



State of North Carolina

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North Carolina Senate President *Pro Tempore* Marc Basnight
North Carolina House of Representatives Speaker Joe Hackney
Chairs, Joint Legislative Commission on Governmental Operations

Senator Eleanor Kinnaird
Senator John Snow
Representative Alice Bordsen
Representative Jimmy Love
Chairs, Appropriations Subcommittees on Justice and Public Safety

North Carolina General Assembly
Raleigh, North Carolina 27601-1096

RE: N.C.G.S. § 114-2.5; Report of Settlements and Court Orders in Favor of the State

Dear Members:

N.C.G.S. § 114-2.5 requires the Attorney General to report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety regarding settlement agreements, final orders, or judgments which result in more than \$75,000 being paid to the State not less than thirty (30) days prior to the disbursement of the funds. Pursuant to that requirement, I am writing to report on several cases which are contained in the attached chart. In each case the order or settlement requires that the funds be used for consumer restitution, *cy pres* distribution, consumer education or enforcement, attorneys' fees or investigative and litigation costs, or civil penalties.

We will be happy to respond to any questions you may have regarding this report. Please feel free to contact me at (919) 716-6400.

Very truly yours,


Kristi Hyman
Chief of Staff

cc: Kristine Leggett, Fiscal Research, NCGA
Nels Roseland, Chief Fiscal Officer, NC DOJ

NCGS § 114-2.5; Report of Settlements

Case Name	Description	Date	Total
Vitamins Litigation: Master Settlement Agreement (“MSA”)	<p>History: On October 10, 2000 North Carolina and other states, commonwealths, districts, territories and possessions, and private class action plaintiffs entered into a \$225 million court-approved global Master Settlement Agreement (“MSA”) with six vitamin manufacturers to resolve allegations that the manufacturers conspired to fix prices and engaged in a market allocation scheme to artificially raise and maintain the price of vitamins and vitamin enriched products. On June 10, 2002, the Superior Court for Mecklenburg County approved North Carolina's distribution plan of a <i>cy pres</i> distribution of \$7,909,800, representing the Consumer Class Settlement Amount, to 94 community health organizations across North Carolina to promote health and nutrition programs. These <i>cy pres</i> funds were disbursed to the 94 organizations in December 2003.</p> <p>Current: The Attorney General is in receipt of \$823,667.98, which is North Carolina’s allocation of the net consumer settlement funds, after expenses and taxes, from the settlement as to Akzo Nobel, Inc. Pursuant to the MSA, each Settling State shall direct the portion of the Consumer Class Settlement Amount for that State be distributed for the improvement of the health and/or nutrition of the citizens of that State and/or the advancement of nutritional, dietary or agricultural science.</p> <p>The State of North Carolina’s Proposed Consumer Plan of Distribution (“the Plan”), signed on May 17, 2010, stipulates that 90% of North Carolina’s pro rata share of funds received from this settlement be distributed to constituent members of the North Carolina Association of Feeding America Food Banks. The Plan also stipulates that the remaining 10% of the State’s net distribution is to be allocated for consumer protection and antitrust enforcement. Therefore, \$741,301.18 will be disbursed as a <i>cy pres</i> grant to various food banks in North Carolina. The remaining \$82,366.80 will be used for consumer protection and antitrust enforcement purposes.</p>	05/17/10	\$823,667.98

NCGS § 114-2.5; Report of Settlements

Case Name	Description	Date	Total
The Magna Group, Inc.	Consent Judgment. Action brought against The Magna Group, Inc. for alleged violation of unfair and deceptive business practices regarding vehicle advertisements. Defendant shall pay \$150,000. Defendant was contacted on 7/1/08 regarding failure to pay. An additional \$2,500 was added due to failure to comply with the judgment. Final payment received on 3/31/09.	08/24/07	\$152,500.00
Trilegiant Corporation	Multi-State Consent Agreement and AVC where States alleged that Defendants engaged in deceptive practices in violation of NCGS § 75-1.1 by providing membership-based services to consumers via direct mail, in the form of Check and Non-Check Solicitations, but failing to disclose clearly that cashing the check would automatically enroll the consumer in a "free" trial membership, by misrepresenting to consumers that the check was being offered as a "reward" for being a loyal customer, and by failing to disclose clearly that consumers' account will be automatically charged after the "free" trial period. North Carolina received its last portion on 1/11/08.	01/08/07	\$140,416.93
Dell, Inc. & Dell Financial Services, LLC	Multi-State AVC where States alleged Dell participated in unfair and/or deceptive trade practices in violation of statutes regarding financing promotions, rebates, warranties, customer service, etc. North Carolina received its last portion on 1/27/10.	01/12/09	\$94,795.31
LifeLock, Inc.	Multi-State Consent Judgment. North Carolina alleged violations of the North Carolina Unfair and Deceptive Business Practices Act, NCGS §§ 75-1.1 et seq. regarding defendants marketing, advertising, and offering for sale of identity theft protection services. North Carolina received \$100,000 as its portion on 3/31/10.	03/04/10	\$100,000.00

NCGS § 114-2.5; Report of Settlements

Case Name	Description	Date	Total
Bank of America Corporation	Settlement Agreement. Bank of America Corporation (BAC) entered into a settlement agreement regarding possible violations of North Carolina and federal laws in connection with the January 2009 merger between BAC and Merrill Lynch & Co., Inc. The consent judgment set forth a one-time payment of \$1,000,000 to North Carolina to be used by the Attorney General's Office for consumer protection purposes. Amount of \$1,000,000 received on 3/25/10.	02/24/10	\$1,000,000.00
Blue Cross Blue Shield of North Carolina	Settlement Agreement. BCBSNC is a not-for-profit corporation that operates as a hospital and medical service corporation pursuant to NCGS Chapter 58, Article 65. BCBSNC contracted with Campaign Connections, Inc. and other consultants in October 2009 to conduct a public awareness and advocacy campaign. Campaign Connections contacted approximately 100,000 North Carolina residents using pre-recorded telephone messages that were automatically dialed. The use of an automatic dialing and recorded message player to make unsolicited telephone calls to personal telephone numbers of North Carolina residents is prohibited by N.C.G.S. § 75-104, which requires that non-profits placing such calls identify themselves in the call and provide contact information as set forth in the statute. Defendant agreed to pay \$95,000 in civil penalties. These funds were received on 01/28/10 and transferred to the Civil Penalty and Forfeiture Fund for the benefit of schools in accordance with N.C.G.S. § 115C-457.2.	01/27/10	\$95,000.00