# A CONSUMER'S GUIDE TO MISSISSIPPI CONSUMER PROTECTION LAW







WWW.AGJIMHOOD.COM

## A Message from Attorney General Jim Hood



Dear Consumer:

The Consumer Protection Division of the Attorney General's Office offers a number of services to assist Mississippi Consumers. These services include mediation of disputes between consumers and merchants, investigation and prosecution of civil suits, and investigation and prosecution of criminals who violate our consumer protection laws.

This guide addresses issues of daily importance to Mississippi consumers and provides an overview of Mississippi Consumer Protection Law. Where possible, it also furnishes tips and preventive measures consumers can take

to avoid becoming a victim of fraud or being taken advantage of by unscrupulous businesses.

While many of my duties as Attorney General involve representing other governmental offices, the Consumer Protection Division gives me the opportunity to assist individuals throughout the State. New scams arise almost daily, and we make a diligent effort to educate the public as we discover them. We have beefed up our efforts to identify and prosecute the scam artists who try to take advantage of our citizens, and we also actively watch for companies who have wronged Mississippians through deceptive advertising and other trade practices. When these are found, I will see that appropriate legal measures are taken to protect our citizens.

We hope this guide will assist you in being a wiser consumer, and I look forward to hearing from you if we can be of any assistance.

Sincerely yours,

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State of Mississippi

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## Introduction

The Consumer Protection Division of the Attorney General's Office was created to administer and enforce the Mississippi Consumer Protection Act of 1994 [Section 75-24-1 of the Mississippi Code of 1972, as amended]. Our mission is to shield consumers against unfair, false, deceptive, misleading or unconscionable business practices. We seek to protect consumers and enforce reasonable guidelines for fair business practices in four distinct areas:

- **Consumer Education** seeks to inform consumers on how to avoid fraud before it occurs. Consumer Education presents programs across Mississippi and distributes educational literature on consumer rights and scams.
- Consumer Advocacy investigates and mediates consumer complaints.
- Consumer Fraud actively pursues civil and criminal sanctions against violators of the Mississippi consumer laws.
- **Identity Theft** investigates and prosecutes crimes of unauthorized access and use of a victim's personal information for fraudulent purposes.

If you have a consumer complaint or question, please contact us at:

Consumer Protection Division
Office of the Attorney General
Post Office Box 22947
Jackson, Mississippi 39225-2947
Telephone: (601) 359-4230 or (800) 281-4418

FACSIMILE: (601) 359-4231 Website: www.agjimhood.com

The Attorney General and his staff are prohibited by Mississippi law from providing legal advice to the general public or acting as a private counsel for any individual or business. If you need legal advice, please contact a private attorney. Because statutes of limitation vary with different potential claims, consumers should seek the advice of a private attorney upon discovery of a potential claim.

The Consumer Protection Division does **NOT** have jurisdiction over the following types of complaints:

- Professionals such as doctors, lawyers, dentists, opticians, or hospitals
- State, county or local officials
- Businesses that maintain poor working conditions or don't pay employees
- Individuals against individuals
- Child support or abuse cases
- Landlord-Tenant issues
- Business against business

## How to File a Consumer Complaint

Often, a complaint can be resolved by contacting a company's customer service department. If that doesn't work, write a letter to the business which sold you the product or performed the service. Always send the letter certified mail with a return receipt requested. If the business does not respond within ten working days, or if it indicates an unwillingness to work with you, then complete and official complaint form, and mail it to the Consumer Protection Division, along with copies of all correspondence, receipts, etc. You may obtain this form by calling the Consumer Protection Division at (601) 359-4230, 1-800-281-4418 or online at www.agjimhood.com.

Upon receipt of your complaint, a consumer protection mediator will send a letter to the company explaining your complaint and request a written response. Although sometimes this is enough to assist with the mediation of a dispute, we may need more information from you or the company. Under the Mississippi Consumer Protection Act, the Attorney General is allowed to initiate litigation **only** when deceptive business practices occur statewide or affect large numbers of consumers. Therefore, we encourage consumers to send our office information about suspected illegal business practices in order to reveal a clear pattern of suspected misconduct.

If this division cannot assist you, we will refer you, whenever possible, to other more appropriate agencies or organizations, which may be of assistance.



## Sample Complaint Letter

(Your Address) (Your City, State, ZIP Code) (Date)

(Name of Contact Person, if available)
(Title, if available)
(Company Name)
(Consumer Complaint Division, if you have no person)
(Street Address)
(City, State, ZIP Code)

Dear (Contact Person):

Re: (Account Number, if applicable)

On (date), I (bought, leased, rented or had repaired) a (name of product with serial or model number or service performed) at (location, date and other important details of the transaction).

Unfortunately, your product (or service) has not performed well (or the service was inadequate) because (state the problem). I am disappointed because (explain the problem: for example, the product does not work properly, the service was not performed correctly, I was billed the wrong amount, something was not disclosed clearly or was misrepresented, etc.).

To resolve the problem, I would appreciate your (state the specific action you want- money back, charge card credit, repair, exchange, etc.). Enclosed are copies (do not send originals) of my records (include receipts, guarantees, warranties, cancelled checks, contracts, model and serial numbers, and any other documents).

I look forward to your reply and a resolution to my problem, and will wait until (set a time limit) before seeking help from a consumer protection agency or the Better Business Bureau. Please contact me at the above address or by phone at (home and/or office members with area codes).

Sincerely,

(your name)

Enclosure(s)

Cc: (reference to who you are sending a copy of this letter, if anyone)

## TIPS FOR AVOIDING IDENTITY THEFT

Identity theft is the fastest growing white-collar crime in the United States today. It can be simply defined as the unauthorized use of your personal information for fraudulent purposes. The personal information used by identity thieves can range from your name and address to your date of birth, driver's license number, social security number and bank account and credit card numbers. Totally avoiding identity theft may not be possible. However, following the suggestions below will greatly reduce the chances of your personal information being stolen.

- Instruct the Mississippi Department of Public Safety to replace your social security number on your driver's license with an alternate number.
- When ordering new checks, remove all nonessential information. Remove your social security number, driver's license number, middle name or initial and telephone number. Consider using your first initial, last name and address only.
- When making credit card payments or paying bills, do not leave the envelopes in your mailbox for the postal carrier to pick up. Drop your bills at your post office or a secure drop box.
- Reduce the number of credit cards to a bare minimum. Cancel any accounts you do not use.
- Unless you initiate the call and have a trusted relationship with the business, never give your credit card or other personal information over the phone. Many identity thieves pose as legitimate businesses in an effort to acquire personal information. This also applies to the internet.
- Always take credit card, debit card, ATM and other receipts with you which contain personal information rather than throwing them away in a public container.
- Shred receipts and other documents that may contain personal information before throwing them away at home.
- Shred any pre-approved credit offers or convenience checks which you do not plan to use.
- If you would like to decline pre-screened credit card offers completely, call 1-888-567-8688. All three major credit bureaus use this number.
- When creating passwords or PINs do not use anything that would be easy for identity thieves to discover. Examples include your birth date, the last four digits of your social security number and your address.
- Check your credit report each year and report any discrepancies to the credit bureaus.

## How to File an Identity Theft Complaint

Even if you follow every suggestion, a thief may still acquire your personal information and use it to commit fraud. If you believe that you are a victim of identity theft, you must take immediate action. Here are some basic steps to aid you in the process:

- Contact the local law enforcement where you believe the theft occurred, and keep a copy of the police report. If you believe that the theft occurred outside Mississippi, the Attorney General's Office can aid you in locating the telephone numbers and addresses for out-of-state law enforcement agencies.
- Contacts the Consumer Protection Division of the Attorney General's Office (1-800-281-4418) and request an identity theft packet which includes an ID Theft Affidavit. The Office of the Attorney General cannot begin an investigation until your affidavit is received.
- Close any accounts that you believe have been tampered with or fraudulently opened by contacting the creditors involved. Ask to speak to someone in security or the fraud department, and follow each conversation with a letter and a copy of your police report.
- Report the fraud to the three major credit bureaus. Ask the credit bureaus to place a "fraud alert" on your file. Be sure to follow up any telephone call with a letter.
- File a report with the Federal Trade Commission. Visit www.consumer.gov/idtheft or call the FTC's Identity Theft Hotline toll-free at 1-877-IDTHEFT (438-4338).

## CREDIT REPORTS

Anyone who has ever applied for a credit card, a loan, insurance, etc., has a credit file. This file contains your credit history, including your income, payment history and debt balances. Creditors base their decision on whether or not to lend you money, extend your credit, etc., on what is contained in your credit report.

Once a year, order your credit report from each of the three major credit bureaus. Look for any credit accounts that look suspicious or that you don't remember opening. Actively monitoring your credit report is one of the most important steps in protecting your financial identity.

#### Credit Bureau Contact Information:

Equifax:
P.O. Box 740241
Atlanta, GA 30374-0241
www.equifax.com
1-800-525-6285
(to report fraud)

Experian:
P.O. Box 9530
Allen, TX 75013
www.experian.com
1-888-397-3742

Transunion:
P.O. Box 6790
Fullerton, CA 92634
www.transunion.com
1-800-680-7289

# FAIR DEBT COLLLECTION PRACTICES ACT

This law was created to prevent abusive, deceptive and unfair debt collection practices. Debt collectors may NOT:

- Contact you before 8:00 a.m. or after 9:00 p.m.
- Inform anyone that you owe money.
- Harass or abuse you.
- Threaten you with criminal charges.
- Send documents appearing to be official government forms.
- Use false names to obtain information.
- Call you at work if you notify him or her that your employer disapproves.
- Collectors must stop contacting you if you notify them in writing.

## LEMON LAW

Under the Lemon Law, which applies to new vehicles only, manufacturers must repair or correct any defect which substantially impairs the use, value or safety of the vehicle and which occurs within one year after delivery.

If the defect cannot be repaired after three attempts, or if the vehicle is out of service by reason of repair for a total of fifteen working days, a new vehicle purchaser may be eligible for a replacement vehicle or the refund of the purchase price, less an allowance for use computed at 20 cents per mile for the number of miles the vehicle has been driven by the consumer.

First, contact the manufacturer's zone representative at the telephone listed in the owner's manual. If the zone representative is not successful in having the defect corrected, you may request an arbitration of your case through the manufacturer's dispute settlement program if one exists.

Often the arbitration decision is binding on the manufacturer but not the consumer, who may proceed further by bringing a private lawsuit. Be sure to read any arbitration clause thoroughly before signing.

The consumer's rights under this law will not apply if the vehicle's defect is the result of abuse, neglect or alteration.

## Consumer Tips on Buying a New Car

There is no state law that allows you to return a car to the seller for a refund within three days if you change your mind. Because a mistake can be very costly, here are a few tips to follow when making this large purchase:

- Select a car priced within your means.
- Read all warranties very carefully and ask questions about anything you do not understand.
- Get all promises in writing.
- Be sure to get a copy of the written contract or bill of sale, financing agreements, odometer statement and warranty at the time of the sale.
- Never sign anything without reading it or with empty blanks.
- Avoid buying a car on your first trip to the dealer. Most deals are still available a few days later, giving you some time to consider.
- If you want an extended warranty, find out if the dealer will honor the extended warranty should the warranty company go out of business. Get this information in writing.
- Most dealers make their profits on trade-ins, warranty and insurance sales and favorable financing. Pay attention to these prices as closely as you do the final sales price.

Our website contains A Consumer Guide to Mississippi's Lemon Law.

## Consumer Tips on Buying a Used Car

- Before buying an older car, ask for the "Notification of Exclusion or Modification of Implied Warranty" form.
- Obtain a written odometer disclosure certificate when you purchase a car.
- Look for a Buyer's Guide in the window of the car. This guide discloses any warranties provided with the car.
- If possible, have a mechanic inspect the car before you buy. Paying a mechanic a slight amount to inspect the car would save you thousands of dollars. If the seller refuses, look for another car elsewhere.
- A car having more than 75,000 miles on the odometer or over six years old may be sold "as is." However, the consumer must be provided with a form advising that the car is sold "as is," without any warranties. The dealer has no obligation to repair an "as is" car, regardless of its condition.

## CONSUMER TIPS ON CAR REPAIRS

- Get a written estimate on all repairs.
- Specify in writing that your consent must be obtained before performing repairs which exceed the estimate.
- Ask for you old parts and request an itemized bill.
- Get recommendations from friends who have used repair shops in the past.
- Find out if the shop guarantees its work in writing.

## CREDIT REPAIR SCAMS

No company can repair your credit history. The only way to "repair" your credit is by repaying your debts over time. Regardless of what an advertisement says, you cannot change true information on your credit report.

## Advance Fee Loan Scams

Advance fee loans guarantee a loan regardless of your credit history. Always be careful when "bad credit makes no difference" in securing a loan. Furthermore, the advance fee loan scam requires several fees up front to process this loan. Unless you are familiar with the company, don't give out any information, such as your credit card, checking account or social security number. Advertisements of advance fee loans are usually found in the classified section of your newspaper and on the internet.

## TELEMARKETING SCAMS

Telemarketing fraud costs Americans millions of dollars every year. Remember these facts when speaking with a telemarketer:

- If it sounds too good to be true, it probably is.
- If you won a prize, then you won it. Don't pay any up-front fees or shipping charges or taxes. If it's free... it's free.
- Tell them to send it to you in writing. Legitimate companies will not have a problem sending you information in writing.
- Don't be pressured into acting quickly.
- Don't give out personal information to a telemarketer.

As a result of recent state and federal legislation, Mississippians who are interested in limiting the number of telemarketing calls they receive now have the option of registering their phone number with both state and national "Do Not Call" Lists.

#### Mississippi:

Mississippi Public Service Commission Mississippi No Call Program P.O. Box 1174 Jackson, Mississippi 39215-1174 1-86NOCALLMS (1-866-622-5567) www.ms.gov/psc/nocall

#### National:

1-888-382-1222 TTY 1-866-290-4236 www.donotcall.gov

## NIGERIAN LETTER SCAMS

According to the Federal Trade Commission (FTC), con artists claiming to be Nigerian officials, business people or surviving spouses of former government employees, offer to transfer millions of dollars into your bank account in exchange for a small fee. If you take the bait, you then will receive official-looking documents describing the transaction. You will then be asked to provide your bank account numbers in order to cover the transfer and pay attorney's fees. In the end, you don't share in any profits, and the scam artist vanishes with your money.

If you receive an offer via e-mail claiming to need your help getting money out of Nigeria – or any other country for that matter – forward it to the FTC at **spam@uce.gov.** 

## IN HOME SALES

Door-to-door salespersons often use high-pressure sales pitches to try to convince you that you need the product that is being sold. Don't let yourself be intimidated or hurried.

State law allows for a three-day "cooling off" period which gives the consumer the right to cancel a home solicitation sale until midnight of the third business day after the day which the buyer signs an agreement. Documentation stating that a consumer has three-days in which to cancel the agreement must accompany any contract or sale. A simple letter to the company at the address listed in the agreement indicating the desire to cancel the agreement is sufficient.

- Be Aware! Criminals may pose as salesperson to gain access to your home.
- Get everything in writing.

## Home Repair Scams

While most home improvement contractors operate honest businesses, there are those who engage in deceptive practices and defraud consumers of large sums of money.

#### Home repair fraud is committed when:

- A person knowingly misrepresents a material fact relating to the terms of the contract or the condition of the property.
- Uses deception or false promises to encourage a consumer to enter into a contract.
- Misrepresents his name or the name of the business.
- Uses deception, coercion or force to obtain the consumer's consent to change the terms of the contract.
- Damages the consumer's property with the intent to enter into a contract for home repair.
- Misrepresents himself or another to be a state, federal or municipal employee with the intent to enter into a contract for home repair.

Home repair fraud is a crime. Don't let a salesperson talk you into repairs and improvements you don't need or want.

#### Beware of:

- Unknown or out-of-town contractors. Make certain the contractor has a permanent address.
- Outfits that offer you a bargain rate because the "equipment is already in the neighborhood," or they have materials left over from another job.
- Contractors who refuse to give you a written estimate, contract or references.
- Contractors who use high pressure sales pitches.

#### Before selecting a business, check with a few or all of the following:

- The Mississippi Board of Contractors
- The Mississippi Home Builders Association
- The Better Business Bureau
- Your Chamber of Commerce
- The Attorney General's Office at 1-800-281-4418

## WORK-AT-HOME SCAMS

Watch out for work-at-home schemes that promise you enormous earnings with little effort. With these schemes, you are required to spend your own money, and you never make a profit.

Here are some of the most common scams:

- **Proofreading:** You pay an up-front fee, and the company sends you books which it pays you to proofread; however, the books are never provided.
- **Envelope-stuffing:** For a fee, you get instructions on how to place the same advertisement in newspapers to trick others into sending you a fee.
- **Craft Work:** You buy supplies from the company and put together crafts that the company agrees to buy... but doesn't.
- **Medical Billing:** From anywhere from three hundred to several thousand dollars, you purchase a list of potential clients and a software program to process medical claims. Most of the time, the client lists provided are based on out-of-date databases of doctors who have not requested medical billing assistance, and the software does not work or has not been properly authorized, and is useless.

## **S**WEEPSTAKES

You're our grand prize winner! But, before you go out and buy that dream home or car, be careful. Here are a few tips when you receive news you're a big winner:

- Don't be fooled by thinking that buying goods from the company will increase your chances of winning. It
  won't. Some have lost their entire savings ordering products under the false belief it will increase his or her
  chances.
- Throw away any solicitation that looks like an official government document. The government does not solicit money from citizens.
- Don't send tax money. You pay taxes to the government... not to a sweepstakes company!
- Throw away any solicitation that asks you for your social security number, bank account or credit card information.
- Watch out for official looking documents. The company is not legitimate just because the envelope is impressive.

## PYRAMID SALES



Engaging in any sales scheme where money is not gained primarily from the sale of a product, but rather from the inducement of others to join the scheme is an illegal pyramid. These solicitations promise you will get-rich-quick with little or no effort. Often, few or no products exist, and the money you make is by recruiting others.

Remember that pyramid schemes can also be disguised as multi-level marketing organizations. If most of your money is made through recruiting, as opposed to selling a product or service, this is an illegal pyramid. Legitimate multi-level marketing companies make profits through the sale of goods and services to non-participants.

## Foreign Lotteries



The scam is simple. The scammer, usually based in another country, identifies himself as a sweepstakes/lottery official to the targeted victim and informs that person that he or she is the winner of a foreign sweepstakes or lottery. The scammer explains that in order to receive the cash winnings, the "winner" must first wire a fee to cover taxes, service charges, etc., on the cash winnings. If the victim wires the money, then the scammer either vanishes with the victim's

money or calls the victim again to tell him or her that more money is needed for fees "mistakenly" left out of the first amount. The scammer will continue to prey on the victim if he or she continues to wire money.

If you haven't entered a lottery, you have not won. Foreign lotteries are always a scam. It is illegal for any foreign lottery to solicit customers by phone or mail, whether the sweepstakes or lottery is legitimate or not.

## LANDLORD-TENANT RELATIONSHIP



The Consumer Protection Division has no jurisdiction over claims relating to the landlord-tenant relationship. However, we will be glad to send you a copy of the Landlord-Tenant Act. This act outlines the rights and obligations of both parties. Any claim should be filed with your local justice court or through contacting a private attorney.

## VACATION OFFERS



Be cautious when told of a "free" vacation or bargain travel offer. Many of these scams include hidden charges, and you may not find out about the other charges until you have sent a payment. Follow these steps to help avoid being the next victim.

- Call the Consumer Protection Division of the Attorney General's Office to see if there are any complaints against the business in question.
- Ask if there are any additional charges that have not been discussed, such as whether or not meals are included in the price.
- Find out if the company will charge a cancellation fee and the amount of that fee in the event you have to cancel. Often, these companies will charge a very hefty fee for canceling the trip.
- Call a legitimate travel agency to see if the deal is "too good to be true."
- Get all details in writing including all expenses.

## MAGAZINE SUBSCRIPTIONS



If a consumer purchases a magazine during a telephone solicitation indicated by a seller, the consumer has six months from receipt of the first invoice to cancel the subscription. However, the cancellation must be in writing in order to make the cancellation valid. The consumer must be refunded within sixty days for any magazines that have not been mailed.

## REPOSSESSIONS



Creditors have the right to repossess goods if you fail to honor a contract. Try to contact creditors before missing a payment; most people understand. You may be liable for any expenses of the repossession, and the goods may be resold only after you are notified. Remember: Don't sign a contract that you can't honor.

## CHARITABLE SCAMS

Professional fundraisers must post a bond with the State and register with the Mississippi Secretary of State's Office. Make sure that a charity is registered before donating. To do so, contact the Secretary of State's Office at (601) 359-1350.

## COMMON CONSUMER MYTHS

#### MYTH #1: "I can cancel any purchase within three days."

**FACT:** The three-day right to cancel exists only for a limited number of consumer transactions, and does not cover vehicle purchases. Mainly, it applies to credit or cash transactions initiated through face-to-face contact (like door-to-door sales) away from the seller's regular place of business.

#### MYTH #2: "That store must give me a refund if I ask for one."

**FACT:** Mississippi does not have laws that specifically regulate refund or return policies. Each business may set its own return policy, if the goods were not misrepresented. Business may use options such as offering customers cash, credit slips, exchanges or no adjustments at all. Damaged merchandise may be handled on a case-by-case basis.

# MYTH #3: "I must be a guaranteed winner of the big prizes because I received an awards notification!"

**FACT:** One of the most common types of fraud involves phony prize offers. It's not much of a prize if you are asked to make a purchase, provide a donation or send an advance payment of taxes, handling fees or processing charges. Never send money without checking with authorities.

#### MYTH #4: "My credit report is private, unless I authorize someone to review it."

**FACT:** Potential employers, landlords, insurers and others may look at your credit report, and many actually do.

# MYTH #5: "The lemon law protects me against repeated breakdowns on any big-ticket item I purchase – even a used car not n warranty."

**FACT:** Almost all states, including Mississippi, have lemon laws that cover new car purchases, but there is no universal lemon law that applies to all big-ticket items. Before you purchase, investigate the history of a used car or product, and have it examined by a mechanic or other professional who knows the product.

## COMMON CONSUMER MYTHS CONT'D

MYTH #6: "It's safe for me to give my credit card number for identification if I don't authorize a charge to my account."

**FACT:** Credit cards are great for placing catalog orders, making hotel reservations or other purchases from familiar, established businesses. In fact, some credit card companies have "charge back procedures" which can protect you if there's difficulty receiving the product or service you bought. But, be very careful. Con artists with access to your credit card number and expiration date may make unauthorized charges against you card. Never give out your credit card number to an unfamiliar person or business.

MYTH #7: "When charities call me to contribute, I know all of my money is being used for the stated charitable purpose."

**FACT:** Charitable organizations are not obligated to spend a certain percentage of their income on state charitable purposes. Charities which hire professional fundraisers have higher overhead costs to meet, and they may spend less on the charitable cause. You should ask if the caller is a paid solicitor or a volunteer for the charity and what percentage of the donations will go to the charity.

MYTH #8: "I'll have a better chance of winning one of those publishers' sweepstakes contest if I purchase magazines."

**FACT:** It's illegal for sweepstakes promotions to require any type of purchase or payment. Entrants who do not purchase magazines must be given the same chance of winning as those who do make purchases.

MYTH #9: "Others can't take money directly from my bank accounts without my written authorization."

**FACT:** Merely giving someone your checking account number may result in he or she making withdrawals from your account. People can sometimes issue a "demand draft" to your bank, claiming you authorized the withdrawal, and the bank may pay it, even though it lacks your signature. You might not know such a withdrawal happened until you receive your next statement.

MYTH #10: "I know that all of the advertisements I see or hear in the media are accurate or they wouldn't appear in the reputable newspapers and on the major broadcast stations."

**FACT:** There is no government requirement that advertisements be submitted to an agency for advance review. By law, advertisers are responsible for making true statements and claims in their ads, and media outlets are not required by the government to verify those ads.

# CONTACT INFORMATION

AARP	1-866-554-5382
Attorney General's Office.	(601) 359-3680
Consumer Protection & Identity Theft Unit	(601) 359-4230; 1-800-281-4418
Better Business Bureau	(601) 987-8282; 1-800-987-8280
Consumer Credit Counseling Services	(601) 352-7784
Federal Trade Commission.	(202) 326-2222
Governor's Service Line	1-877-405-0733
MS Bar Association	(601) 948-4471; 1-800-682-6423
National Fraud Information Center.	1-800-876-7060
Public Service Commissioner	(601) 961-5477; 1-800-356-6430
Do-Not-Call	1-866-622-5567
Secretary of State	(601) 359-1350
Social Security Administration.	1-800-772-1213

## Mississippi Office of the Attorney General Consumer Protection Division



Post Office Box 22947

Jackson, MS 39225-2947

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