

**From:** Communications <[Communications@oag.texas.gov](mailto:Communications@oag.texas.gov)>  
**Sent:** Friday, April 15, 2022 7:12 PM  
**To:** Rafique, Sarah X. (KTRK-TV) <[Sarah.X.Rafique@abc.com](mailto:Sarah.X.Rafique@abc.com)>  
**Subject:** RE: ABC13 request for callback on Consumer Complaint Division

We have responded to the questions you sent, with the addition of the information chart below.

Here are the actual restitution figures that have been ordered in judgements or settlements in recent years (**not \$7,195**).

Year	Consumer Protection Restitution Ordered
2017	\$33,348,480.77
2018	\$403,945.45
2019	\$11,524,007.60
2020	\$1,864,279.13
2021	\$13,302,564.09
<b>Total</b>	<b>\$60,443,277.04</b>

1. Why doesn't the Consumer Protection Division respond to everyone who files a complaint?  
CPD acts as the repository and clearinghouse for consumer complaints (including receipt, review and response). Since the inception of the DTPA in 1973, this office has received consumer complaints alleging false, deceptive and misleading conduct by businesses and has maintained a process for handling those complaints.

The Consumer Protection Division does not represent individual consumers in personal civil matters but takes action on behalf of the collective legal interests of the people of the state. We rely on consumers providing information in complaints to help us enforce the Deceptive Trade Practices Act and other consumer protection laws. Each consumer who files a complaint receives a notification that their complaint has been received. The Division responds to every complaint entered into the system, by at least, sending a response, and that response also informs the consumer of the manner in which the complaint is stored as well as how the complaint is analyzed. In other instances, depending on the nature of the complaint, a specific response will be provided explaining that a private attorney might be better suited for the action or recommending

other courses of action including filing a complaint with a state or federal agencies who has enforcement authority in the subject area of their complaint.

Of note, when a consumer fills out the complaint form, the information on *each* one must still be “entered” into our system, categorized, and organized. This process for each of the 25,000 – 35,000 complaints in a given year requires significant division resources. Though the Division obviously does not interview 30,000 consumers a year, consumers are frequently contacted in the course of our investigations and enforcement actions. Those contacts are not usually recorded in our complaint database.

Complaints and investigations and enforcement actions spurred by received complaints are but one of our many functions. Some of our most notable work on behalf of consumers (as described further in response to question 6) cannot be directly tied to consumer complaints.

2. Why hasn't the AG's office hired more staff to keep up with the increase in complaints? (Complaints to the AG's office are up 26% over the last five years (26,771 in 2017 compared to 33,743 in 2021) yet staffing for that division was at its lowest in decades with 60 employees last year.

The Consumer Protection Division continues to vigorously fill any and all vacancies in the division.

3. What can consumers expect when they file a complaint, if not a callback from someone from the AG's office explaining how and why they can or cannot help them? What do you do when a consumer submits a complaint?

Consumers receive a letter notifying them that we have received their complaint, thanking them for providing us the information, and informing them further about how we use complaints. Because we cannot represent individuals, we cannot take direct action on every complaint. The complaints help us to monitor trends and assist in determining enforcement priorities as we work to protect Texas from deceptive business practices. The complaints provide us a window into the marketplace to understand what matters should be prioritized in investigation and enforcement decisions. In matters of statewide significance, or when substantive evidence indicates that a person or business is engaging in widespread violations of Texas law, the Attorney General may take action on behalf of the collective legal interests of the people of this state.

4. Your office provided totals on restitution ordered by the Consumer Protection Division. How much of those funds are for multistate or larger settlements?

While our records are kept by case and by fiscal year, we do not separate our cases between larger and smaller. As this *may be* what this question is asking, concerning the amounts previously provided, those cases include both multistate and Texas only cases. However, the amount we are reporting as CPD restitution for multistate cases only includes Texas' portion in those cases. In

other words (in case this is the question), no, those amounts are not counting another State's portion in a case wherein we partnered with another State.

5. What happened in 2018 and 2021 that caused those years to have far fewer in restitution ordered?

Our investigations and subsequent litigation (especially those actions of the size to result in significant restitution ordered) are rarely commenced and completed within one fiscal year. The restitution ordered comes, of course, at the completion of the case, and it may happen that several of our larger cases that had been underway for several years come to completion around the same time. Ordered restitution or penalties or other money to be paid to the State may dip in one particular year, and the money ordered in a particular year is one important metric, but that is not in itself a measurement of the effort undertaken or the successes in the division for that year as many of our most important achievements are multiple year projects, and cases and not all of those achievements are property measured in dollars ordered.

6. Does your agency have any idea of how many of the 140,000 consumers who complained to the AG's office over the last five years received a response or help from your agency? (Your open records division said the Consumer Protection Division "does not have a report that tracks the total number of complaints that were opened for investigation or resolution, and the number of complaints that are still open and closed and if any settlements were reached and the amount recovered.")

Every consumer providing a complaint to our offices receives a response. The Consumer Protection Division cannot represent individuals in personal civil matters.

We do not have data in our complaint system tying complaints to the investigations or enforcement actions that followed. An individual case, particularly those involving consumer restitution, may have numbers as to how many consumers are affected and how many CGS complaints there are on the matter, but that data is not collected across all enforcement actions and tied into our complaint system. Since a higher volume of complaints about one business entity is more likely to result in the Division bringing an action, most of our lawsuits, judgments, and settlements represent a matter affecting a large number of consumers.

In terms of numbering consumers who have been helped by the Consumer Protection Division, one cannot accurately report on the Division's activities without mention of its efforts to address the opioids crisis. The Division has worked over the last year to finalize settlements of over \$1.7 billion in recovery to Texas. This money will support a wide variety of efforts across the state in fighting the opioid crisis to the benefit of all of Texas' 29 million consumers. Local governments in Texas will receive both direct payments and

the access to grant funds through the Texas Opioid Council to fund treatment facilities, law enforcement and education relating to opioid abuse, and other abatement efforts. The Consumer Protection Division devoted significant resources over the last five years to put these historic opioid settlements in place and provide this assistance to governments and organizations in Texas fighting the opioid crisis. While these victories cannot be tied to the complaint system, a fair story on the efforts of the Division in recent years cannot be told without noting these historic actions.

Another matter based in Houston that is an important part of the Division's efforts is a lawsuit in an ongoing litigation matter in Houston. This case was filed against an entity promoting sexual activity in an illicit massage parlor. That illicit massage parlor was shut down by this action brought by the Consumer Protection Division, and now a grocery store stands in its place, all to the benefit of the people of Houston.

7. How does your agency decide which consumer complaints are worth contacting the consumer for follow-up and which ones aren't?

The Consumer Protection Division looks at the nature of the complaint and the trends in business practices when reviewing consumer complaints.

Our empowering statute, the DTPA does not provide for extrajudicial authority for the Division to order a business to respond to a complaint or to provide a refund to a consumer. The DTPA does, however, provide the Consumer Protection Division with unique investigatory tools and with the authority to bring investigations and subsequent enforcement actions in civil district courts. Those courts have the authority to order an injunction, restitution, attorneys fees, and civil penalties when appropriate. During the course of our investigations, individuals and businesses may agree to resolve the matter by entering agreements with the State to cease certain behavior and/or to provide refunds to consumers prior to an enforcement action being filed in civil district court.

In the current process, CPD sends complaints to a business for a response on a very limited basis and only for specific reasons. We do not currently have the software capability that would allow us send every complaint to every business on an automated basis, and thus, as a result, each time we take that step either through an active investigation or through lesser used tools (i.e. dispute resolution), we are doing so manually in a way that cannot be replicated with every complaint in an automated fashion.

Regardless of whether a complaint is sent to an individual or company for response, the Division's receipt and review of these complaints serves multiple and significant purposes which benefit the Division's fundamental purpose, including:

- Identifying trends and potential enforcement targets;
- Obtaining evidence;
- Identifying fact witnesses;
- Identifying persons entitled to restitution;
- Evaluating economic harm to consumers and legitimate businesses;
- Providing public information for consumers to check on businesses; and
- Serving as a deterrent for businesses.

8. When submitting a complaint, what should people know or include with their complaint to increase their likelihood that someone from the AG's office will follow-up with them?

Consumers should provide all relevant information and all factual documentation related to a complaint with the understanding that these records will be kept in agency files and subject to open records laws as a public record of the state.

Though filing a consumer complaint with the Office of the Attorney General is easy, consumers should understand the process first. Here's what they need to know:

- 1) **Preparing Your Complaint:** Before you file your complaint with us, take a moment to make sure you have all of your important information. Please note: The system cannot save your complaint over multiple sessions, so you will need to complete the form in one sitting.

The more details you can provide, the more effectively we can review your complaint. Important information includes:

- The name of the business or individual you're filing a complaint against
- The business/individual's full address, including zip code
- A detailed description of your complaint
- Explanation of how you came into contact with the business/individual
- Transaction dates and amounts
- Contract information (when appropriate) with payment details
- How you may have attempted to resolve the dispute, including the names of people you spoke with

Note: You can also attach supporting documents when filling out the online complaint form.

- 2) **Your Complaint Is Public:** Complaints filed with the Consumer Protection Division are potentially an open record. This means any member of the public may file an open records request and view your complaint.
- 3) **What We Can Do**
  - Receive consumer complaints and review them to identify illegal activity
  - File civil lawsuits acting in the public interest
  - Educate Texans on the latest scams—and how to avoid them

4) What We Cannot Do

- Serve as your lawyer
- File lawsuits on your behalf or on behalf of individual consumers
- Bring criminal charges for deceptive practices
- Provide legal counsel or interpretations of the law to individuals
- Routinely resolve individual complaints

5) Once You File Your Complaint: Upon filing your complaint, the Consumer Protection Division will review it. We use these complaints to monitor trends and take action when appropriate and in the public interest. Please note: Filing a complaint does not mean that our office represents you in any legal proceeding. You will receive a confirmation email once your complaint is successfully submitted. However, this does not mean that a case or investigation is open with the Consumer Protection Division.