2010–2011 Annual Report

A Year Focused on Fighting Financial Fraud

Fiscal Year July 1, 2010 to June 30, 2011

NAAG Mission Statement: To help Attorneys General fulfill the responsibilities of their office and to assist in the delivery of high quality legal services to the states and territorial jurisdictions.
NAAG President’s Message

It is a pleasure to present to you the NAAG Annual Report for this fiscal year, during which I was honored to serve as NAAG president. The year brought tremendous change in the Association’s membership, as 20 new Attorneys General were sworn into office. Those new members joined veteran Attorneys General in working through NAAG on a wide range of bipartisan legal and law enforcement issues.

Let me offer a few highlights from the year:

- The landscape of consumer financial protection continued to change as Attorneys General gained new authority under federal law. Establishing a meaningful, cooperative partnership between the newly-created Consumer Financial Protection Bureau and the Attorneys General was one of the key goals in my year-long presidential initiative.

- The Association expanded its legal training institute. In conjunction with the National White Collar Crime Center and the Bureau of Justice Assistance, NAGTRI conducted 10 intellectual property trainings across the country for law enforcement and prosecutors. NAGTRI also launched its International Fellows Program in June 2011.

- NAAG hosted three productive Annual Meetings and a Presidential Initiative Summit focusing on critical topics including financial fraud, immigration law, Medicaid and prescription drug abuse, human trafficking, and privacy issues. NAAG also organized orientations for the new Attorneys General, chief deputies and chiefs of staff.

It’s been a real privilege to serve as president of this wonderful organization. Thank you for sharing in our success and in all of the year’s accomplishments which are summarized in this report.

Sincerely,

Roy Cooper
2010-2011 NAAG President &
North Carolina Attorney General
For any professional association whose members are elected and appointed government officials, change is inevitable. This past year, that opportunity was unprecedented. NAAG welcomed 20 new Attorneys General. While we bid a heartfelt farewell to those members who were moving on, we enthusiastically welcomed the new members and eagerly anticipated the energy and vision they would bring our Association.

The superb leadership team of our Executive Committee ensured ongoing success in accomplishing our Association mission. Beyond the intangible benefits NAAG provides such as communication and coordination among its members, NAGTRI is the most quantifiable benefit our members enjoy. This fiscal year, NAGTRI held 52 training courses during which we trained over 2000 staff from the offices of Attorneys General at no cost to our members.

One of the signature accomplishments this year was in the area of our governance. Led by a drafting committee consisting of Attorneys General and chief deputies, a re-write of our governing document—the NAAG Constitution—was approved by the general membership at our Summer Meeting.

In response to the devastating earthquake and tsunami which struck Japan this year, the NAAG Mission Foundation Board of Directors approved a very generous gift to the Red Cross for disaster relief in Japan in honor of the Japanese Broadcasting Corporation (JBC), our long-term tenants and neighbors in our building.

It continues to be my honor and privilege to serve as your executive director and lead the extraordinary men and women of the NAAG staff. Their dedication, hard work, and professionalism ensures NAAG’s continued success.

Very Respectfully,

Jim McPherson
NAAG Executive Director
NAAG President and North Carolina Attorney General Roy Cooper chose to focus his one-year presidential initiative on fighting financial fraud. He convened a Presidential Initiative Working Group comprised of Attorneys General and key staff from Washington, Iowa, Illinois and Indiana to join North Carolina in establishing a partnership with the newly-created federal Consumer Financial Protection Bureau.

In November 2010, the Working Group issued a summary of the Wall Street Reform and Consumer Protection Act (P.L. 111 – 203) which expands the legal tools available to Attorneys General by authorizing them to enforce certain provisions of the law and related regulations.

More than 200 people, including Attorneys General, Professor Elizabeth Warren, Bank of America CEO Brian Moynihan, and representatives from the financial industry, academia, government and consumer advocacy organizations attended the NAAG Presidential Initiative Summit, April 11–12 in Charlotte, N.C. Meeting attendees examined what happened in the financial marketplace, discussed how to avoid it in the future, and looked for ways Attorneys General could protect consumers going forward. Key issues covered included better use and sharing of data, more coordination of enforcement actions, and preemption.

A summary of the Summit discussions was issued during the 2011 NAAG Summer Meeting to conclude Attorney General Cooper’s term as NAAG president.
NAAG Mission Foundation

The NAAG Mission Foundation, Inc., a 501 (c) 3 organization, provides non-partisan research and analysis of legal issues for Attorneys General as well as assists in the NAAG membership’s responsibilities under the Tobacco Master Settlement Agreement (MSA).

The Mission Foundation has been active in advancing the programs and meetings conducted by NAAG by providing approximately $1.9 million for the three NAAG Annual Meetings and a majority of the NAGTRI legal trainings.

NAGTRI

The National Attorneys General Training and Research Institute (NAGTRI) continues to provide quality, responsive and innovative legal training to assistant attorney generals and other Attorney General staff. With the generous support of the NAAG Mission Foundation and various federal grants, NAGTRI has greatly increased the number of its trainings, holding 52 national, regional, and mobile trainings this past fiscal year. This year also marked a substantial increase in the number of mobile courses. These cost effective programs are tailored trainings held onsite at Attorneys General offices. Additionally, NAGTRI began to offer training through webinars and other teleconference-related efforts, expanding its outreach at minimal cost. Between national, regional and mobile trainings, NAGTRI trained 2,014 people this year.

NAGTRI received funding from the Bureau of Justice Assistance (BJA) for intellectual property theft training developed in partnership with the National White Collar Crime Center. NAGTRI conducted 10 intellectual property theft courses at locations across the country. Also, NAGTRI received a BJA grant to develop and provide training with partner entities to combat human trafficking.

NAGTRI also launched the inaugural International Fellows Program in June 2011. Through a combination of grants from the NAAG Mission Foundation, the Alliance Partnership and USAID, NAGTRI provided a forum for elite government attorneys from around the world to learn from each other, explore common issues together and establish an international network for the mutual benefit of their respective offices. Twenty participants from 10 countries participated in this year's class, which concentrated on the human trafficking issue.

“It would be a privilege to come to another of your trainings. Best training I have ever attended. Wish I came 14 years ago when I was a newly-minded lawyer.”
NAAG Financials

The Association had steady financial results achieved through a combination of fiscal discipline, higher meeting registration income and greater investment returns. NAAG's core budget is funded principally from member dues, federal government grants, and other sources. The dues structure is modeled after the National Governors Association, with categories and amounts assessed based on the most recent census.

Funding Sources

- **NAAG Dues** fund NAAG core programs and general and administrative expenses.
- **Registration Income** contributes to fund meeting expenses.
- **Federal and other grants**
- **Settlement funds** are usually restricted to fund certain prescribed programs or expenses.
- **Interest and investment income on Tobacco portfolio** funds a portion of the Tobacco program expenses and Tobacco grants.
- **Interest and investment income on Mission portfolio** funds annual meetings, NAGTRI and other meetings.
- **Rental Income on Mission Foundation** funds general and administrative expenses related to the owned office building.

Notes

The Tobacco and Mission Fund portfolio continued to improve, adding $16 million in investment gains and earnings this fiscal year, which allowed the Association to expand NAGTRI trainings and other meetings.

NAAG is the official organization of the chief legal officers of the states, commonwealths, and territories of the United States, which is reflected in NAAG's status, for federal tax purposes, as an "instrumentality of the states." As an instrumentality of the states, NAAG is exempt from federal income tax, in the same way a state governmental body is tax-exempt.

Editor's Note: NAMFCU's financials are separate from NAAG and are not reflected in this report.

**FY 2011 Program Expenses**

![Program Expense Pie Chart]

### Consolidated Statements of Financial Position

**As of June 30, 2011 and June 30, 2010**

**(In Thousands)**

#### ASSETS

<table>
<thead>
<tr>
<th>NAAG</th>
<th>Mission Foundation</th>
<th>Consolidated Total</th>
<th>NAAG</th>
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<td>Cash &amp; Cash Equivalents</td>
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<td>Accumulated Depreciation</td>
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<td>Fixed Assets, Net</td>
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<td><strong>TOTAL ASSETS</strong></td>
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#### LIABILITIES

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<td>Due to Other Funds</td>
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#### NET ASSETS

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<td>Undesignated Net Assets</td>
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<td>Temporarily Restricted Net Assets</td>
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#### CONSOLIDATED LIABILITIES AND NET ASSETS

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<td>49,652</td>
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<td>41,786</td>
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<td>103,283</td>
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### Consolidated Statements of Activity

**As of June 30, 2011 and June 30, 2010**

**(In Thousands)**

#### REVENUES

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<tr>
<th>NAAG</th>
<th>Mission Foundation</th>
<th>Consolidated Total</th>
<th>NAAG</th>
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<td>Dues</td>
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<td>Investment and Interest Income</td>
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<tr>
<td>Rental Income</td>
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<td>Other</td>
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<td>136</td>
<td>493</td>
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<td><strong>TOTAL REVENUES</strong></td>
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<td>47,247</td>
<td>25,775</td>
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Recipients of the 2010–2011 NAAG Awards for outstanding achievement and service

The annual NAAG Awards for outstanding achievement and service were presented during the 2011 NAAG Summer Meeting. Recipients were:

**KELLEY-WYMAN AWARD:** Washington Attorney General Rob McKenna

**SPECIAL RECOGNITION AWARD:** Nebraska Attorney General Jon Bruning

**FRANCIS X. BELLOTTI AWARD:** Mary Sue Terry, former Virginia Attorney General

**NAGTRI FACULTY OF THE YEAR AWARD:** Laurie Lyte, Maryland Attorney General’s Office and David Robinson, California Attorney General’s Office

**RAY MARVIN AWARD:** Jerry Coyne, deputy attorney general with the Rhode Island Attorney General’s Office

**LAURIE LOVELAND AWARD:** Dave Cookson, chief deputy with the Nebraska Attorney General’s Office

**BEST BRIEF AWARDS:** Individuals from the Alabama, Illinois, New York, Ohio, Texas, and Virginia offices of the Attorneys General were recognized for excellence in brief writing in the U.S. Supreme Court. Recipients of the Supreme Court Best Brief Awards were: Deputy Attorney General Corey Maze of Alabama; Solicitor General Michael A. Scodro and Deputy Solicitor General Jane Elinor Notz of Illinois; Solicitor General Barbara D. Underwood, Deputy Solicitor General Benjamin Gutman, Assistant Solicitor General Monica Wagner, Assistant Attorney General Michael Myers, Assistant Attorney General Morgan Costello, and Assistant Attorney General Robert Rosenthal of New York; former Solicitor General Benjamin C. Mizer, Solicitor General Alexandra T. Schimmer, Deputy Solicitor Stephen P. Carney, Deputy Solicitor Emily S. Schlesinger, and Assistant Attorney General Lori Weisman of Ohio; Solicitor General James C. Ho, Assistant Solicitor General Daniel L. Geyser, and Assistant Solicitor General James P. Sullivan of Texas; and Senior Appellate Counsel Stephen R. McCullough of Virginia.

NAAG Annual Meetings

**New AG Orientation**

Nov. 29–30, 2010
Fort Lauderdale, Fla.

**Winter Meeting**

Dec. 1–2, 2010
Fort Lauderdale, Fla.

“Exploring Legal Issues for the New Decade”

**New Chief Deputies/Chiefs of Staff Orientation**

Feb. 15–17, 2011
New Orleans, La.

**Spring Meeting**

March 7–9, 2011
Washington, DC

“State-Federal Cooperation in a Challenging Economy”

**Summer Meeting**

June 20–22, 2011
Chicago, Ill.

“Maximizing State and Local Partnerships to Help Constituents”
Society of Attorneys General Emeritus (SAGE)

Former Attorneys General remain active as part of the Society of Attorneys General Emeritus (SAGE). Formed in 1990, SAGE has 250 members and Mike Cody, former Tennessee Attorney General and Stephen Merrill, former New Hampshire Attorney General, serve as co-chairs. SAGE members share their wealth of experience, are available to mentor those who follow, network with each other in their post government pursuits, and continue to support sitting Attorneys General individually and through NAAG.

During its spring 2011 business meeting, SAGE members unanimously approved a resolution about organizational and governance structure, including a procedure for elections and terms of office for co-chairs.

SAGE members also served as speakers during the new AG orientation held by NAAG, following the November 2010 elections.
NAAG Project Accomplishments

Antitrust

The Antitrust Project held a successful Antitrust Seminar in Columbus, Ohio with more than 50 state enforcers. The October 2010 seminar featured a hands-on negotiations session, which focused on the multi-state nature of state antitrust enforcement. The Antitrust Project also assisted multistate groups in filing amicus briefs in several pharmaceutical cases, including Louisiana Wholesale Drug Co., Inc. v. Bayer AG (Cipro) in the Supreme Court, Federal Trade Commission v. Lundbeck in the Eighth Circuit and In re K-Dur Antitrust Litigation in the Third Circuit. The project continues to maintain the Multistate Antitrust Litigation Database, which now includes 575 antitrust cases brought by state Attorneys General.

Bankruptcy

The Bankruptcy Project had success in three issue areas: tobacco, consumer protection and environment.

Carolina Tobacco Company: Completed settlement of long-running litigation with delinquent Non-Participating Manufacturer (NPM). When settlement is approved and implemented, all escrow deposits that are owed will be completed, and the States will receive $9.75 million in penalties, costs, and fees, and about $2 million in taxes. Company will be permanently enjoined from doing business.

Hollywood Video Movie Gallery: Worked with all 50 states to help correct improper collection efforts directed at up to 12 million customers served by the two companies before they went out of business.

Tronox: Worked with the states on several major environmental cases that came to confirmation in the last year. Tronox's plan provides for recoveries to come, in large part, from any successful recovery in a suit against Tronox's former parent, Kerr-McGee, by a Litigation Trustee appointed under the plan.

Communications

Thirty public information officers (PIOs) from Attorneys General offices convened in Chicago Aug. 2-4, 2010 for the NAAG PIO seminar. The agenda covered such topics as effective communications outreach, web design on a shoestring, and multimedia storytelling. Guest speakers were from the Medill School of Journalism and Associated Press.
NAAG Project Accomplishments

Consumer Protection

The Consumer Protection Project provided assistance to the U.S. Department of Health and Human Services in four regional two-day trainings to state Attorneys General on their new enforcement duties under the Health Insurance Portability and Accountability Act (HIPAA). In addition, NAAG trained more than 100 assistant attorneys general in trial advocacy skills using a telemarketing fraud case file.

The Project conducted its spring and fall Consumer Protection Conferences with more than 40 assistant attorneys general from over 40 states and more than 35 private sector individuals in attendance.

The Project provided technical assistance and support to more than 30 multistates and working groups. Recent multistate announcements included Action Integrated Marketing, AstraZeneca, DirecTV, Dannon, Amerix, US Fidelis, Bayer Healthcare, Wells Fargo, Publishers Clearinghouse, Your Money Access, and Topix.

Lastly, the Project continues its service as a liaison to federal agencies. Project counsel provides assistance and serves as a point of contact for state Attorneys General to the newly-formed Consumer Protection Financial Bureau, and to the Federal Financial Fraud Enforcement Task Force as well as the Oil and Gas Working Group.

Cyberspace Law

The Cyberspace Law Project partnered with the National Center for Justice and the Rule of Law at the University of Mississippi School of Law to develop and present two national cybercrime-based trainings: Prosecuting a Cyber Case, and Cybersecurity: What State Prosecutors Need to Know. In addition, the Project developed and presented national conferences on Computer Forensics for Attorneys and Best Practices in Working with Victims of Crime. The Project developed and presented a national conference on advanced electronic discovery and also presented remote basic electronic discovery courses at the Offices of the Attorneys General of Maryland and the District of Columbia, and a remote advanced electronic discovery course at the Office of the Attorney General of Massachusetts.
The Energy & Environment Project conducted two training programs: Current Issues in Waste Management was held December 2010 in Dallas for 52 people, and the Fish and Wildlife Issues for State Attorneys training was held April 2011 in Denver for 55 people.

The NAAG-DOE Workgroup, supported by the Office of Environmental Management in the U.S. Dept. of Energy (DOE) and the NAAG Energy & Environment Project, met in conjunction with several nationwide tribal and governmental groups and DOE.

National Association of Medicaid Fraud Control Units (NAMFCU)

NAMFCU’s most noteworthy accomplishments continue to be in the areas of global cases and training. This fiscal year a record number of 12 global cases were resolved. Some of these include the following pharmaceutical manufacturers: Allergan for $600 million, Novartis for $422.5 million and AstraZeneca for $520 million.

NAMFCU continues to offer professional training of the highest quality to Medicaid Fraud Control Unit (MFCU) staff. During the past fiscal year, NAMFCU held one Introduction to Medicaid Fraud training program in Richmond, Va., in November 2010 and one in Santa Fe, N.M., in March 2011. NAMFCU conducted one Medicaid Fraud 102 Training Program in Kansas City, Mo., in April 2011. This program focuses on four provider subject areas and is geared toward more experienced MFCU employees. The teaching format utilizes small break-out sessions in order to foster a team approach to solving both investigation and prosecution challenges.

NAMFCU held its annual training program in Tempe, Ariz., in October 2010. Approximately 200 MFCU staff attended. Inspector General Daniel Levinson of the U.S. Department of Health and Human Services was a featured speaker.

In June 2011, NAMFCU hosted its Resident Abuse Training Program in Wilmington, Del. It focuses on training attorneys, investigators, and nurse analysts/investigators that specialize in resident abuse and neglect, and is held every other year.

Finally, the Association held a June training in Chicago for global case team leaders. This training provided team leaders with guidance about issues in global case investigations and settlements, and with intervention and litigation decisions.
NAAG Project Accomplishments

Supreme Court

State Attorneys General collectively appear before the U.S. Supreme Court more than any other litigant apart from the U.S. Solicitor General. The issues presented by these cases span from criminal procedure and habeas corpus to the First Amendment, preemption, and the Takings Clause. The NAAG Supreme Court Project helps states present cases effectively before the Court, both as parties and collectively as amici curiae.

The Project counsel conducted approximately 25 moot courts for state attorneys arguing in the U.S. Supreme Court this term. Six state lawyers assisted NAAG staff through the NAAG Supreme Court Fellows program.

Project counsel edited about 50 briefs filed by Attorneys General Offices in the U.S. Supreme Court, including merits briefs, cert petitions and oppositions, and amicus briefs.

The Project hosted its 28th annual Supreme Court Advocacy Seminar in December 2010 for 40 attendees, and its 16th annual State Solicitors General and Appellate Chiefs Conference in June 2011 for 45 people.

Tobacco

The Tobacco Project continued its successful defense of the tobacco Master Settlement Agreement (MSA) against constitutional and antitrust challenges. Federal appellate courts upheld two summary judgment dispositions of such challenges and the U.S. Supreme Court denied certiorari in two cases.

On Oct. 19, 2010, the Project convened the fourth Triennial Conference under Section VIII(a) of the MSA. The purpose was to evaluate the success of the MSA and to coordinate efforts by the Attorneys General and MSA Participating Manufacturers to continue to reduce youth smoking. The conference was held in Memphis, Tenn., and focused on public health. The program covered such topic areas as the Food and Drug Administration’s (FDA) implementation of the Family Smoking Prevention and Tobacco Control Act of 2009, trends in youth tobacco use, smoking in movies, and the Prevent All Cigarette Trafficking Act.

The Project played a significant role and provided a key witness in the successful defense of a claim against the United States under the North American Free Trade Agreement (NAFTA) brought by a Canadian cigarette manufacturer and its American distributor. The claimants alleged that the MSA States’ Escrow Statutes violated NAFTA by discriminating against the claimants, expropriating their property, and failing to satisfy international law standards of fair and equitable treatment. The arbitral panel unanimously decided that the Canadian manufacturer could not invoke the panel’s jurisdiction and that the American distributor’s claims failed on the merits.
Finally, the Tobacco Project was especially active in the bankruptcy area. The Project obtained payments to the states of approximately $672,000 from the bankruptcy estate of one MSA Participating Manufacturer and $17 million from a second Participating Manufacturer. For tobacco companies that are not MSA signatories, non-participating manufacturers (NPMs), the Project obtained a bankruptcy court order requiring one debtor NPM to set aside funds every two weeks to cover its Escrow Statute obligations. This resulted in the NPM setting aside $3.5 million in 2011, which was paid in full and on time into the NPM escrow accounts held for the benefit of the states.

Regarding this same debtor, NAAG counsel discovered after the hearing to confirm the debtor’s reorganization plan that the debtor company and its principal were the targets of a federal criminal investigation for illegally trafficking in cigarettes. Using information ultimately obtained by NAAG counsel by deposing an FBI agent, NAAG counsel successfully petitioned the bankruptcy court to vacate its order confirming the debtor’s reorganization plan and to appoint an operating trustee.

NAAG Administration & Services

NAAG issued its first technology survey of the offices of Attorneys General. The data in the report reflects the vast range of technology trends, approaches, and solutions across jurisdictions, and serves as a valuable resource in addressing specific technology issues and needs within individual offices.

The NAAG Technology Network was established this year and is comprised of technology contacts from Attorneys General offices. In February 2011, chief information officers, technology directors, and other Attorney General office IT contacts gathered for NAG-TRI’s first technology training course, Trends in Technology: Doing More with Less.

With the large number of new Attorneys General taking office this year, NAAG received numerous requests for office management reviews. This peer review program, sponsored by the NAAG Mission Foundation, is an opportunity for gauging best practices and identifying opportunities to advance the goals and objectives of individual Attorney General offices.
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