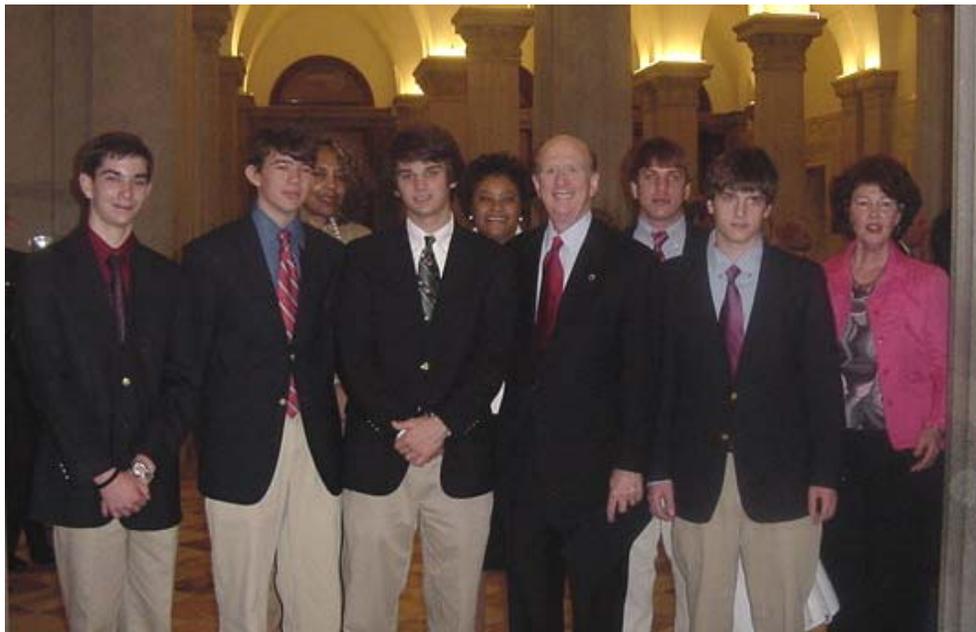
- ◆ **June 16, 1993:** The registration of Mortgage Loan Brokers Act was amended by Act 172 of 1993 to increase the required bond amount and to require compliance with certain disclosure requirements of the Federal Real Estate Settlement Procedures Act.
- ◆ The General Assembly enacted the Employee Staff Leasing Act, Act 169 of 1993, and made the department the regulating agency for companies that hire and lease a firm’s employees on a long-term basis as a means of reducing administrative, insurance or other costs. The Employee Staff Leasing Act, requires registration examination and net worth assessment of businesses engaged in long-term leases of employee services to other businesses.

The South Carolina Consumer Protection Code initially provided a fair measure of all of that. The vast majority of our consumer abuse merchants were closed down in the first years of this new law and agency. They will not likely be back as long as that law remains substantially intact and the agency continues to be diligent and effectively pursue abuses in a fair and balanced way, unimpeded by undue influence of the various affected business interests.



*In 1974, Irvin "Pete" D Parker became the first administrator of the South Carolina Department of Consumer Affairs. In 1978, he became the first Consumer Advocate for the Department when the role was created. He remained with the Department of Consumer Affairs until 1981, when he left to become Executive Vice President and General Counsel of Equi-Data, Inc. In 1986, he was named Director of the State Worker's Compensation Fund and Crime Victims Fund. Now retired, he spends his time playing the guitar while enjoying the view of the ocean at his Folly Beach home.*

*Right: State LifeSmarts champions participated in the 2005 Financial Literacy Day at the State House along with House Speaker David Wilkins, SCDCA Administrator Brandolyn Thomas Pinkston and Director of Educational Services Sherry Gore King.*



- ◆ **May 1, 1994:** Steven W. Hamm resigned as administrator/consumer advocate of the department. Philip S. Porter appointed acting co-administrator for Legal Affairs and acting consumer advocate. Herbert Walker appointed acting co-administrator for Administrative Services.
- ◆ **May 2, 1994:** Act 363 of 1994, amended the code to cover the decreasing term credit life insurance premium to 65¢ per one hundred dollars of indebtedness, lowering credit life premiums and allowing joint coverage on consumer credit insurance coverage.



**Philip S. Porter**

***The Department of Consumer Affairs and Deregulation***

When I came to the Department in 1978, I was a law student, and the Department itself was still fairly young. Steve Hamm interviewed me for a law clerk job, but he was going to the Attorney General's office to work in the Civil Litigation Division, for Bert Goolsby, now Court of Appeals Judge. I was to work for Kathy Smith, the general counsel, who was at that time on a sabbatical in the United Kingdom, and Deputy Administrator Roy C. Harms, who recently passed.

Things were happening though. The Department's Administrator, Pete Parker, was spending time at the General Assembly. Pete and Roy had been instrumental in the passage of the Consumer Protection Code, Pete as an attorney with the office of the Attorney General, and Roy as executive director of the Consumer Finance Association. Because of their expertise in the new law, they had toured the State to explain how it worked. They were both logical choices to administer it once passed. One thing that was happening was the creation of the Advocacy program. With a budget bill passed over Governor Edward's veto, the Department received this new duty and Pete Parker convinced Attorney General McLeod to let Steve Hamm stay and run it. It also allowed for the hiring of three attorneys, including me. In the late 1970s though, the country was in the grip of a recession and a period of very high inflation. Prime rate on the best quality loans was approaching 20%. Regulators and legislators in South Carolina and the Nation, were considering new approaches to traditional interest regulation.

Usury laws go back to Biblical times., The idea was that there should be some protection for the uninformed and ignorant from losing their homes and farms because of improvident debt. Originally, Hebrew law forbade any charging of interest at all. Various debts had to be wiped clean after a period of time, such as in the so-called "jubilee year." In the Middle Ages, the Christian culture adopted many of the Hebrew laws, with the effect that people could not technically charge interest on loans. The well intentioned prohibition, however, did not fit well with burgeoning trade centers such as Venice and Genoa. People found ways around the interest ban. Laws that found their way to the United States soon defined "usury" as charging more than the law allowed (usually 7 or 8%) rather than charging interest at all. In South Carolina, by 1980, the legal limit for various classes of loans became so complicated, even experts were unsure about what rate applied to what debt.

The economic situation in 1980 became critical. Creditors quit making loans, because existing rate limitations prevented them from making a profit. The Consumer Protection Code had originally been devised as a "deregulated" statute, with rate limitations so high (as high as 36%) that it was thought that no scrupulous creditor would ever exceed them. The economics of the time, however, brought this into question. Congress and the General Assembly started considering new ideas. Usury laws were paternalistic and conflicted with the general notion in the United States that government does not set prices on commodities, the argument went. Money was the same as other commodities; let the market set the price, they said. Opponents said there were good reasons that the law and the wisdom of the many centuries, going back to the writers of Scripture, and the Common Law of England, should not be scrapped because of a temporary economic condition.

Pete Parker resigned to enter private practice and business in 1981. A few months later, Steve Hamm was named by the Commission to replace him.

- ◆ **July 14, 1994:** Prizes and Gifts Act was enacted by Act 483 of 1994 to create a Chapter 15 to the Consumer Protection Code. The act prohibits the use of representation that the recipient has won a prize or contest when the recipient has any monetary obligation in order to obtain the prize. It also prohibits the use of simulated checks and invoices, as well as the representation that the recipient was "specially selected" if that was not true.
- ◆ **March 1995:** Philip S. Porter appointed administrator of department and state consumer advocate.

Steve took me to a legislative hearing chaired by the late Senator Marshall Williams in which the issue of deregulation was being considered. The Coalition of Lenders and Creditors had advanced their deregulation proposal in the legislative stage. Among the proposals, to make deregulation more palatable to some members of the General Assembly, were amendments giving the Department authority under the Unfair Trade Practices Act to investigate businesses on referral of private lawyers declining the case, or when the businesses failed to respond after inquiries from the Department. The Department has *never* had either the inclination nor the resources to harass scrupulous business people. Senator Williams, however, saw that part of the proposal as a danger that the Department would ride forth and be a scourge to honest business people. “Who is bringing this amendment about Consumer Affairs and Investigations?” Senator Williams sternly asked Professor Haynsworth, the drafter of the deregulation proposal. “Mr. Hamm of Consumer Affairs can address those issues,” Professor Haynsworth replied. “Well I’ll *get him* in a minute” said Sen. Williams. The day would come when I would have legislative committees that were not buying what I was selling, but I was glad that Steve was the one on the hot seat that day.

The deregulation bill passed, with some amendments like the ones described above to give the Department a little more power to address the excesses. Whether it worked is still a matter of debate. Clearly, deregulation made credit more available. It is likely that much credit is at lower rates that it would have been if rates had not been deregulated. What has not been answered is the underlying question of the old usury laws: What about the loan that should not be made at all? Total deregulation allows not only the scrupulous creditor more choices in rates, but it does so for the shyster and the legalized loan shark. Some consumers will be duped into signing almost any obligation, often for temporary or non-existent benefits. The General Assembly had to rethink the idea of deregulation in amendments regarding unconscionability, check cashing and title lending in the 1990s, and most recently, predatory lending in the area of mortgages. The struggle goes on. Our public policy dictates that credit be as freely available as possible. Sound public policy also dictates that the government put restrictions on those creditors who would put consumers in unaffordable loans or in crushing debt for those creditors own gain. The issue now, as then, is where the line should be drawn.

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*Philip S. Porter is a past administrator of the South Carolina Department of Consumer Affairs. Today he is in private practice.*

*Right: Phil Porter and Dr. Lonnie Randolph look on as Gov. Hodges presents a young consumer with a certificate for winning an SCDCA essay competition at the State House.*



◆ **June 30, 2000:** Governor James Hodges signed Act 387 of 2000 Part II, Section 82 Motor Vehicle Dealer Closing Fee, into law. The act amends the S.C. Consumer Protection Code to include motor vehicle dealer closing fees. Every motor vehicle dealer charging closing fees on a motor vehicle sales contract must pay a one-time registration fee of \$10 during each state fiscal year to the department. The closing fee must be included in the advertised price of the motor vehicle, disclosed on the sales contract and displayed in a conspicuous location in the motor vehicle dealership.



**Randall Rose**

### ***Plastic Lifestyles***

Reflecting the ubiquity and necessity of the credit card in daily life, for the first time ever consumers consummated more purchases through the use of credit cards than through cash and personal checks in 2003. The shift away from cash and other paper forms of money to plastic in the form of credit and debit cards is a trend that shows no signs of abating as Americans increasingly exploit the freedom, convenience, and immediate gratification offered by revolving consumer credit. For some consumers the willingness to use credit cards even for mundane, frequently purchased items such as fast food has come with a well documented dark side of debt accumulation, bankruptcy, and a corresponding loss of marketplace freedom. The existence of a virtual “debtor’s prison” in a putatively free market is ironic but not at all pleasant for those whose lifestyles have been constrained by debts exceeding their ability to repay. However, many consumers use credit cards without losing control and never find themselves confined in their lifestyles. What differentiates those who manage their credit cards so as to achieve the lifestyles they desire from those who find themselves coping with life in the debtor’s prison?

The importance of answering this question has been heightened by recent regulatory and marketplace developments. Despite the fact that credit cards are immensely profitable for financial institutions, the federal government has recently enacted legislation that restricts consumers’ access to bankruptcy as a means to escape onerous debt loads. Thus, in the future those consumers who find themselves locked in a debtor’s prison lifestyle will be less able to escape the terms of their confinement through means that do not include repayment of their debt. At the same time credit card issuers are increasingly marketing their products to a younger target including college-age adults and even teens under the age of 18. Thus, consumers at a young age are being encouraged to adopt credit cards as a primary means of acquiring goods and services at a time when their ability to repay is very limited. These marketing tactics have motivated the introduction of legislation in many states that would limit the ability of marketers to promote credit cards to minors and/or college students.

While the dark side of credit card behavior is undeniable, little attention has been paid to the fact that many consumers successfully manage their credit cards in order to signal their status to others, to build up a reserve of credit for emergencies, to facilitate their record-keeping and budgeting, to obtain membership in valued social groups, and to cope with temporary financial constraint. Recent research has suggested that differences in financial capital alone cannot account for the ability of consumers to manage their credit cards successfully. Credit cards are best understood, not merely as a means of payment, but rather in terms of how they are used to facilitate and regulate consumers’ lifestyles. That is, credit card practices differentiate, at least in part, those consumers who end up in the debtor’s prison from those who do not. Some consumers adopt credit card practices that foster self-control, while others adopt practices that undermine self-control. The challenge facing consumer advocates, especially in a political environment that favors business interests over those of individual consumers, is to find effective ways of educating current and future credit card users with respect to these sustainable credit card practices. While some regulation of credit card marketing to minors may be necessary and desirable, only adequate education with respect to responsible use of credit in all its forms offers the consumer a realistic opportunity to take full advantage of the lifestyle-building potential that access to credit makes possible.

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*Randall Rose is a professor of marketing at the University of South Carolina Moore School of Business. Dr. Rose recently co-chaired the 2003 American Marketing Association Summer Educators’ Conference with colleague Bruce Money of the Moore School’s International Business Department.*

- ◆ **September 12, 2000:** Governor James Hodges signed H4934, which exempts Community Care Retirement Communities that do not charge entrance fees from licensing by the department.
- ◆ **July 20, 2001:** Act 82 of 2001 goes into effect. The act gives the department oversight of Prescription Drug Discount Cards. Requires registration with the department to sell prescription drug discount cards and establishes penalties for violations that includes fines and/or imprisonment.



**Martin M. Simons**

### ***Insurance and South Carolina Consumers***

For thirty years, the Department of Consumer Affairs has challenged automobile, homeowners and workers' compensation insurance rate increases, saving South Carolina insurance consumers hundreds of millions of dollars. During my tenure as the State's Chief Casualty Actuary, the Consumer Advocate was a party to hundreds of rate hearings, providing valuable insights in the rate regulatory process.

In the past several years, the insurance rate regulatory process in South Carolina has been substantially revised, in the belief that less rate regulation will ultimately bring about an increased level of competition, and that this will result in lower rates for consumers. While these changes in the regulatory rate review process, coupled with the budget cuts imposed upon all areas of government, have reduced the number of insurance rate filings that are challenged by the Consumer Advocate's office, the Department continues to represent South Carolina consumers in the insurance buying process. The Advocate's involvement in automobile, homeowners and workers' compensation insurance rate cases continues to produce significant savings to consumers.

Insurance pricing is complex. Rates are developed by applying actuarial calculations to past insurance company experience to project the appropriate price for providing coverage in the future. The process involves the estimation of several parts of that price, including the claims and expenses that will be paid out of the insurance premiums. This process results not in a specific "correct rate," but in a rate that falls within a range of "reasonable rates." Rates in the low end of the range provide consumers with low rates, but if the actual claim payments exceed the estimates, insurance companies may suffer financial losses, resulting in potential insolvency with all the associated negative implications. Rates in the higher end of the range will tend to produce higher profits, at a financial cost to consumers. The goal of the rate hearing process is to produce rates that will earn the insurance company a reasonable rate of return. The insurance industry employs hundreds of actuaries to produce insurance rate requests. The Department of Insurance is saddled with the responsibility of reviewing these filings, but in the absence of a qualified actuary, the State is at a distinct disadvantage.

The Department of Consumer Affairs intervenes in those cases where an actuarial analysis has determined that the requested rates may be expected to produce excess profits. In intervening, the Consumer Advocate provides evidence that the rate levels requested by the insurance company are higher than the levels needed to produce a reasonable profit. Interventions in Workers' Compensation hearings have produced substantial reductions in the cost of insurance for small, medium and large employers throughout the State. Similarly, the Advocate has brought about significant reductions in the rates ultimately paid for homeowners and automobile insurance.

- ◆ **April 2002:** Administrator/Consumer Advocate Phil Porter appoints Elliott F. Elam, acting director of the Consumer Advocacy Division and acting deputy consumer advocate.
- ◆ **July 1, 2003:** Act 328 of 2000 goes into effect. Establishes procedures for a company to offer Prepaid Legal Services including registering with the department and obtaining approval of contracts. The department given authority to investigate consumer complaints and initiate action as authorized by law. Violations are subject to any combination of the following: (1) an administrative order to cease and desist; (2) administrative fines up to five thousand dollars; or (3) revocation or denial of registration.

In addition, the Department intervenes whenever it appears as though the processes used by the insurance industry do not adequately provide estimates of the expected cost of providing insurance in South Carolina. Following a recent request for increases in Homeowners rates for a major insurance company, the Consumer Advocate challenged the methods used to produce hurricane insurance rates in South Carolina.

The South Carolina Department of Consumer Affairs has and will continue to accept these challenges, intervening in those insurance rate cases where an actuarial analysis determines that there may be a bias in the insurance industry's rate requests. The Consumer Advocate will continue to challenge hurricane rates that do not adequately account for expected South Carolina claims, and will continue to challenge rate differences among South Carolina consumers that appear to be unfairly discriminatory.

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*Martin M. Simons MAAA, ACAS, FCA, provides actuarial consulting to public agencies and consumers throughout the United States. From 1985 to 1997, he was the Deputy Director and Chief Actuary for the South Carolina Department of Insurance.*



*Above: The nineteen recipients of the 2004 Stop Insurance Fraud Essay Competition.*

- ◆ **October 3, 2002:** Philip S. Porter announced his retirement as administrator/consumer advocate, effective October 26, 2002.
- ◆ **October 8, 2002:** The Commission on Consumer Affairs unanimously appointed Brandolyn Thomas Pinkston acting administrator of the department.
- ◆ **June 3, 2003:** Governor Mark Sanford signed the South Carolina High Cost and Consumer Loan Act, which protects consumers from unconscionable lenders and loan practices. The law went into effect January 1, 2004.



## Chief Robert M. Stewart

### *Homeland Security in South Carolina*

The statement ‘9/11 changed all of our lives’ may have been over used. However, it remains true today and will be true for years to come. Our lifestyle in these United States will never be the same. Immediately after the attacks, the establishment of a National Homeland Security Advisor to the President occurred and many states followed by establishing their own Homeland Security (HLS) offices. South Carolina was no different. The State Law Enforcement Division (SLED), within days, also established an Office of Counter Terrorism to act on behalf of the State in any effort to prevent or respond to acts of terror in S.C.

In January 2003 Governor Mark Sanford by Executive Order assigned the State’s coordination responsibility to SLED, and the Legislature followed later that same year codifying SLED as the State’s HLS entity and naming SLED as the official representative to the Secretary of the Department of Homeland Security (DHS).

SLED’s Office of Counter Terrorism was bolstered by assigning the Protective Services Unit, which includes its emergency management function to the CF unit. In addition, as required by DHS, a grants program to administer the Federal grant monies from DHS was established, and an Executive Assistant to the Chief for Homeland Security was added to the staff.

The Agency had now in place a framework for which to take on the role of homeland security coordinating agency for the state. The next challenge was how to reach out to state and local partners for their input, as they would traditionally be the first responders to any incident. It would have to be a bottom up approach to any response.

A State Counter Terrorism Coordinating Council (CTCC) was established with many of the key state and Federal agencies and representatives from all of the public safety disciplines. The Council was established to advise SLED on statewide issues. In order to reach down to the local level the state was divided into four regions by merging the existing SLED regions with the existing region map of the State Emergency Management Division. Using these four regions, councils mirroring the State Council were established with the idea that the regional councils would, through their Chairmen, bring to the State Council local issues and concerns. The four regional chairmen serve on the State Council.

The next question was how to deal with the large amounts of grant money and their distribution effectively and equitably. This, as you might suspect, was a critical decision. The Chief, as Chairman of the State CTCC moved before the State Council to establish a grants committee comprised of representatives from the various disciplines who would be charged with the responsibility of following the state strategy and grant guidance from Washington, review all local and state requests to see that funds are distributed in a proper and equitable manner within the law. In all effort to establish a basic level of capability, a needs assessment committee was created in each county comprised of the Sheriff, a fire chief, a police chief, the county emergency manager, and the emergency medical services director to determine local priorities and distribution of some wants.

While all of these steps were being taken to set up a HLS mechanism in SC, SLED was making many internal changes to address the counter terrorism efforts of the state. Additional manpower was added to the new CT unit. Nine agents were assigned full time under an MOU with the FBI to begin a Joint Terrorism Task Force (JTTF). A new project was getting underway to Charleston to address the issue of port security, and it was named SeaHawk. SeaHawk was funded through a Federal earmarked grant and the Division assigned a Lieutenant full time as the operations officer. Response plans for terrorist attacks were written for each of the State’s nuclear facilities and these plans were exercised more than once.

- ◆ **April 13, 2004:** The Commission on Consumer Affairs unanimously appointed Brandolyn Thomas Pinkston administrator of the department.
- ◆ **July 29, 2004:** Governor Mark Sanford signed Senate Bill 686, the Property and Casualty Insurance Personal Lines Modernization Act, into law.

In an effort to streamline internal procedures, SLED reorganized internally in July of 2004. The Office of Counter Terrorism was restructured by transferring the JTTF and Project SeaHawk components into the existing intelligence Unit and placing all of this under one Major for CT. In addition, the coordination of the Agency's WMD response team for planning and training was also placed under this office. This is a one-stop shop for counter terrorism issues with the exception of the grants program. The grant program, however, works in lock step with the Counter Terrorism Office. Today the Office of Counter Terrorism has three units with a Captain over each unit. The units are Protective Services/Emergency Management, Intelligence/Fusion and Special Projects. There is a monthly meeting of the State's WMD response components, which includes members from DHEC and the 43<sup>rd</sup> Civil Support Unit of the S.C. National Guard as well as SLED. This group works on training and exercises as well as equipment needs and other issues relating to their specialty.

SLED is continuing to strive to add more and better tools to support the anti-terrorism effort. One of the newest assets being developed is a Fusion Center for intelligence and information sharing across all disciplines. The Computer Crime Center has been transferred into what we all know as the Criminal Justice Information System (CJICS) here at SLED. This will give SLED a stronger resource in the fight against Cyber Terrorism and the ability to partner with the State Chief Information Officer to develop a response team to protect vital critical infrastructure and their systems from attacks on computer systems. It will also work very closely with the new Fusion Center to have systems in place to support the information and intelligence exchange. The incident reports local agencies complete on each call will be able to be used for more than just statistics, and will provide data mining to have a one-stop approach to checking many computer files from DMV, SCDC, DPS and PPP. This center is tied into the FBI and DHS. Today a lot can be done manually but when it is completed it will be done electronically and agencies will be able to directly access the fusion center. Look for more on the Fusion Center in months to come including opportunities for training on how to use the center and how to receive analytical training.

SLED has regionalized its bomb squad by placing agents and equipment for response to bomb calls in each of its four regions. Regional, Chemical, Ordnance, Biological, Radiological (COBRA) teams have been enhanced and expanded and local bomb squads have been upgraded. Under development are law enforcement containment teams, urban search and rescue teams, agro terrorism response teams and the enhancement of a statewide communications system. Level C personal protection equipment (PPE) has been made available to all law enforcement and EMS personnel, mass decontamination capabilities have been strengthened, awareness-training courses in cooperation with all disciplines have been completed and county emergency operations centers have been enhanced.

A lot has been accomplished in a relatively short amount of time but there is still much to be done. Constant contact is maintained with DHS, FBI, and other Federal partners. The exchange of information is better than it ever has been. SLED had the distinct privilege to attend a series of briefings at CIA headquarters this past summer just as an example of the new avenues that have been opening.

The homeland security effort is based on coordination and teamwork of many disciplines and agencies, some who were unaccustomed to working closely together. To date, the level of cooperation and professionalism has been exceptional. This must continue as South Carolina strives to be better prepared as part of defense to prevent, detect, respond to and recover from any terrorist activity. Future generations are depending on this team's success.

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*Chief Robert M. Stewart is the Chief of the South Carolina Law Enforcement Division.*

◆ **November 13, 2004:** Brandolyn Thomas Pinkston appoints Elliott F. Elam acting consumer advocate.



## **Hannah Timmons**

### **Early Dementia, Willing Victims**

Dementia patients are usually older people, many of them quite elderly. They have made decisions, nurtured others, and functioned in their personal and professional lives.

In its beginning stages, dementia is often not detected by family and friends. Impaired individuals may sense that something is wrong and become quite skilled at hiding faulty memory and impaired judgment. During this time, dementia victims become willing victims of telemarketers, credit card promoters, car dealers, brokers, banks, catalogs, TV sales, driveway pavers, house repairers, and even sales clerks in stores.

I learned the consumer pitfalls of dementia in the hard school of experience by deciding to help a fifty-four year-old friend who was losing her ability to function. When I first arrived at her house unannounced, she would not let me in but watched suspiciously as I opened boxes that were piled all over her front yard and steps. I found dead trees and bushes, spoiled fruit, spoiled meat, and ant-infested candy. She had apparently joined the tree, fruit, steak, lobster, and candy clubs of the month.

When she finally let me, I realized that the yard was full because the house wouldn't hold anything else. Full boxes, empty boxes, and packing materials were everywhere. Items she had ordered, largely by telephone because she could no longer fill out blanks, were piled and scattered around. A curious pile of metal in the living room turned out to be a huge chandelier and 200 racks for grilling shish kebabs. There were more than 100 pairs of white tennis shoes. The list goes on and on.

The single most expensive item that she bought was a red sports car, and she took a financial beating on it. She wrote a check for the sticker price for a car that was a year old, had been used by the dealer as a demonstrator, and had 5200 miles on it. She had bought a new van from the same dealer the year before the same year model as the red car. Even though she had long been a customer known for driving a hard bargain, nobody at the dealership thought anything was wrong with her.

Replacing carpet with hardwood floors in her living room was another financial disaster. She bought a \$700 saw and enough wood to replace a dozen floors. Both the saw and wood disappeared, but the carpet was still on the floor. She did not remember that she had negotiated with somebody to do the work, but the receipts told the story.

Her total credit card count finally came to forty-four. She owed a total of \$38,000 in credit card debt, including late charges and interest. She was still trying to make payments but was mailing blank checks because she could no longer write.

Her stockbroker had bought and sold, and then bought and sold again, always with her permission. She always gave permission because she had neither the judgment to make an informed decision nor the ability to disagree with anything anybody suggested.

- ◆ **June 2004: Legislation: Budget Proviso Section 49.5 Maximum Rate Notification Fee Increases** Authorized an increase in fees charged to registered creditors in South Carolina. The consumer credit grantor notification fee was increased from \$90 per location to \$120 per location, and the maximum rate schedule was increased from \$20 to \$40 per location.
- ◆ **June 2004: H.4818 Delinquency Charges Assessment:** The time for assessing late charges in consumer loans was amended to conform to federal law. Lenders cannot charge more than one late fee per payment and they cannot use the late fee amount as a basis for charging an additional late fee.

When I went with her to her bank, I was greeted by employees who expressed relief that somebody was finally looking out for her. A few minutes later, when I asked how she had been persuaded to buy a \$100,000 bond that she could not touch without a penalty, nobody in the bank had noticed that she was not functioning capably. She had been told that she needed the bond for tax purposes. She didn't need tax breaks; she was going into a nursing home where medical expenses would provide all the deductions she would ever need. The bank would not release her from the commitment

All of us have pulled consumer goofs that we are embarrassed to recall. Unlike the rest of us, persons in the early stages of dementia become willing victims because coping with such difficulties as sales pressure is not possible. Covering up the disability is what matters most. Early detection by family and friends is the best insurance that dementia patients can have in order not to be cheated.

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*Hannah Timmons is a member of the Silver-Haired Legislators.*

*Right: SCDCA Director of Web Services Anna Albers instructs seniors about the website during a series of lectures at Furman University.*



- ◆ **November 4, 2004: H.4668 Gift Cards:** Merchants must disclose the terms and conditions of the cards.. It is illegal to sell a gift card that expires in less than one year unless the expiration date is printed on the card in capital letters in 10-POINT FONT. If the gift certificate fails to clearly state the expiration date as required, it is automatically valid for one year. Any other conditions such as declining values or extra fees must be printed on the card, its envelope or other covering. If it is not clearly marked, no fees may be charged. Governor Mark Sanford signed the bill into law on November 4, 2004.
- ◆ **November 4, 2004: Budget Proviso Section 49.2 Athletic Agents:** The department retains oversight responsibility for athletic agents.



**Nancy Webb**

***Predatory Lending: A Fair Housing Issue  
The Call For Community Action***

The late 1990s culminated in unprecedented growth and economic development for our state and the nation as a whole. Many factors played an important contribution. South Carolina homeownership rates rose to an all time high of 72%.

During this same period a darker, more sinister series of events were set in motion that would rob many South Carolinians of their homes, self-esteem, and pride of home ownership. These events would send them on a downward negative spiral that would spin out of their control.

Deregulation of banking, relaxation of the usury laws which had previously served South Carolina well, a hot stock market and huge amounts of capital flowing into underserved communities with little oversight contributed to a reversal of fortune (equity) for many. Subprime lending exploded into the marketplace.

Predatory lending can be defined as loans that offer no net benefit to the borrower. (1) They can further be described as unsustainable, often unconscionable and sometimes fraudulent. Predatory lending can often be found in the subprime market. As high as 80% of subprime mortgages contain prepayment penalties.(2)

Predatory ending can also be defined as the exact opposite of community development. It is dis-investment. The beneficiaries are individuals and corporations set to make huge profits from the people who can afford it the least, the elderly, uneducated and unsophisticated consumer who naively answers and add that often says, “No credit, No Problem.”

A study by the Southern Rural Development Initiative found that 41.6% of South Carolina’s African American population is invested in the subprime market. This rate was significantly higher than any of our surrounding states and the national average.

Anderson County led the state with the highest rate of foreclosure, increasing 357% over a five-year period. Abandoned mobile homes littered the rolling countryside. Many of which occurred in the first year of occupancy. Eventually the FBI, followed by the U.S. Treasury, opened an investigation into federal mail and wire fraud and a number of indictments have followed.

As communities, agencies and responsible public officials became increasingly aware of a variety of bad lending practices leading to homelessness and hopelessness, South Carolina Department of Consumer Affairs took a lead role in bring together a coalition of concerned parties which included Appleseed Legal Justice Center, South Carolina Fair Share, AARP, the banking and real estate industry, non-profits, church denominations and consumer advocates.

Brandolyn Thomas Pinkston coordinated a task force and formulated the first teleconference on predatory lending. South Carolina ETV provided the media outlet and a video was produced. Calls came from as far away as Mexico, Canada and New Zealand. The Pentagon was interested in participation because of the high number of payday lenders that have established themselves near their army bases.

(1) Kathleen Engle. Cleveland Marshall Law School, Cleveland Ohio

(2) John Marshall Law School. Chicago, Illinois

The Senate Banking Committee, led first by Senator Glenn McConnell and followed by Senator David Thomas, held a series of public hearings to record testimony by victims from throughout the state. None was more jolting than the testimony of a woman who represented four generations of one family from the upstate that were facing foreclosure.

After two years of lengthy negotiations, pressure from special interest groups, outnumbered consumer advocates, numerous editorials by The State Newspaper and other editorial writers across South Carolina, legislation was introduced and passed that created far more consumer protections for South Carolinians. The bill created mandatory credit counseling for high interest rate loans, strengthened unconscienability, and created an agency relationship between mortgage brokers and their clients.

Last January, South Carolina State Housing Development Authority recognized South Carolina Consumer Affairs and their coalition partners with one of eight South Carolina Housing Achievement Awards for a job well done.

Unfortunately, there is more legislation needed to immediately curb the 300 - 400% interest rates charged by fringe financial institutions. It's time to research the data again, open hearings and put an end to legal extortion within the heart of our neighborhoods.

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*Nancy Webb has been a realtor for 35 years, and is now a property manager in Greenville, South Carolina. She is a member of the Anderson Community Housing Resource Board and the Anderson Mental Health Association Board.*

*Right: SCDCA Administrator Brandolyn Thomas Pinkston and SCDCA Attorney Charles Knight stand with Senator David Thomas and Governor Mark Sanford after the Predatory Lending Bill signing in June 2003.*



◆ **January 1, 2005: S.208 Public Service Commission Reform:** The bill institutes new requirements for Public Service Commissioners. Commissioners must now hold bachelor's degrees and have expertise in a relevant field such as energy, telecommunications, accounting or law. The election of legislators' spouses or immediate family is prohibited. New restrictions on lobbying efforts for PSC seats are established. Indirect lobbying is prohibited. It is illegal for anyone to contact legislators on candidates' behalf before they clear a screening committee. Commissioners must work full-time and abstain from other work during business hours. Former commissioners cannot work for a public utility for at least one year after they leave office. Members will be elected to staggered terms. Rules for ex parte communication are detailed. Imposes penalties and remedies for



**Leslie G. Wiser, Jr.**  
**Special Agent-in-Charge**  
**Columbia Division, Federal Bureau of Investigation**

### *Identity Theft*

The most recent disclosure by a major database company that thousands of consumer information files in its custody had been compromised by a computer hacker received concerns about the increasingly serious threat of Identity Theft.

#### **What is Identity Theft?**

Identity Theft is the fraudulent use of an individual's personal identifying information, such as a social security number, mother's maiden name, date of birth, or account number. It is almost always a precursor to other crime, usually financially motivated. Some uses of a stolen identity include fraudulently opening new credit card accounts, charging existing credit card accounts, writing checks, opening bank accounts, or obtaining new loans. These are typically done in order to obtain items of value.

Identity Theft may go undetected for months or even years. Victims of Identity Theft may not realize that someone has stolen their identity until they are denied credit until a creditor attempts to collect an unpaid bill. It is, therefore, prudent to closely examine credit card bills and other invoices on a regular basis to detect unexplained transactions early.

The top Identity Theft crimes are credit card fraud, cellular phone fraud, check fraud, loan fraud, and government benefits fraud. The average victim, according to one study, spends 175 hours to repair identity theft damage.

Private consumer information may be acquired by computer hackers from companies which hold your information but identity thieves also may obtain information directly from consumers. One way is through internet "phishing."

"Phishers" send unsolicited email to consumers which purports to be from a bank or other company asking for private information, such as account numbers, passwords, or personal identification numbers (PIN). In this way, a "phisher" can electronically steal funds. Often, stolen funds are transferred to accounts overseas, many times beyond the reach of U. S. law enforcement. Legitimate banks or businesses will not send you unsolicited emails asking for personal information.

#### **Identity Theft Prevention Steps**

- Never give personal information via telephone, mail or internet, unless you initiated the contact
- Store personal information in a safe place
- Shred credit card receipts and/or old statements before discarding in the garbage
- Protect PINs and passwords
- Carry only the minimum amount of identification documents

◆ **January 1, 2005: S.208 Public Service Commission Reform:** The bill creates a new state agency, the Office of Regulatory Staff (ORS). The ORS is independent of the Public Service Commission. It will represent the public interest in all public utility matters before the PSC. All responsibilities of the Consumer Advocate related to public utilities will cease on December 31, 2004. The Division of Consumer Advocacy's existing utility caseload will be transferred to the ORS

- Remove your name from mailing lists or pre-approved credit lines and telemarketers
- Order and closely review biannual copies of your credit report from each national credit reporting agency.
- Request DMV to assign an alternate driver's license number lit currently features your Social Security Account Number.
- Ensure that your PIN cannot be observed by anyone while utilizing an ATM or public telephone.
- Close all unused credit card or bank accounts.
- Contact your creditor or service provider if expected bills don't arrive.
- Check account statements carefully.
- Guard your mail from theft.
- BE AWARE!

**What You Should Do If You Become a Victim Qf Identity Theft:**

First: Contact the fraud department for the three major credit bureaus:

- Experian (TRW) 888-397-3742
- TransUnion 800-680-7289
- Equifax 800-525-6285

Second: Contact government fraud hotlines:

- Internet Fraud Complaint Center at [www.ifccfbi.gov](http://www.ifccfbi.gov)
- Social Security Administration's Fraud Hotline 800-269-0271
- Federal Trade Commission's Identity Theft Hotline 877-FTC-HELP or 877-IDTHEFT or [www.consumer.gov](http://www.consumer.gov)

Third: Notify by phone or in writing the fraud security department of the compromised or fraudulent account issuer to close all tampered or fraudulent accounts; ask about secondary cards.

Fourth: Contact the local police department in the community where the Identity Theft occurred and obtain copies of all police reports made.

Finally: Keep a detailed log or record of all contacts, including the location of all contacts, including the location you contacted, the names of persons with whom you spoke (as well as their title, call-back number and extension), and write down the procedures they provide.

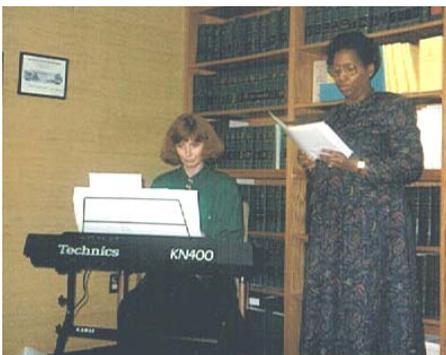
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*Leslie O. Wiser, Jr. was appointed by Director Mueller as Special Agent-in-Charge (SAC) of the Columbia Division of the FBI in March 2004. As SAC he is responsible for all FBI investigations and operations in South Carolina.*

*Mr. Wiser and his wife of 27 years, Debra, have two children.*

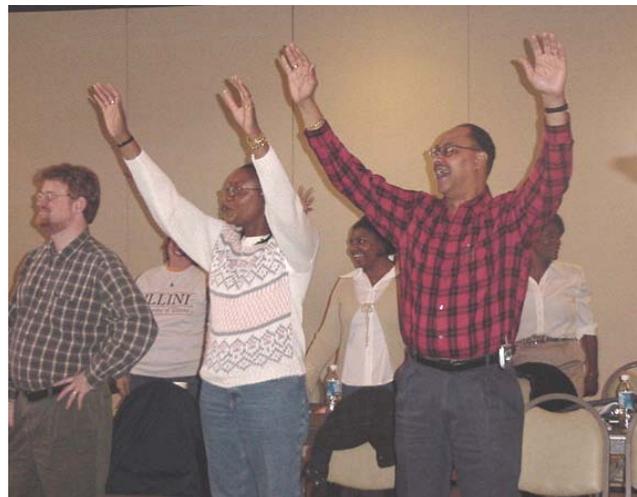
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| <p>◆ <b>January 13, 2005: S.682 Licensing of Mortgage Loan Originators_</b> goes into effect: Amends the existing law relating to the licensing and registration of mortgage brokers. The word "loan" was removed from the title (from Mortgage Loan Broker to Mortgage Broker).</p> |
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## South Carolina Department of Consumer Affairs: Snapshots of the last 30 years













**Printed May 2005**

*Total Printing Cost: \$1,695.00*

*Number of Documents Printed: 500*

*Cost Per Unit: \$3.39*