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Rob Sand  
Auditor of State

**NEWS RELEASE**

FOR RELEASE

February 1, 2019

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In accordance with House File 2492 enacted during the 2018 session of the General Assembly and signed by the Governor on June 1, 2018, Auditor of State Rob Sand today released an agreed-upon procedures report identifying the sources and uses of discretionary funds of the Iowa Department of Justice for the period July 1, 2017 through June 30, 2018. The procedures were performed to identify the sources and uses of discretionary funds administered by the Department, including legal settlement funds. The agreed upon procedures report was filed on its due date of February 1, 2019.

Sand recommended the Attorney General consult with the legislature to determine the appropriate interpretation of these statutes going forward, and whether any changes are necessary.

A copy of the agreed-upon procedures report is available for review on the Auditor of State's web site at <https://auditor.iowa.gov/reports/audit-reports/>.

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**IOWA DEPARTMENT OF JUSTICE**  
**AUDITOR OF STATE'S INDEPENDENT REPORT**  
**ON APPLYING AGREED-UPON PROCEDURES**  
**FOR THE PERIOD**  
**JULY 1, 2017 THROUGH JUNE 30, 2018**

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Officials

Name

Honorable Kim Reynolds

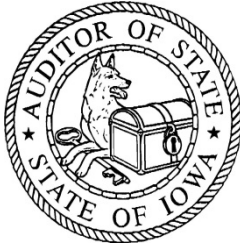
Thomas J. Miller

Title

Governor

Attorney General

**Iowa Department of Justice**



**OFFICE OF AUDITOR OF STATE**  
**STATE OF IOWA**

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Auditor of State's Independent Report on Applying Agreed-Upon Procedures

To the Honorable Thomas J. Miller, Attorney General of the State of Iowa:

We have performed the procedures enumerated below, which were agreed to by the Iowa Department of Justice (Department) for the period July 1, 2017 through June 30, 2018 to identify the sources and uses of discretionary funds, including but not limited to legal settlement funds controlled by the Department, in accordance with Section 1 of House File 2492. The Department's management is responsible for the financial information.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the Department. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

The procedures we performed are summarized as follows:

- a. We reviewed Chapter 13 of the Code of Iowa to determine and document the purpose and duties of the Department.
- b. We reviewed settlement agreements and other documentation and legislation pertaining to all discretionary funds received and deposited during fiscal year 2018 to determine the amount of funds received and the purpose for which the funds could be utilized by the Department.
- c. We reviewed the activity within the Department's discretionary funds for fiscal year 2018, including revenues, expenditures and beginning and ending balances to identify unusual transactions that may not meet the purpose or allowable use of the funds.
- d. We tested selected expenditures and transfers for fiscal year 2018 from each discretionary activity source to determine whether use of the discretionary funds complied with the applicable settlement, other agreement or legislation.

Based on the performance of the procedures described above, we identified a recommendation for the Department. Our recommendation is described in the Detailed Recommendations section of this report. Unless reported in the Detailed Recommendations, items of non-compliance were not noted during the performance of the specific procedures listed above.

We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on the financial information associated with the Department's sources and uses of discretionary funds for the period July 1, 2017 through June 30, 2018. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report, a public record by law, is intended solely for the information and use of the Department of Justice, the Governor's Office and the General Assembly. This report is not intended to be and should not be used by anyone other than these specified parties.

We would like to acknowledge the many courtesies and assistance extended to us by personnel of the Department of Justice during the course of our agreed-upon procedures engagement. Should you have any questions concerning any of the above matters, we shall be pleased to discuss them with you at your convenience.

A handwritten signature in black ink, appearing to read "Rob Sand". The signature is stylized with a large, looped "R" and a cursive "Sand".

ROB SAND  
Auditor of State

February 1, 2019

## Iowa Department of Justice

For the Period July 1, 2017 through June 30, 2018

### **BACKGROUND INFORMATION**

Section 1 of House File 2492, 2018 Iowa Acts, requires the Department of Justice (Department) to be subject to an agreed-upon procedures engagement performed by the Auditor of State to identify sources and uses of discretionary funds of the Department, including legal settlement funds controlled by the Department. The House File requires a written report, including findings and recommendations, if any, be filed with the Governor's Office and the General Assembly by February 1, 2019.

The Department, with the Attorney General as head and chief legal officer of the State, is established under the Constitution of the State of Iowa and Chapter 13 of the Code of Iowa. The duties of the Department are outlined in Chapter 13 of the Code of Iowa and include the following:

- Prosecute and defend all cases in the Supreme Court and Iowa Court of Appeals in which the state is a party or has an interest.
- Represent the state in other actions and proceedings, both civil and criminal, when, in its judgment, the best interests of the state require it to do so, or when requested to appear by the Governor, Executive Council or General Assembly.
- Prosecute and defend all actions and proceedings brought by or against any state officer in the officer's official capacity and any employee of a judicial district department of correctional services in the performance of an assessment of risk.
- Promptly account to the Treasurer of State, for all state funds received by the Attorney General.
- Inform prosecuting attorneys and assistant prosecuting attorneys to the state of all changes in law and matters pertaining to the office and establish programs for the continuing education of prosecuting attorneys and assistant prosecuting attorneys. The Attorney General may accept funds, grants and gifts from any public or private source to be used to defray the expenses incurred to implement these duties.
- Establish and administer a prosecutor intern program, in cooperation with Drake University and the University of Iowa.
- Submit a report by January 15 of each year to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, the Executive Council and to the Legislative Services Agency detailing the amount of annual money generated by each settlement of judgment in excess of \$250,000 collected pursuant to legal proceedings.

The Department provides assistance to victims of crime, including crime victim compensation and support for local programs that aid victims. The Department also has a Consumer Protection Division that works to protect Iowa consumers from fraud, ensures fair competition in the marketplace and informs the public about consumer frauds and how to avoid becoming a consumer fraud victim. The Division also helps the citizens of Iowa with complaints on a wide range of topics, including improper debt collection practices, telemarketing fraud, predatory lending, etc. The Attorney General has led multistate investigations and settlements resulting in significant funds for consumer relief to the citizens of Iowa. The activities of the division are accounted for in the General Fund of the Department and include expenses for personal services, travel, communications, professional services, postage and equipment. These expenses are "covered" or reimbursed from various sources on a monthly basis, including funds from the Consumer Education and Litigation Fund, Consumer Credit Administration Fund, the Elderly Victims Fraud Fund and funds from various consumer fraud settlements.



Iowa Department of Justice

For the Period July 1, 2017 through June 30, 2018

The Department also has a farm division which leads cases in that area helping hundreds of farmers.

The Department has established funds to account for the discretionary and nondiscretionary revenues and expenditures that are generated from the performance of the above duties. Nondiscretionary revenues include appropriations, federal grants, reimbursements for services provided to other departments and interest. Discretionary revenues are those for which the Attorney General has the authority to direct how the funds are used. Discretionary revenues include settlements arising from litigation or class action suits which involve the State of Iowa as well as certain grants, forfeiture funds, interest earned on the discretionary funds, human trafficking surcharges and consumer credit fees. The funds which include discretionary activity are detailed in **Table 1**.

**OBJECTIVES, SCOPE AND METHODOLOGY**

In accordance with HF 2492, we conducted an agreed-upon procedures engagement to identify sources and uses of discretionary funds of the Department, including but not limited to legal settlement funds controlled by the Department. We reviewed the revenues and expenditures in the discretionary funds of the Department for the period July 1, 2017 through June 30, 2018. We reviewed all revenues and the related settlement agreements or other documentation, noting the purpose of the settlement, the amount of funds received and the nature of how the funds could be utilized by the Department. We reviewed the expenditures and transfers in the discretionary funds to ensure compliance with the requirements of the settlement agreements or other documentation or legislation. The receipts, expenditures and beginning and ending balances of each discretionary fund for the period July 1, 2017 through June 30, 2018 are summarized below:

**Table 1**

Discretionary Fund	Balance	Receipts	Transfers In	Expenditures		Transfers Out	Balance
	July 1, 2017			Reimbursements	Other		June 30, 2018
Consumer Education & Litigation	\$ 6,396,580.06	699,090.40	2,020,000.00	(2,807,914.43)	(300,000.00)	(2,000,000.00)	4,007,756.03
Consumer Fraud Refunds	6,250,867.76	2,649,409.03	-	(185,797.47)	(433,654.37)	(120,000.00)	8,160,824.95
Consumer Credit Administration	572,937.00	481,630.37	-	(400,000.00)	(9,483.57)	-	645,083.80
Elderly Victims Fraud	1,575,369.01	380,051.84	100,000.00	(800,000.00)	(16,612.73)	-	1,238,808.12
Fine Paper Anti-trust	826,860.87	850,839.67	-	(233,369.79)	(18,196.74)	-	1,426,134.01
Forfeited Property	1,137,299.44	223,663.23	-	(14,710.09)	(13,091.26)	-	1,333,161.32
Federal Forfeiture Asset Sharing	473.06	3,642.97	-	-	(4,079.98)	-	36.05
Environmental Crime	16,744.77	210.58	-	-	-	-	16,955.35
Tuition Refund	101,387.03	1,274.68	-	-	-	-	102,661.71
Human Trafficking Victim	32,946.07	8,084.76	-	-	(39,532.82)	-	1,498.01
Human Trafficking Enforcement	381,356.24	10,405.00	-	-	(223,466.56)	-	168,294.68
	<b>\$ 17,292,821.31</b>	<b>5,308,302.53</b>	<b>2,120,000.00</b>	<b>(4,441,791.78)</b>	<b>(1,058,118.03)</b>	<b>(2,120,000.00)</b>	<b>17,101,214.03</b>

Iowa Department of Justice

For the Period July 1, 2017 through June 30, 2018

**SUMMARY OF DISCRETIONARY FUNDS**

**Consumer Education and Litigation Fund**

This fund was established by Code of Iowa Chapter 714.16C to be administered by the Attorney General. Deposits into the fund consist of funds received from state or federal civil consumer fraud settlements, civil penalties, costs or attorney fees and amounts which are specifically directed to be credited to the fund for consumer litigation and education purposes, including for example, pamphlets or seminars. Iowa law limits the amount disbursed from the fund per each fiscal year.

**Receipts**

Deposits made to the Consumer Education and Litigation Fund during fiscal year 2018 are summarized on **Exhibit A** and a summary of each settlement or other revenue source is included at **Appendix 1**.

**Transfer In**

During the fiscal year, \$20,000.00 was transferred from the Consumer Fraud Refunds Fund to the Consumer Education and Litigation Fund to move settlement funds received from Osmosis, LLC. These funds were originally deposited to the Consumer Fraud Refunds Fund. However, pursuant to the settlement agreement, funds remaining after reasonable efforts to provide refunds to consumers have been exhausted are to be deposited into the Consumer Education and Litigation Fund.

**Expenditures - Reimbursements**

During the fiscal year, the Consumer Education and Litigation Fund reimbursed the Consumer Protection Division of the General Fund a total of \$2,807,914.43, \$1,807,914.43 for consumer protection expenses and \$1,000,000 for criminal appeals payroll expenses. As noted in the "Background Information" above, the activities of the Consumer Protection Division are accounted for in the General Fund of the Department and are "covered" or reimbursed from various sources on a monthly basis, including funds from the Consumer Education and Litigation Fund. The \$1,807,914.43 transfer for the consumer protection expenses is authorized in Chapter 714.16C(2) of the Code of Iowa. The \$1,000,000 transfer for criminal appeals payroll expenses is authorized by Section 25 of Senate File 509, 2017 Iowa Acts, which appropriated not more than \$1 million from the Consumer Education and Litigation Fund to the Department to be used for salaries, support, maintenance and miscellaneous purposes for criminal prosecutions, criminal appeals and performing duties pursuant to Code of Iowa Chapter 669.

**Expenditures - Other**

During fiscal year 2018, \$300,000.00 was paid to Iowa Mediation Services pursuant to a farm mediation grant agreement. The purpose of the agreement is to implement Section 2 of Senate File 509, 2017 Iowa Acts. The Senate File appropriated \$300,000.00 from the Consumer Education and Litigation Fund for farm mediation services for fiscal year 2018. Iowa Mediation Services provides services as provided in Code of Iowa Chapters 654A, 654B and 654C, including farmer-creditor disputes, care and feeding contracts, nuisances and animal feeding operation structures.

Iowa Department of Justice

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**Transfers In and Out**

On February 26, 2018, \$1,000,000 was transferred from the Consumer Education and Litigation Fund to the Consumer Protection Division of the General Fund. The documentation supporting the transfer indicated the transfer was for “cash flow purposes”. The funds were returned to the Consumer Education and Litigation Fund on July 19, 2018. Prior to the funds being returned, a similar \$1,000,000 transfer occurred on June 4, 2018. That amount was returned to the Consumer Education and Litigation Fund on August 20, 2018. The transfers from the General Fund to the Consumer Education and Litigation Fund to return these funds were made in the accrual period and are, therefore, reflected in the fiscal year 2018 activity in **Table 1**. Per inquiry of Department personnel, the transfers are made, when necessary, to cover payroll expenses until reimbursements due to the Department are received from other agencies or entities. For the two transfers identified in fiscal year 2018, we reviewed documentation indicating the necessity of the transfers due to the lack of funds available in the Consumer Protection Division of the General Fund, at the time of the transfers, to cover payroll expenses related to the Consumer Protection Division of the General Fund. The funds were returned upon collection of funds owed to the Consumer Protection Division of the General Fund from other agencies or entities.

**Consumer Fraud Refunds Fund**

This fund was established by the Department for the receipt of consumer fraud settlements which are directed to be paid out to specific consumers who have been harmed by the fraud.

**Receipts**

A summary of deposits made to the Consumer Fraud Refunds Fund during fiscal year 2018 are summarized on **Exhibit A** and a summary of each settlement or other revenue source is included at **Appendix 1**.

**Expenditures - Reimbursements**

During fiscal year 2018, the Consumer Fraud Refunds Fund reimbursed the General Fund a total of \$185,797.47, \$160,528.92 for consumer protection expenses, \$25,000.00 for a portion of the Attorney General’s salary originally paid for from the General Fund and \$268.55 for Attorney General travel expenses to Washington D.C. for an E-cigarette Summit. As noted in the “Background Information” above, the activities of the Consumer Protection Division are accounted for in the General Fund of the Department and are “covered” or reimbursed from various sources on a monthly basis, including funds from the Consumer Fraud Refunds Fund.

**Expenditures - Other**

Expenditures made from the Consumer Fraud Refunds Fund include payments to consumers totaling \$433,654.37 for fiscal year 2018. When consumer fraud settlements are reached, the settlements may identify consumers who were taken advantage of and who qualify for refunds.

- \$289,407.84 was refunded to consumers for various settlements.
- \$102,635.40 was paid to Iowa Prescription Drug Corporation (Corporation) in connection with a settlement reached in September 2012. The settlement with Janssen Pharmaceuticals, Inc. and Johnson & Johnson provided that settlement funds could be used to assist funding programs directed at mental illness treatment, including but not limited to education and outreach. The Corporation created and operates the Iowa Medication Voucher Program which helps Iowans who need assistance purchasing their

## Iowa Department of Justice

For the Period July 1, 2017 through June 30, 2018

prescribed medications, as well as providing mental health medication to individuals being released from prison.

- Payments totaling \$17,427.25 and \$24,036.68 were also paid to the Iowa Pork Producers Association and Iowa State University, respectively, in connection with a settlement reached in December 2015. A settlement with Smithfield Foods provided that up to \$100,000.00 per year could be administered by the Attorney General and spent on innovative programs to advance swine production in Iowa.
- Remaining expenses in the fund of \$147.20 consisted of postage and miscellaneous expenses.

### **Transfers Out**

During fiscal year 2018, \$100,000.00 was transferred from the Consumer Fraud Refunds Fund to the Elderly Victims Fraud Fund to move funds received in a previous fiscal year from Wal-mart for a settlement related to misleading marketing on Spring Valley products. Pursuant to the settlement agreement, funds not returned to customers are to be deposited into the Elderly Victims Fraud Fund.

In addition, \$20,000.00 was transferred to the Consumer Education and Litigation Fund to move settlement funds received from Osmosis, LLC. These funds originally deposited to the Consumer Fraud Refunds Fund. However, pursuant to the settlement agreement, funds remaining after reasonable efforts to provide refunds to consumers have been exhausted are to be deposited into the Consumer Education and Litigation Fund.

### **Consumer Credit Administration Fund**

This fund is used to account for the collection of annual fees from entities offering credit to consumers and was established to be used for the administration of Code of Iowa Chapter 537, Consumer Credit Code. The purpose of Chapter 537 is to simplify, clarify and modernize the law governing retail installment sales and other consumer credit, provide rate ceilings for certain creditors in order to assure an adequate supply of credit to consumers, further consumer understanding of the terms of credit transactions and foster competition among suppliers of consumer credit so that consumers may obtain credit at a reasonable cost, protect consumers against unfair practices, permit and encourage the development of fair and economically sound consumer credit practices, conform the regulation of disclosure in consumer credit transactions to the Truth in Lending act, make the law more uniform among the various jurisdictions

### **Receipts**

During fiscal year 2018, \$481,680.37 was collected by the Department from creditors engaged in consumer credit transactions and acts, practices and/or conduct involving consumer credit transactions and deb collectors. Collections include fees and penalties.

### **Expenditures - Reimbursements**

During fiscal year 2018, the Consumer Credit Administration Fund reimbursed the General Fund a total of \$400,000 for consumer protection expenses. As noted in the "Background Information" above, the activities of the Consumer Protection Division are accounted for in the General Fund of the Department and are "covered" or reimbursed from various sources on a monthly basis, including funds from the Consumer Credit Administration Fund. The transfers from the Consumer Credit Administration Fund and the Elderly Victims Fund are estimated amounts

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based on the Department's line item budget for consumer protection or actual expenses, whichever is lower.

### **Expenditures - Other**

In accordance with Code of Iowa Chapter 8A.505, the Department of Administrative Services has developed a system to allocate indirect costs to other state agencies. Since Consumer Credit Administration has its own office space, a portion of the indirect costs are allocated to the Consumer Credit Administration Fund for costs associated with office space, printing and internet service. The amount of indirect costs billed to the Consumer Credit Administration fund for FY2018 totaled \$7,698.57.

In addition, \$1,785.00 was paid out in refunds to consumers who paid incorrect amounts of consumer credit fees.

### **Elderly Victims Fraud Fund**

This fund was established by Code of Iowa Chapter 714.16A to be administered by the Attorney General. Deposits into the fund consist of civil penalties, not to exceed \$5,000 per violation, for consumer fraud violations committed against older persons and civil penalties received in investigation settlements.

### **Receipts**

A summary of deposits made to the Elderly Victim's Fraud Fund during fiscal year 2018 are summarized on **Exhibit A** and a summary of each settlement or other revenue source is included at **Appendix 1**.

### **Transfer In**

During the fiscal year, \$100,000.00 was transferred from the Consumer Fraud Refunds Fund to the Elderly Victims Fraud Fund to move funds received in a previous fiscal year from Wal-Mart for a settlement related to misleading marketing on Spring Valley products. Pursuant to the settlement agreement, funds remaining after reasonable efforts to provide refunds to consumers have been exhausted are to be deposited into the Elder Victims Fraud Fund.

### **Expenditures – Reimbursements**

During fiscal year 2018, the Elderly Victims Fund reimbursed the General Fund a total of \$800,000.00 for consumer protection expenses. As noted in the "Background Information" above, the activities of the Consumer Protection Division are accounted for in the General Fund of the Department and are "covered" or reimbursed from various sources on a monthly basis, including funds from the Elderly Victims Fraud Fund. The transfers from the Consumer Credit Administration Fund and the Elderly Victims Fund are estimated amounts based on the Department's line item budget for consumer protection or actual expenses, whichever is lower.

### **Expenditures – Other**

In accordance with Code of Iowa Chapter 8A.505, the Department of Administrative Services has developed a system to allocate indirect costs to other state agencies. Since Elderly Victims has its own office space, a portion of the indirect costs are allocated to the Elder Victims Fraud Fund for costs associated with office space, printing and internet service. The amount of indirect costs billed to the Department and charged to the Elderly Victims Fund for FY2018 totaled \$16,612.73.

## Iowa Department of Justice

For the Period July 1, 2017 through June 30, 2018

### **Fine Paper Anti-trust Fund**

This fund was established by Code of Iowa Chapter 553.19 to be administered by the Attorney General. Deposits into the fund consist of amounts received as a result of a state or federal civil antitrust settlements which are based on damages sustained by the state, civil penalties, costs or attorney fees, amounts which are specifically directed to the credit of the fund by the settlement and amounts which are designated by the settlement for use by the Attorney General for antitrust enforcement or education.

#### **Receipts**

A summary of deposits made to the Fine Paper Anti-trust Fund during fiscal year 2018 are summarized on **Exhibit A** and a summary of each settlement or other revenue source is included at **Appendix 1**.

#### **Expenditures - Reimbursements**

During fiscal year 2018, expenditures from this fund totaled \$233,369.79 and consisted of twelve monthly reimbursements made to the Department's General Fund for expenses related to handling anti-trust cases, including salaries and miscellaneous related expenses.

#### **Expenditures - Other**

The State of Iowa is participating in an investigation of alleged anticompetitive acts pertaining to Suboxone, a drug that helps control opioid addiction. As part of the investigation, the State has entered into a cost sharing agreement with the numerous other participating states, including the State of Maine which administers the cost sharing arrangement. During fiscal year 2018, the Department paid the State of Maine \$18,196.74 pursuant to the agreement.

### **Forfeited Property Fund**

Chapter 809A.17 of the Code of Iowa requires a person having control over forfeited property to communicate that fact to the Attorney General. If the forfeited property is not needed as evidence in a criminal case, the property must be delivered to the Department of Justice, or upon written authorization of the Attorney General, the property may be destroyed, sold or delivered to an appropriate agency for disposal. The Code section authorizes the Attorney General to oversee and care for the property (which could include cash) seized in illegal activity. The Attorney General has spending discretion and may give, sell or trade the property to any other state agency or local law enforcement agency within the state.

#### **Receipts**

During fiscal year 2018, \$223,663.23 was receipted into the Forfeited Property Fund. These receipts consist of the State's share of forfeited funds collected by counties, task forces and other law enforcement agencies.

#### **Expenditures - Reimbursements**

During fiscal year 2018, expenditures from this fund totaled \$14,710.09 and consisted of reimbursements made to the Department's General Fund for expenses related to the Area Prosecution Division to aid in the enforcement of criminal law. Per inquiry of the Department, if there are additional funds available in the General Fund at the end of the year, they may be

Iowa Department of Justice

For the Period July 1, 2017 through June 30, 2018

returned to the Forfeited Property Fund. A total of \$400,000.00 was expended from the fund; however \$385,289.91 was returned to the fund.

**Expenditures – Other**

During fiscal year 2018, \$13,091.26 of expenditures were incurred in the Forfeited Property Fund. Of this amount, \$5,773.76 was expended for the prosecuting intern program, covering the instructor's teaching fee and travel expenses. In addition, \$7,317.50 was expended to various prosecuting interns participating in the program at various counties throughout the State.

**Federal Forfeiture Asset Sharing Fund**

Certain cases are prosecuted by an Assistant Attorney General who is cross-deputized as a Special Assistant United State Attorney who prosecutes federal drug offenses with the U.S. Attorney's Office. When the Department's direct participation in an investigation results in the forfeiture of a federally seized asset, an equitable portion, or share, of the proceeds awarded are deposited into this fund.

**Receipts**

During fiscal year 2018, \$3,642.97, including interest receipts of \$22.89, was receipted into the Federal Forfeited Asset Sharing Fund. These receipts consist of the State's share of federally forfeited funds.

**Expenditures – Other**

The Department of Justice uses the deposits in this fund to purchase items such as laptops, software licenses, etc. to be used for area prosecution and criminal appeals personnel. During fiscal year 2018, expenditures totaled \$4,079.98, which consisted of a laptop, related equipment and software licenses.

**Environmental Crime Fund**

This fund was established by Code of Iowa Chapter 455B.112A to be administered by the Attorney General. Deposits into the fund consist of court-ordered fines and restitution awarded to the Attorney General as part of a judgment in an environmental criminal case. Funds are to be used for the investigation and prosecution of environmental crimes, including the reimbursement of expenses incurred by county, municipal and other local government agencies cooperating with the Attorney General in the investigation and prosecution of environmental crimes.

**Receipts**

During fiscal year 2018, interest of \$210.58 was receipted into the Environmental Crime Fund.

**Tuition Refund Fund**

Tuition reciprocity agreements allow a qualified resident from one state to attend certain colleges in nearby states for a greatly reduced tuition rate. Senate File 501 was approved by the Governor on May 22, 2015. The legislation established a mechanism for students to apply to the Attorney General for a refund when they do not receive a tuition refund up to the full refund of tuition charges due to the effect of an interstate reciprocity agreement under Code of Iowa Chapter 261G.4. These refunds are based on the difference between tuition refunds received from the post-secondary education institution and the full refund of tuition charges.

Iowa Department of Justice

For the Period July 1, 2017 through June 30, 2018

Deposits into the fund may include amounts appropriated by the general assembly and those received as part of a court order or settlement which specifically directs the funds to be used for the purpose of providing student tuition refunds or which authorizes the Attorney General to use the funds for any other purpose at their discretion.

During June 2015, \$100,000 was transferred to the Tuition Refund Fund from the Mortgage Servicing Settlement Fund. Since the receipt of these initial funds, there have been no further receipts into the fund, except for interest, and no expenditures have been made from the fund.

**Receipts**

During fiscal year 2018, interest of \$1,274.68 was receipted into the Tuition Refund Fund.

**Human Trafficking Victim Fund**

Senate File 2311 was approved by the Governor on April 24, 2014. The legislation established the Human Trafficking Victim Fund under Code of Iowa Chapter 915.95 to be administered by the Attorney General. The fund was created to collect funds which are dedicated to and used for awarding moneys to programs that provide services and support to victims of human trafficking, including public outreach and awareness programs and service provider training programs.

The legislation enacted Code of Iowa Chapter 911.2A which created a human trafficking victim surcharge to be assessed and collected by the Clerk of District Court in the County in which the violation occurred. The surcharge is assessed if an adjudication of guilt or a deferred judgment has been entered for a criminal violation of Code of Iowa Chapter 725.1, 710A.2, 725.2 or 725.3.

**Receipts**

During fiscal year 2018, \$8,084.76 was deposited into the Human Trafficking Victim Fund from the collection of human trafficking surcharges.

**Expenditures – Other**

Expenditures totaling \$39,532.82 were incurred in the Human Trafficking Victim Fund during fiscal year 2018. These expenditures were provided to three organizations throughout the State to support human trafficking prevention and awareness programs.

**Human Trafficking Enforcement Fund**

Senate File 510 was approved by the Governor on July 2, 2015. The legislation directed the crime victim assistance division of the Department of Justice, along with other governmental agencies and nongovernmental or community organizations, to develop and conduct outreach, public awareness and training programs for the general public, law enforcement agencies, first responders, potential victims and persons conducting or regularly dealing with businesses or other ventures that have a high statistical incidence of debt bondage or forced labor of services. These programs are meant to train participants to recognize and report incidents of human trafficking and to suppress the demand that fosters exploitation of persons and leads to human trafficking.

The Mortgage Servicing Settlement Fund was established by the 2012 Iowa Acts, Chapter 1138, The Acts directed any funds received by the Department in the joint state and federal mortgage servicing settlement to be deposited into the fund, with any of the funds left unencumbered or unobligated at June 30, 2015 to be transferred to the General Fund of the State. However, Senate



Iowa Department of Justice

For the Period July 1, 2017 through June 30, 2018

File 510 revised this language and directed the unencumbered or unobligated funds to be transferred to the Human Trafficking Enforcement Fund. During August 2015, \$602,259.10 was transferred from the Mortgage Servicing Settlement Fund to the Human Trafficking Enforcement Fund.

**Receipts**

During fiscal year 2018, \$10,405.00 was deposited into the Human Trafficking Enforcement Fund consisting of registration fees for the Iowa Human Trafficking Summit which occurred in April 2018 at Prairie Meadows Event Center in Altoona, Iowa.

**Expenditures – Other**

Expenditures totaling \$223,466.56 were incurred in the Human Trafficking Enforcement Fund during fiscal year 2018. A significant portion of these expenditures relate to the Iowa Human Trafficking Summit, including speaker and presenter fees, deposit and rental fee for use of the facilities and meals served at the conference. The remaining expenditures consisted of human trafficking grants to various entities, including the Iowa Law Enforcement Academy and the Iowa Health Foundation, and reimbursements to the Victim Compensation Fund, for salary expenses incurred for human trafficking activities.

## **Detailed Recommendation**

Iowa Department of Justice

Detailed Recommendation

For the Period July 1, 2017 through June 30, 2018

- (A) Transfers – The Department’s General Fund is funded by an appropriation from the General Assembly, reimbursements from client agencies and departments, and by up to \$2,000,000 annually from the Consumer Education and Litigation Fund.

The Department’s Consumer Education and Litigation Fund is governed by Chapter 714.16C of the Code of Iowa. In accordance with this Chapter, moneys credited to the fund shall include “amounts received as a result of a state or federal civil consumer fraud judgment or settlement, civil penalties, costs, or attorney fees, and amounts which are specifically directed to the credit of the fund by the judgment or settlement, and amounts which are designated by the judgment or settlement for use by the attorney general for consumer litigation or education purposes.” This list does not include the Attorney General’s general appropriation from the legislature nor payments from client agencies or departments. Chapter 714.16C(3) of the Code of Iowa provides, in part, “Notwithstanding section 8.33, moneys credited to the fund shall not revert to any other fund.”

Based on a review of settlement agreements related to the Consumer Education and Litigation Fund, the agreements included the following provisions: “the funds shall be deposited into the consumer education and litigation fund established by Code of Iowa Chapter 714.16C, the funds shall be used by the AG for such purposes that may include, but are not limited to, civil penalties, attorney fees and other costs of investigations, or to be placed in, or applied to, the consumer protection law enforcement fund, including future consumer protection or privacy enforcement, consumer education, litigation or local consumer aid fund or revolving fund used to defray costs of the inquiry leading hereto or for other uses permitted by state law, at the sole discretion of the AG (emphasis added) and shall be used for the investigation and prosecution of cases involving fraud, unfair and deceptive acts and practices and other illegal conduct related to financial services or state consumer protection laws to the extent practicable, or as otherwise authorized by the applicable laws of the state.”

In addition, Chapter 714.16C(2) of the Code of Iowa allows the Department to annually appropriate amounts from the Consumer Education and Litigation Fund to the General Fund, as follows: “For each fiscal year, “not more than one million one hundred twenty-five thousand dollars is appropriated from the fund to the department of justice to be used for public education relating to consumer fraud and for enforcement of section 714.16 and federal consumer laws, and not more than seventy-five thousand dollars is appropriated from the fund to the department of justice to be used for investigation, prosecution, and consumer education relating to consumer and criminal fraud committed against older Iowans.” However, the amounts the Department is authorized to appropriate under this section were increased for fiscal year 2018 by Chapter 1137, Section 18, of the 2016 Iowa Acts. The allowable appropriations were increased from \$1,125,000 to \$1,875,000, and \$75,000 to \$125,000, for a total of \$2,000,000 of allowed appropriations in fiscal year 2018.

During fiscal year 2018, the Department made monthly transfers totaling \$1,807,914.43 from the Consumer Education and Litigation Fund to the General fund, as allowed by and in compliance with Chapter 714.16C(2) of the Code of Iowa.

During fiscal year 2018, the Department transferred an additional \$2,000,000 from the Consumer Education and Litigation Fund to the General Fund. The first transfer of

Iowa Department of Justice

Detailed Recommendation

For the Period July 1, 2017 through June 30, 2018

\$1,000,000 was made on February 28, 2018 and the second transfer of \$1,000,000 was made on June 4, 2018. Documentation attached to each transfer indicated the transfers were for “cash flow”. The transfers were used to cover payroll costs and were necessary to help cover a shortage in the General Fund caused by the timing of reimbursements from other agencies or entities for work performed by the Department. For the February 28, 2018 transfer, we reviewed the Department’s receivables at February 28, 2018 which totaled \$2,315,990.89. We also reviewed the Integrated Information for Iowa (I/3) system and noted the Department’s General Fund cash balance totaled \$1,146,840.70 at that date. The next payroll and other bills coming due totaled approximately \$1,535,000. The Department transferred \$1,000,000 to cover the approximately \$388,000 shortfall while also anticipating the next payroll.

The \$2,000,000 “cash flow” loans were subsequently reimbursed to the Consumer Education and Litigation Fund from the General Fund, once reimbursements from other agencies or entities were sufficient to cover the transferred amounts. Based on a review of transfer documents on the I/3 system, \$1,000,000 was reimbursed on July 19, 2018 and \$1,000,000 was reimbursed on August 20, 2018. We reviewed documentation that showed the transfers back to the Consumer Education and Litigation Fund were reimbursements received from client agencies and departments rather than an appropriation from the legislature.

Based on a review of fiscal year 2017 and 2016 activity, the Department made similar transfers in these years. The Auditor of State reviewed the transfers during the fiscal year 2016 and 2017 audits to determine whether the use of the funds transferred met public purpose criteria. However, the transfers were not tested in those years for compliance with Chapter 714.16C of the Code of Iowa or the Department’s annual appropriation language.

Because Chapter 714.16C(2) of the Code of Iowa limits transfers from the Consumer Education and Litigation Fund to the General Fund to \$2,000,000 “for each fiscal year” and because the \$2,000,000 borrowed for cash flow purposes was returned to the Consumer Education Fund by fiscal year end, the Department appears to have complied with the cap set out in Iowa Code 714.16C. In addition, settlement agreements with revenues pertaining to fiscal year 2018 and with unspent balances carried forward from prior years, and including a provision that the use of the settlements is “at the sole discretion of the Attorney General”, totaled in excess of \$2,000,000, enough to cover the cash flow transfers.

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For the Period July 1, 2017 through June 30, 2018

We noted the following based on the above information:

Once the funds were credited to the General Fund and used to cover costs previously paid by the General Fund, the Department's authority is unclear to transfer funds paid by client agencies back to the Consumer Education and Litigation Fund. Although sufficient funds were on hand for which the settlement agreements indicated the Attorney General had "sole discretion" in determining their use, once spent, they were replaced by reimbursements from clients. Again, 714.16C(1) lists certain funds that shall be included in the fund, but is unclear as to whether unlisted funds could also be deposited in the fund.

Recommendation – The Attorney General should consult with the legislature to determine the appropriate interpretation of these statutes going forward, and whether any changes are necessary.

**Iowa Department of Justice**

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Schedule of Discretionary Fund Revenue Sources

For the Period July 1, 2017 through June 30, 2018

Description	Consumer Education & Litigation	Consumer Fraud Refunds	Consumer Credit Admin	Elderly Victims	Fine Paper Anti-trust
<b>Settlements:</b>					
Anthem, Inc. & Cigna Corporation	\$ -	-	-	-	49,398.64
Boehringer Ingelheim Pharmaceuticals, Inc.	-	-	-	178,051.84	-
Cephalon Parties	-	-	-	-	785,817.80
Choice Health Insurance LLC, National Direct Marketing, LLC, Dennis Watts & Michael Watts	-	-	-	2,000.00	-
Compliance Educators, LLC	4,668.00	9,900.00	-	-	-
Convert2Media, LLC	-	-	-	100,000.00	-
Eric James Mitchell	-	185.00	-	-	-
General Motors Company	-	1,495,080.46	-	-	-
Global Travel International, Inc	10,000.00	-	-	-	-
HBF Investments, LLC	-	75,000.00	-	-	-
Innovative Business Set Up, LLC	50,000.00	135,827.00	-	-	-
International Research Services, Inc.	50,000.00	-	-	-	-
Janet D. Steiger Fellowship Project	6,000.00	-	-	-	-
JGG Enterprises, Inc. & Joseph Gregory Grelock	-	25,000.00	-	10,000.00	-
Joseph Andrew Ross	-	75.00	-	-	-
Lenovo, Inc.	65,776.58	-	-	-	-
Mass Marketing, LLC and Jason Shaw	-	-	-	13,500.00	-
McGregor and Dodge	-	58,230.58	-	-	-
Murray Motors, Inc.	3,886.45	-	-	-	-
National Association of Chiefs of Police, Barry Shepherd & Brent Shepherd	-	-	-	5,000.00	-
Nationwide Mutual Insurance Company	321,837.54	-	-	-	-
OCWEN Financial Corporation	76,223.78	-	-	-	-
Osmosis, LLC	50,000.00	20,000.00	-	-	-
PHH Mortgage Corporation	-	550,000.00	-	-	-
Sarbpreet M. Singh, Sandeep C. Kaur & 3S Venture, LLC	-	13,886.00	-	-	-
Saxton Motors, LLC	-	14,398.96	-	-	-
Senior Supplemental Referral Service, LLC & Brady Eddins	-	-	-	1,500.00	-
Significant Factor Determinations	-	170,471.77	-	-	-
Top Source Media, LLC & Robert Hurst Anderson	-	-	-	45,000.00	-
Veterans Relief Network & Helen Ignas	-	-	-	25,000.00	-
We Florida Financial	-	70,000.00	-	-	-
Subtotal Settlements	\$ 638,392.35	2,638,054.77	-	380,051.84	835,216.44
<b>Other:</b>					
Forfeited funds collected by counties, task forces and others	-	-	-	-	-
Consumer credit fees	-	-	481,630.37	-	-
State's share of forfeited funds	-	-	-	-	-
Human trafficking surcharges	-	-	-	-	-
Human Trafficking Summit registration fees	-	-	-	-	-
Interest *	60,698.05	-	-	-	15,623.23
Outdated warrants **	-	11,354.26	-	-	-
Total Receipts	\$ 699,090.40	2,649,409.03	481,630.37	380,051.84	850,839.67

\* Interest receipts consist of funds distributed to each fund by the State of Iowa Treasurer's Office. The Treasurer's Office combines all state funds, manages and invests them and distributes the interest earned on a monthly basis.

\*\* Outdated warrant receipts consist of funds remitted back to the Department after warrants have been outstanding and unredeemed for six months or longer.

Fund							
Forfeited Property	Federal Forfeiture Asset Sharing	Environmental Crime	Tuition Refund	Human Trafficking Victim	Human Trafficking Enforcement	Total	
-	-	-	-	-	-	-	49,398.64
-	-	-	-	-	-	-	178,051.84
-	-	-	-	-	-	-	785,817.80
-	-	-	-	-	-	-	2,000.00
-	-	-	-	-	-	-	14,568.00
-	-	-	-	-	-	-	100,000.00
-	-	-	-	-	-	-	185.00
-	-	-	-	-	-	-	1,495,080.46
-	-	-	-	-	-	-	10,000.00
-	-	-	-	-	-	-	75,000.00
-	-	-	-	-	-	-	185,827.00
-	-	-	-	-	-	-	50,000.00
-	-	-	-	-	-	-	6,000.00
-	-	-	-	-	-	-	35,000.00
-	-	-	-	-	-	-	75.00
-	-	-	-	-	-	-	65,776.58
-	-	-	-	-	-	-	13,500.00
-	-	-	-	-	-	-	58,230.58
-	-	-	-	-	-	-	3,886.45
-	-	-	-	-	-	-	5,000.00
-	-	-	-	-	-	-	321,837.54
-	-	-	-	-	-	-	76,223.78
-	-	-	-	-	-	-	70,000.00
-	-	-	-	-	-	-	550,000.00
-	-	-	-	-	-	-	13,886.00
-	-	-	-	-	-	-	14,398.96
-	-	-	-	-	-	-	1,500.00
-	-	-	-	-	-	-	170,471.77
-	-	-	-	-	-	-	45,000.00
-	-	-	-	-	-	-	25,000.00
-	-	-	-	-	-	-	70,000.00
-	-	-	-	-	-	-	4,491,715.40
223,663.23	-	-	-	-	-	-	223,663.23
-	-	-	-	-	-	-	481,630.37
-	3,620.08	-	-	-	-	-	3,620.08
-	-	-	-	8,084.76	-	-	8,084.76
-	-	-	-	-	10,405.00	-	10,405.00
-	22.89	210.58	1,274.68	-	-	-	77,829.43
-	-	-	-	-	-	-	11,354.26
223,663.23	3,642.97	210.58	1,274.68	8,084.76	10,405.00	-	5,308,302.53



Iowa Department of Justice

Staff

This engagement was performed by:

Tammy A. Hollinsworth, CIA, Manager  
Andrew J. Salwolke, Staff Auditor

A handwritten signature in black ink that reads "Marlys K. Gaston". The signature is written in a cursive, flowing style.

Marlys K. Gaston, CPA  
Deputy Auditor of State

**Iowa Department of Justice**

Department of Justice

Summary of Settlement Agreements

For the Period July 1, 2017 through June 30, 2018

Anthem, Inc. & Cigna Corporation – This settlement arose as a result of numerous states and the United States Department of Justice conducting an investigation into the proposed transaction/merger involving Anthem, Inc. and Cigna Corporation, considered one of the largest proposed mergers in the history of the health insurance industry. It was determined that the two companies could not merge and the defendants were ordered to pay \$2,975,000 to cover attorney's fees and costs of the states involved. The States were given complete discretion to determine the disbursement of the settlement funds consistent with their individual state laws. During fiscal year 2018, \$49,398.64 was received pursuant to this settlement.

Boehringer Ingelheim Pharmaceuticals, Inc. – This settlement arose as a result of allegations the drug maker engaged in off-label marketing and deceptive and misleading representations in its promotion of four prescription drugs, violating the Iowa Consumer Fraud Act, Code of Iowa, Chapter 714.16. The four prescription drugs are predominantly used by older persons. A total settlement of \$13.5 million was reached with all 50 states, with the State of Iowa receiving \$178,051.84 to be used for attorney' fees and other costs of investigation and litigation, or to be placed in, or applied to, the consumer protection enforcement fund, including future consumer protection enforcement, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or any purpose, at the sole discretion of the Attorney General.

Cephalon Parties – Cephalon Parties consists of four entities, including Cephalon, Inc., Barr Laboratories, Inc., Teva Pharmaceutical Industries Ltd. and Teva Pharmaceuticals USA, Inc. The settlement arose as a result of various States alleging that Cephalon Parties made misrepresentations to the Patent & Trademark Office and that the entities took actions which delayed the entry of a generic version of a prescription drug, violating antitrust and consumer protections laws.

The settlement consists of the following payments to be made by the Cephalon Parties, \$35 million to be paid into a qualified settlement escrow account for disbursement to eligible consumers as directed by the States involved, \$55 million to be paid into a State Proprietary Compensation Account to be disbursed to the States involved and \$35 million to be paid into a State Disgorgement, Costs and Fees Account to be disbursed to the States involved. The State Proprietary Compensation Payment funds shall be distributed to the States on behalf of state purchasers for distribution in accordance with State law and the State Disgorgement, Costs and Fees Account funds shall be distributed for settlement of administration costs, payment of attorney fees and expenses, anti-trust or consumer protection law enforcement, to defray costs associated with anti-trust or consumer protection witnesses or researchers and training or continuing education costs, to cover additional expenses relating to ongoing investigations and related litigation and for such other purpose as the Attorney Generals deem appropriate. During fiscal year 2018, \$785,817.80 was received pursuant to this settlement.

Choice Health Insurance LLC, National Direct Marketing LLC, Dennis Watts & Michael Watts – This settlement arose as a result of alleged violations of the Iowa Consumer Fraud Act, Code of Iowa Chapter 714.16. The company sent misleading mailings out to Iowa consumers, giving the impression that they came from a government agency. The \$2,000.00 settlement is to be deposited in the Elderly Victims Fund referred to in Code of Iowa, Chapter 714.16A.

Compliance Educators, LLC – This settlement arose due to alleged violations of the Iowa Consumer Fraud Act, Code of Iowa Chapter 714.16. The company and its owner sent out warning

letters and past due notices to Iowa truckers which included misleading information causing the truckers to assume the letters were from a government agency. Truckers were charged \$99.00 each for the company's services. Per the settlement, the company agreed to pay \$7,000.00 to the Attorney General for deposit into the Consumer Education Fund, of which \$4,668.00 was collected in June 2018, with the remainder of \$2,332.00 to be paid to the State in August 2018. In addition, the company agreed to issue refunds totaling \$14,850.00, of which \$9,900.00 was collected in June 2018 and deposited to the Consumer Fraud Refunds Fund and \$4,950 is to be paid to the State in August 2018. The Attorney General will issue refunds directly to Iowa consumers from a listing obtained from Compliance Educators, LLC. Amounts remaining in the Consumer Fraud Refunds Fund after all refunds are issued should be moved to the Consumer Education Fund.

Convert2Media, LLC – This settlement arose as a result of violations of the Code of Iowa, Chapter 714.16, the Iowa Consumer Fraud Act, and the Code of Iowa, Chapter 714.16A, the Older Iowans Act. Allegations consisted of the company arranging for commissions to be paid to numerous marketers for promoting Intellux, an herbal remedy, through a variety of online advertising tactics. The \$100,000.00 settlement is to be deposited in the Elderly Victims Fund referred to in Code of Iowa, Chapter 714.16A.

Eric James Mitchell – This settlement arose as a result of alleged violations against Residential Services and E'NA Landscaping by Design with regards to Code of Iowa Chapters 555A and 714.16. Among the alleged violations were failing to furnish a full and complete receipt or copy of the contract containing notification of the consumer's right to cancel and failing to orally inform consumers of their right to cancel the contract on or before the third business day after the sale. The defendant used or employed deception, fraud, false pretense, false promise, misrepresentation and/or concealment, suppression or omission of material facts with the intent that consumers would rely on this information. He also represented that he could provide home repair or contractor services in Iowa when he was in fact legally prohibited from providing services because he was not properly registered as a contractor with the Department of Labor at Iowa Workforce Development.

The total settlement was for \$25,253.08 to be reimbursed to thirteen consumers. Installment payments of \$350.00 per month beginning on July 15, 2018 are to be made to the Attorney General's Office. As of November 2018, the Department had received \$1,585.00, \$185 of which was received during fiscal year 2018, and paid out \$185.00 in reimbursements to consumers.

General Motors Company – This settlement arose as a result of the Attorney General filing a complaint against General Motors Company for violating the Iowa Consumer Fraud Act, Code of Iowa Chapter 714.16. The State alleged that the automaker concealed safety issues related to ignition switch-related defects in its vehicles by failing to disclose the known safety defects in a timely nature. A total settlement of \$120 million was reached between 49 states and the District of Columbia, with the State of Iowa receiving \$1,495,080.46.

The Attorney General shall use the funds for such purposes that may include, but are not limited to, attorney fees and other costs incurred in pursuing this investigation, future public protection and education purposes, a consumer protection enforcement fund, or other purposes, including without limitation future consumer protection enforcement, consumer education, litigation funds, local consumer aid funds, public protection or consumer protection purposes, or other purposes as allowed by state law at the sole discretion of Attorney General.

Global Travel International, Inc. – On March 29, 2018, revisions to an April 6, 2015 settlement with Global Travel International, Inc. were reached. A Florida buying club operation paid the State approximately \$45,000.00 in two payments in April and June 2015 for refunds to more than 2,600 Iowa consumers. The company charged consumers for memberships for which they did not intentionally enroll. These memberships claimed to provide savings on retail or travel related

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purchases. The revisions to the settlement included an additional \$10,000.00 to be paid to the Attorney General for legal fees to be paid to the Consumer Education Fund.

HBF Investments, LLC – A bond penalty payment of \$75,000.00 was received from Nationwide Mutual Insurance Company who bonded HBF Investments, LLC. The payment released Nationwide Mutual Insurance Company from any liability existing, or which may arise or be discovered.

Innovative Business Set Up, LLC – This settlement arose as a result of several violations by Innovative Business Set Up, LLC of the Iowa Consumer Fraud Act, Code of Iowa Chapter 714.16, including business solicitations, advertisements and business transactions with Iowa consumers. Violations included, but were not limited to, making fraudulent telemarketing and telephone solicitation calls to Iowa consumers for the purpose of selling and charging consumers for nonexistent goods and services, making false representations to consumers that they could generate substantial monthly and yearly incomes if they purchase goods and services necessary to operate at-home internet businesses and placing false business websites on the internet with content stolen from legitimate businesses in an effort to mislead Iowa consumers.

The settlement was entered into on May 24, 2017 between the Attorney General, several individuals and various businesses. The respondents were ordered to pay a total of \$235,827.00 to the State of Iowa. \$185,827.00 of the total settlement represented the verified losses of Iowa consumers and was required to be distributed by the Attorney General to the consumers listed in the settlement. These funds were deposited into the Consumer Fraud Refunds Fund. \$50,000 of the \$185,827.00 was received in fiscal year 2017. The remaining \$50,000.00 represents a civil penalty pursuant to Code of Iowa Chapter 714.16C to be deposited into the Consumer Education Fund.

International Research Services, Inc. – International Research Services, Inc., Stephen R. Schwartz and Robert J. Frumento are the three respondents in this settlement. The settlement arose as a result of issues raised during the Attorney General's inquiry into International Research Services, Inc. direct or indirect participation in scientific research, clinical studies, or other purportedly scientific investigations of Osmosis, LLC's harmonized water products. The Osmosis, LLC settlement information is detailed above. \$50,000.00 was received in this settlement and was to be deposited by the Attorney General in the Consumer Education Fund created by Code of Iowa Chapter 714.16C.

Janet D. Steiger Fellowship Project – These funds are awarded by the American Bar Association, Anti-trust Law group, and are to be used towards the hiring of a summer intern in the Consumer Protection Division.

JGG Enterprises, Inc. & Joseph Gregory Grelock – This settlement arose as a result of violations of the Code of Iowa, Chapter 714.16, the Iowa Consumer Fraud Act, and the Code of Iowa, Chapter 714.16A, the Older Iowans Act. The company claimed that Intellux, an herbal remedy, was able to “reduce memory loss” and “ignite your brain's true powers and potential”. These claims of health benefits preyed on older Iowans and were not supported by reliable scientific evidence. The settlement totaled \$35,000.00, of which \$25,000.00 is to be applied by the Attorney General's Office in its discretion to making full or partial payments to Iowa consumers of amounts paid to the defendants for Intellux, with the provision that any funds remaining after reasonable efforts to provide refunds to consumers have been exhausted, are deposited into the Elderly Victims Fund. In addition, \$10,000.00 should be deposited into the Elderly Victims Fund.

Joseph Andrew Ross – This settlement arose as a result of alleged violations against Joe's Custom Construction with regards to Code of Iowa Chapters 555A and 714.16. Among the alleged violations were failing to furnish a full and complete receipt or copy of the contract showing the date of the transaction, including the name and address of the defendant at the time of signing, containing notification of the consumer's right to cancel and failing to orally inform consumers of

their right to cancel the contract on or before the third business day after the sale. The defendant used or employed deception, fraud, false pretense, false promise, misrepresentation and/or concealment, suppression or omission of material facts with the intent that consumers would rely on this information.

The total settlement was for \$11,774.00 to be reimbursed to eight consumers. Installment payments of \$100.00 per month beginning on January 20, 2017 are to be made to the Attorney General's Office. As of November 2017, the Department had received \$255.00, including \$75 received during fiscal year 2018, and paid out \$220.00 in reimbursements to consumers.

Lenovo, Inc. – This settlement arose as a result of violations of consumer protection laws due to the company pre-installing software on laptop computers that made consumers' personal information vulnerable to hackers.

This settlement totaled \$3.5 million, with the State of Iowa receiving \$65,776.58, which can be used by the Attorney General for such purposes that may include, but are not limited to, civil penalties, attorney's fees and other costs of investigation, or to be placed in, or applied to, the consumer protection law enforcement fund, including future consumer protection or private enforcement, consumer education, litigation, or local consumer aid fund or revolving fund used to defray costs of the inquiry leading hereto, or for other uses permitted by State law, at the sole discretion of the Attorney General.

Mass Marketing, LLC and Jason Shaw – This settlement arose as a result of violations of the Code of Iowa, Chapter 714.16, the Iowa Consumer Fraud Act, and the Code of Iowa, Chapter 714.16A, the Older Iowans Act. The company marketed Intellux, an herbal remedy, by presenting ads disguised as independent product reviews that concluded Intellux produced extreme IQ effects. The \$25,000.00 settlement is to be paid to the Attorney General in five installments to be used in making full or partial refunds to Iowa consumers, with the provision that any funds remaining after reasonable efforts to make refunds to consumers shall be deposited in the Elderly Victims Fund referred to in Code of Iowa, Chapter 714.16A. A total of \$13,500.00 was received by the Department during fiscal year 2018.

McGregor and Dodge – This settlement arose as a result of McGregor and Dodge failing to comply with Code of Iowa Chapters 321 and 322 in various ways, including but not limited to overcharging buyers for, among other things, tax, title and license fees. The dealership also collected tax, title, license and lien fees, but did not provide title to the vehicles. There is also at least one instance where the dealership let the consumer return a vehicle and promised to pay off the loan amount and then failed to do so. The State of Iowa received \$58,230.58 in restitution to be paid to 365 consumers.

Murray Motors, Inc. – This settlement arose as a result of Murray Motors failure to comply with the Iowa Consumer Credit Code (ICCC), Chapter 537 of the Code of Iowa, by charging delinquency fees, deferral fees, bad check fees, notice of right to cure fees and "adjustment" fees, as well as failure to comply with the Federal Truth in Lending Act rolling the costs of repairs into the original closed-end credit transactions.

The settlement was signed on March 7, 2017 and Murray Motors was ordered to issue consumer refunds, in the form of a check, an offset against money the consumer owes Murray Motors or through the filing of a satisfaction of any judgment Murray Motors has against the consumer. This was to be completed within 30 days of the settlement with proof of the payments, offsets or satisfactions provided to the State. If Murray Motors was unable to make contact with the consumer within three months of the settlement, Murray Motors was to notify the State and remit the funds to the State. The State then became responsible for attempting to contact the consumers and forwarding on the refund. If the State cannot locate a consumer after six months, then the money shall be deposited into the Consumer Education and Litigation Fund. The funds

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totaling \$3,886.45 were deposited into the Consumer Education and Litigation Fund in September 2017.

National Association of Chiefs of Police, Barry Shepherd & Brent Shepherd – This settlement arose as a result of violations of the Code of Iowa, Chapter 714.16, the Iowa Consumer Fraud Act, and the Code of Iowa, Chapter 714.16A, the Older Iowans Act. Allegations consisted of the company mailing donation appeals to Iowans making the false impression that they had a big local presence in each Iowa County, providing vital support to disabled officers who had nowhere else to turn. The \$5,000.00 settlement is to be deposited in the Elderly Victims Fund referred to in Code of Iowa, Chapter 714.16A.

Nationwide Mutual Insurance Company – Nationwide Mutual Insurance Company and its subsidiary, Allied Property & Casualty Insurance Company, settled a lawsuit with 32 states and the District of Columbia for \$5.5 million, of which the State of Iowa received \$321,837.54.

The settlement arose as a result of a criminal data breach that occurred on October 3, 2012 which led to hackers gaining access to personal information of approximately 1.27 million consumers. The breach allegedly occurred after Nationwide failed to apply a critical security patch and hackers exploited a vulnerability in the company's web application hosting software.

The funds received by the Attorney General may be used for purposes that may include, but are not limited to, attorneys' fees and costs of investigation and litigation, placed in, or applied to, any consumer protection law enforcement fund including future consumer protection or privacy enforcement, consumer education, litigation, local consumer aid or revolving funds, used to defray costs of the inquiry leading to this settlement, or for other uses permitted by state law, and all at the sole discretion of the Attorney General.

OCWEN Financial Corporation – This settlement arose as a result of OCWEN Financial Corporation, a mortgage servicing company, failing to follow the terms of the National Mortgage Settlement by not properly refunding force-placed insurance premiums to certain borrowers during 2017. Force-placed insurance is applied to homeowners who cannot or do not provide evidence that they have homeowner's insurance.

The settlement totaled \$1 million, with the State of Iowa receiving \$30,769.23, which can be used for attorney's fees, investigative costs and fees, future expenditures relating to the investigation and prosecution of cases involving fraud, unfair and deceptive acts and practices, and other illegal conduct related to financial services or state consumer protection laws to the extent practicable.

The parties to the settlement agreement later alleged that OCWEN violated the original agreement. OCWEN agreed to an additional settlement of \$500,000.00, with the State of Iowa to receive \$45,454.55, to be used for attorney's fees, investigations costs and fees, future expenditures relating to the investigation and prosecution of cases involving fraud, unfair and deceptive acts and practices and other illegal conduct related to financial services or state consumer protection laws to the extent authorized by state law.

Osmosis, LLC – Osmosis, LLC, Harmonized Water, LLC and Benjamin Taylor Johnson are the three defendants in this settlement, which arose as a result of violations of the Code of Iowa Chapter 714.16, the Iowa Consumer Fraud Act, and Code of Iowa Chapter 714.16A, the Older Iowans Act. These violations consisted of the use of misleading names on Harmonized Water products, as well as claims of benefits of the product that were not supported by scientific support. The settlement consisted of a total of \$70,000.00 to be paid to the Attorney General. \$20,000.00 is to be used at the Department's discretion in making full or partial payments to Iowa consumers of amounts spent for Harmonizing Water products, with the provision that any funds remaining after reasonable efforts to make refunds to consumers shall be deposited into the Consumer Education and Litigation Fund. This \$20,000 was deposited to the Consumer Fraud

Refunds Fund. The remaining \$50,000.00 was to be deposited to the Consumer Education and Litigation Fund.

PHH Mortgage Corporation – This settlement arose as a result of allegations that PHH Mortgage Corporation either itself or through its affiliates or subsidiaries violated, among other laws, the Unfair and Deceptive Acts and Practices laws of the State and the Consumer Financial Protection Act of 2010. The allegations consist of improper loan servicing practices. A total settlement of \$45,279,725 million was reached between 48 states and the District of Columbia, with \$31,456,210 to be transferred to a Settlement Administrator who will provide cash payments to borrowers whose loans were serviced by PHH at the time the foreclosure was completed and whose homes were sold or taken in foreclosure between January 1, 2009 and December 31, 2012 and all other borrowers whose loans were serviced by PHH and referred to foreclosure during that same time period who submit claims.

A total of \$5 million will be distributed to the investigating attorneys to be used for attorney fees, investigation costs and fees, future expenditure relating to the investigation and prosecution of cases involving fraud, unfair and deceptive acts and practices. The Attorney General the State of Iowa received \$550,000.00. The payment shall be used at the sole discretion of the Attorney General for any use permitted by law and the settlement, including but not limited to the following: public education and litigation relating to consumer fraud, mortgage, housing and financial issues, including enforcement of Code of Iowa, Chapter 714.16 or for any other lawful purposes.

Sarbpreet M. Singh, Sandeep C. Kaur & 3S Venture, LLC – This settlement arose due to allegations that the defendants doing business as Shop and Save violated Code of Iowa Chapter 126, Iowa Drugs, Devices and Cosmetics Act. These violations consisted of but were not limited to, holding, offering for sale, intending to sell, or selling a “drug” where the packaging or labeling did not display all, or in some cases any, of the information required under the Code of Iowa, selling a “drug” under the name of another drug, and offering a “drug” for sale that has misleading packaging and labels. The defendants also violated the Iowa Consumer Fraud Act, with violations consisting of but not limited to offering for sale or selling synthetic substances for ingestion or inhalation even though the packages for the synthetic substances stated that the merchandise was not to be consumer by humans and offering for sale or selling merchandise which, when used in the manner anticipated by the defendants was dangerous to the health and safety of the consumers.

The settlement totaled \$50,000.00 and was to be paid over 36 months, at \$1,389.00 per month. The funds are to be used for the administration and implementation of Code of Iowa Chapter 714.16 or, at the sole discretion of the Attorney General, the funds may be directed to programs managed by either the State or nonprofit organizations devoted to the prevention or treatment of substance abuse. During fiscal year 2018, \$13,886 was received pursuant to this settlement.

Saxton Motors, LLC – Saxton Motors, LLC includes two separate settlements. Both settlements arose as a result of Saxton Motors, LLC failing to comply with Code of Iowa Chapters 321 and 322 in various ways, including but not limited to accepting payments from buyers for, among other things, tax, title and license fees, but failing to forward those sums to the appropriate entities to effect payment. The dealership also imposed charges for documentary fees for services it did not provide and engaged in other conduct that violated Code of Iowa Chapter 714.16, the Iowa Consumer Fraud Act. The State of Iowa received \$1,842.29 in restitution to be paid to 5 consumers in the first settlement and \$12,556.67 to be paid to 18 consumers in the second settlement.

Senior Supplemental Referral Service, LLC & Brady Eddins – This settlement arose as a result of alleged violations of the Iowa Consumer Fraud Act, Code of Iowa Chapter 714.16. The company sent misleading mailings out to 26,000 Iowa consumers, giving the impression they came from a government agency, created a false sense of urgency and made misleading references to “free



## Appendix 1

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services”. The \$1,500.00 settlement is to be deposited in the Elderly Victims Fund referred to in Code of Iowa, Chapter 714.16A.

Significant Factor Determinations – This is an agreement between the Original Participating Manufacturers (OPMs) of the Master Settlement Agreement (MSA) and numerous states reached regarding tobacco-related health-care costs. Under the Master Settlement Agreement, the Original Participating Manufacturers are entitled to a downward adjustment in their MSA payment obligations if certain conditions arise. A prerequisite for the NPM (non-participating manufacturers) adjustment is a determination that the MSA was “a significant factor” in the OPMs’ market share loss in a calendar year. The Settling States, including Iowa, agreed to not contest the OPMs’ claim that the MSA was a significant factor in their market share loss in return for a monetary settlement from the OPMs.

Top Source Media, LLC & Robert Hurst Anderson – This settlement arose as a result of violations of the Code of Iowa, Chapter 714.16, the Iowa Consumer Fraud Act, and the Code of Iowa, Chapter 714.16A, the Older Iowans Act. The company promoted Intellux, an herbal remedy, online and made unsupported claims that the pill prevented negative effects of aging on the brain and that the pill would speed up learning. These claims of health benefits preyed on older Iowans and were not supported by reliable scientific evidence. The \$45,000.00 settlement is to be deposited in the Elderly Victims Fund referred to in Code of Iowa, Chapter 714.16A.

Veterans Relief Network & Helen Ignas – This settlement arose as a result of violations of the Code of Iowa, Chapter 714.16, the Iowa Consumer Fraud Act, and the Code of Iowa, Chapter 714.16A, the Older Iowans Act. Allegations consisted of the company sending solicitation mailings which implied that the recipient was on the verge of getting a big cash prize and all that remained to complete the prize award process was to send back a form with a requested donation. The \$25,000.00 settlement is to be deposited in the Elderly Victims Fund referred to in Code of Iowa, Chapter 714.16A.

WE Florida Financial – This settlement arose as a result of the Attorney General’s concerns regarding We Florida Financial’s compliance with the Iowa Consumer Credit Code, Code of Iowa, Chapter 537 and the Iowa Consumer Fraud Act, Code of Iowa, Chapter 714.16. The College Network is an interactive, online learning environment including practice exams, study materials and visual aids. The company arranged for its students to finance their contracts for services through various credit unions, including WE Florida Financial. These contracts have been deemed illegal and the loans are being forgiven as part of the settlement. A total of \$70,000.00 was received in the settlement and is to be used for consumer restitution. To the extent consumers cannot be timely located through reasonable efforts, the funds that are not paid to consumers shall be retained by the Attorney General to be used by the Attorney General for administration and implementation of the Consumer Fraud Act and shall be deposited into the Consumer Fraud Refunds Fund.