

John Swallow's Death Wish

Hobnobbing with a campaign donor on Maui

By Lynn Packer

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Earlier this month Utah Attorney General John Swallow socialized with one of his corporate campaign donor representatives while attending conferences on Maui, Hawaii, partly at taxpayer expense. The back-to-back conferences, both held at the same posh resort, are known by their acronyms, RAGA and CWAG—the Republican Attorneys General Association and the Conference of Western Attorneys General. Both are for elected attorneys general; the former only for Republicans, the latter for both parties from the Western States.

AGs hobnobbing with conference corporate sponsors and campaign donors is not prohibited, indeed both RAGA and CWAG facilitate it. Nate Wilcox, general counsel for the Utah home alarm and solar energy company, Vivint Inc., says he does not think of his dining with Swallow and Swallow's Chief Deputy Kirk Torgensen while at the Maui conferences as a "lobbying thing." "You go to dinner with them, you talk to them," he said, "often times the conversations don't have anything to do with anything related to business. You may have a social conversation with them."

During the 2012 Attorney General's race Vivint contributed \$964 directly to the Swallow campaign, \$25,000 to the Friends of John Swallow PAC and \$30,000 to the Mark Shurtleff PAC Utah's Prosperity Foundation.

Over recent years Vivint has been the subject of numerous inquiries by attorneys general around the United States for suspected illegal sales practices. But not by Utah's attorneys general.

The Utah-based company uses a Mormon missionary-style, door-to-door sales approach to peddle home automation systems. Indeed Wilcox guesses a majority of its sales force are returned LDS missionaries. Over the past three years attorneys general from Arkansas, Wisconsin, Kansas, Nebraska and Ohio have entered into settlement agreements with Vivint, all related to alleged misrepresentations made by the company's sales force. Washington's and Idaho's AGs also received customer complaints.

This summer Flager, Florida was hit with a wave of Vivint sales reps. FalgerLive.com headlined a report, "Why Palm Coast Is Alarmed: Vivint Home-Security Solicitors Dogged By History of Deception." An excerpt:



John Swallow was at two attorneys general conferences on Maui in early October socializing with Vivint's Nate Wilcox.

On Tuesday, the Palm Coast city administration issued an advisory to residents to be on their guard about door-to-door solicitors representing Vivint Inc., a Utah-based home-security company. The solicitors, the city warned, were misrepresenting facts and themselves, saying they were representatives either of Palm Coast or of Flagler County.

A Vivint spokeswoman denied that such misrepresentation was taking place. Records say otherwise.

In Palm Coast and elsewhere, according to Palm Coast Code Enforcement logs, Flagler County Sheriff's reports and the Better Business Bureau, Vivint's name is riddled with a history of complaints and proven practices similar to those cited by Palm Coast residents, which prompted the city to act.

Vivint says it works hard to address and resolve consumer complaints. And there is no denying the astounding success of its nationwide, missionary-style sales concept. Late last year the Blackstone Group (NYSE- ticker symbol BX) bought Vivint for more than \$2 billion, perhaps the largest business deal in Utah history.

Still the Federal Trade commission and Better Business Bureau warn homeowners to be cautious:

Everyone wants to feel safe in their home, so when home security salespeople come knocking, their pitch can be convincing. The Federal Trade Commission (FTC), and the Better Business Bureau urge you to use caution when you consider what security system sales agents have to offer.

During the spring and summer months, home security or alarm companies hire traveling sales agents to go door-to-door, making unsolicited "cold calls" on homeowners. In some cases, the salespeople use high-pressure or deceptive sales tactics to get potential customers to buy expensive, and sometimes substandard, systems or equipment they don't need.

Besides campaign contributions to Utah's current and past attorneys general-- Shurtleff and Swallow-- Vivint contributes to the associations the pair joined—RAGA and CWAG. Vivint sponsored the CWAG conference in Denver last July and sponsors luncheons at other association events.

Is that proper, for companies to sponsor attorneys general events, isn't it an attempt to gain influence? Wilcox was asked.

His response: "If someone for example is sponsoring a lunch at one of these events, and you're trying to use that as a means of influencing somebody one way or another I think that's a decision an attorney general would have to make as to whether they would want attend that type of event."

What about the possibility that a sponsor like Vivint has been, is, or could be under an attorney general's investigation?

"If it's 'could be' then you'd never have anyone there," Wilcox says. "I think you have a conference where there is an opportunity to have a discussion and dialog about different issues," he said. "There is nothing that prevents a company from going and having a meeting with an attorney general at any time. They are not secret meetings that are taking place (at the conferences)," Wilcox said.

CWAG's executive director Karen White told *packerchronicle.com* that her AG's association gets upwards of \$1 million a year from outside sponsors. She said Utah pays \$10,000 a year for Swallow's membership but the association also then pays for his travel and lodging to events. She said states get more back than they put in because the travel and lodging usually exceed \$10,000. The difference is covered by sponsors.

When *Salt Lake Tribune* columnist Paul Rolly reported on Swallow's presence on Maui he wrote, "The two associations picked up the cost of his stay."

That may not be accurate. According to White, Utah taxpayers paid for part of his trips—it can be a mixture of public and private money.

White was also asked about sponsors that have been, are or could come under an AG's scrutiny. "We vet sponsors," she said. "If any active investigation is going on we pass on the contributions."

Swallow's ongoing socializing with campaign contributors, especially a company investigated by other attorneys general but not by his office, while he is being investigated for alleged pay-to-play, could signal his confidence he's done nothing wrong. But because allegations under investigation involve meetings with contributors and stays at another posh resort--Pelican Hill (see *packerchronicle.com* report No. 18)--Swallow's continued socializing with donors could also be seen as a dare-- like showing investigators his middle finger--or a death wish.



Swallow's continued hobnobbing:
Signals confidence or defiance?

In August, less than two months before the Maui conference, *packerchronicle* broke the story that Vivint was at a Swallow fundraiser that was also attended by Utah State Senator Curtis Bramble (R-Provo). The

fundraiser, called the Wasatch Shotgun Blast, was held at the Browning Arms headquarters in Morgan, Utah, and hosted by Mark Shurtleff:

Senator Bramble said when he arrived he noticed Vivint was there, a company headquartered in his district. "I was curious." Bramble said. "I went over and introduced myself to them and said, 'My name is Curt, who are you guys?'"

Not disclosing his status as a senator, Bramble says he asked the company representatives, "Gosh, why would Vivint be here with the attorney general's fundraiser?"

"Their response was, 'Well if we have problems with state laws, we need to have an attorney general who knows our business and that is friendly to us.'"

"Well hold it, if you have a problem with a state law why don't you talk to a state legislator and get the law changed?" Bramble replied.

"And this guy looked at me and said, 'We have no use for state legislatures, they are useless. If we have the attorney general we don't need state legislators.'"

Bramble tells UPC he was stunned, given rumors that float around about "fire insurance" and "pay-to-play."



Mark Shurtleff speaking at John Swallow's
Wasatch Shotgun Blast August 21, 2012

“It’s ridiculous,” says one Utah attorney familiar with legal and political ethical issues about Swallow and the Maui conferences. “It’s about buying influence, paying your way to get on their radar screen, the whole play-for-pay system.”

The attorney said, “If you stop and go back to a basic principle, why would anybody want to give money to attorney generals? They don’t pass legislation. They have the authority and ability to prosecute you or prosecute your enemy. Or to not prosecute you or to bring a civil suit against you for some sort of enforcement action. The only reason you give money to an attorney general is so they will know you.”

He was not just critical of Swallow for attending conferences like CWAG and RAGA who permit outsiders to fund their meetings but of *all* AGs who attend, Republican and Democrat. “If you have a big company and you sell widgets, why are you giving money to the attorney general of the state where you do business where you sell your widgets? To me it’s horrendous.”

Vivint’s attorney, Wilcox, points out that his company’s corporate support of the associations is at the lowest levels—other companies donate much more—and that Vivint expects nothing in return for its support.

David Irvine, co-counsel of Utahns for Ethical Government, says the public should be concerned about how public lawyers—like attorneys general and county attorneys—raise money for campaigns. “In theory a lawyer is supposed to avoid creating a conflict of interest between his client and another entity,” he said. But, in Utah, he said “it appears to be pretty much Dodge City in terms of what public lawyers can do in terms of raising money.” “Certainly the current and past Utah attorney general turned the office into a pretty impressive cash cow through fund-raising aggressively wherever they could.”

As for the CWAG conference Swallow attended in Maui, Irvine said such purported nonpartisan organizations, whether for governors, attorneys general or legislators, “historically have been pretty independent of what I call corporate money.” But he said there’s been a tendency for all such organizations to seek corporate sponsorship. “In my perception these organizations are in a slow process of turning themselves into the same thing as ALEC group the Koch brothers are associated with.” (ALEC, the American Legislative Exchange Council, funded by multinational corporations, is made up of state legislators who collaborate to draft proposed laws that, for example, promote gun rights and reduce environmental protections. The Koch brothers, Charles and David, are closely aligned with ALEC. According to Wikipedia ALEC currently has more than 2,000 legislative members representing all 50 states, amounting to nearly one-third of all sitting legislators, as well as more than 85 members of Congress and about 300 corporate, foundation, and other private-sector members. Most are Republican.)

No doubt Vivint can be a powerful political backer for any Utah politician. Not just for the campaign contributions it might make. Vivint and Utah companies of similar ilk pay millions in taxes to the state and millions in tithing revenue to the LDS Church (A good share of the so-called get-rich-quick promoters are Mormon.) Prosecuting companies like Vivint and its telemarketing, and multilevel marketing brethren could hit both state and church treasuries hard.



David Irvine
Utahns for Ethical Government

Swallow and the Attorney General's office, thus far, decline comment.

Vivint's Role in Utah Religion and Politics

Even before he officially tossed his hat in the 2012 presidential ring Mitt Romney was in Utah among his Mormon business friends, helping cut the ribbon for the new headquarters of the Utah home alarm company APX, since renamed Vivint.



Mitt Romney helps cut the ribbon for the APX (now Vivint, Inc.) headquarters, December 2009

“this looks more like a 'We love Mitt Romney rally.'” Romney's close friend, Utah developer Kem Gardner attended along with Romney's son Josh who is has thoughts about seeking Utah office.

The *real* business Romney endorsed sells home alarm and automation systems door-to-door, mostly during the summer, by teams deployed across the United States.

The dedication of Vivint's opulent 125,000-square-foot corporate headquarters combined business, politics and religion in the way Mormons began perfecting the mix well before pioneers entered Salt Lake Valley in 1847. Before church founder Joseph Smith was assassinated in 1844 he was head of the church; mayor of Nauvoo, Illinois; U.S. presidential candidate and owner of a mercantile store that also served as a bank and *de facto* temple.

Vivint, the “real business” that Romney touted did in fact created new jobs even during the recession. But what kind of jobs?”

The majority of the company's 9,000 employees are temporary workers, filling part-time summer jobs, selling the home alarm systems door-to-door like Mormon missionaries tracting out neighborhoods. Most of the salesmen (most are men) are returned missionaries, usually college students—mostly from nearby Brigham Young University and Utah Valley Community College. Their Vivint “door approach” (a term used by missionaries) at times pitched free home alarm hardware. But the contracts' fine print bound customers to mandatory 36-month monitoring service fees at \$44.99 per month. (As part of a settlement with the Arkansas attorney general Vivint clarified wording for contracts in that state.)

The Vivint web site said a student could earn \$30,000 or more in a single summer, equivalent to \$90,000 a year. The armies of door-to-door salespeople boosted APX/Vivint sales 30 percent at the peak of the economic downturn. They propelled Vivint to one of the top home

“Romney told the crowd at a December 3, 2009 ribbon-cutting in Utah county that for “A lot of politicians and economists will come together to talk about how to create jobs,” he said. “I wish they were here instead, seeing how jobs are actually created — not just talking about it, not just wondering how government can make things happen, but seeing how jobs are actually created in the private sector by real businesses.”

Utah Governor Gary Herbert also spoke. He said he'd been to many grand openings but



Grand entrance to cheering Vivint crowd
L-R: Kem Gardner, Todd Pedersen, Mitt Romney and Gary Herbert.

security businesses in the country behind ADT and Brinks. Within short years the company would become worth more than \$2 billion to the top New York investment firm, Blackstone Group, L.P. (NYSE: BX).

Tactics used by some of the sales reps, however, fueled lawsuits, consumer complaints and negative press coverage. Some customers referred to the brightly polished, missionary-like sales people as “slugs”, “crooks”, “little liars”, and “drones.” One former employee wrote about his summer sales experience, “I only sold 70 because I actually was truthful to people I sold to. As for the 30 people in the office I witnessed three of them were like me and the rest lied to on almost all of their sales. I know because I watched them do it.”



Todd Pedersen

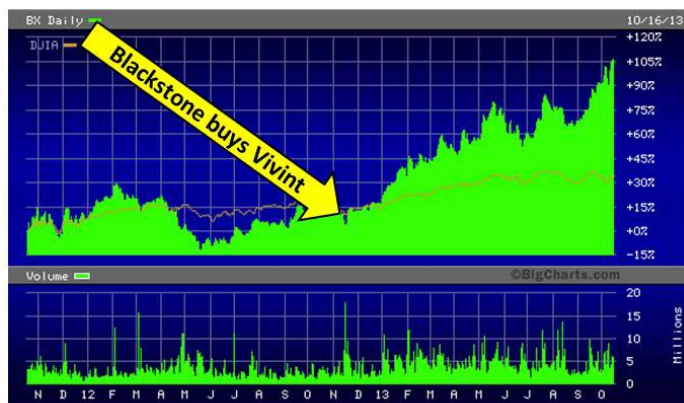
APX/Vivint co-founder CEO and returned missionary Todd Pedersen, who often dresses in a baseball hat and jeans even when meeting with bankers, told a reporter his company trains its sales force, but some don't follow the rules, and those employees would be fired. He said that some people consider a knock on their front door an aggressive sales pitch.

But Vivint has been Romneyized. Vivint brought on Alex Dunn who was Mitt Romney's chief of staff when Romney was Massachusetts governor. At the ribbon cutting Dunn attributed the



Alex Dunn

company's success in part to Romney, according to a local newspaper account. Dunn told the audience that during the three years he worked for Romney he had long conversations with him about what made Romney successful. "Many of those principles we talked about we put to work here," Dunn was quoted as saying. (Dunn already had Mormon Church-related business connections before joining Romney's gubernatorial staff. In 1999 Dunn's Boston-based LavaStorm landed the contract to develop the software for the Mormon Church's genealogy website which became one of the most visited in the world. "The church has done for genealogy what Amazon has done for books on the Internet," Dunn said at the time of the rollout. "It's revolutionized it.")



Since acquiring Vivint in late 2012 Blackstone stock (BX) has skyrocketed, outdoing the Dow.

After Blackstone bought Vivint late last year Dunn was moved up to president. Even Blackstone, the new majority interest owner, has a Romney connection. *The National Journal* in an unflattering article reported that “Steve Schwarzman, the chairman of Blackstone, which bought Vivint, is another Romney friend who donated the legal maximums of \$5,000 to Romney and \$30,800 to the Republican National Committee. He also hosted a Romney fundraiser at his home in New York. Blackstone declined to comment about

how much it knew of Vivint's reputation before the private-equity firm bought the company.”

The National Journal tilted its piece, “Meet the Shady Corporation That Allied With Romney While Scamming Customers.” After detailing a long list of alleged Vivint shortcomings the article suggested that Blackstone may not have kicked the tires of the company it bought:

Vivint shows that the networks closest to a pol(itician) are the ones most likely to fall into a blind spot. Romney’s relationships with his alumni network and Utah’s Mormon business community are closer than his ties to supporters who came on board more recently, says Matthew Burbank, a professor of political science at the University of Utah. And greater intimacy leads to lower scrutiny. “Things like being an active member of your church and being a BYU grad, people tend to assume that if that’s the case, there aren’t other problems here,” he says. “And it can be a mistaken assumption.”

Romney’s Bain Capital had earlier partnered with Blackstone on deals like Houghton Mifflin, Burger King and SunGard. Schwarzman told *The Wall Street Journal*, “When we started Blackstone in 1985, the first investment we made in private equity was a joint deal with Mitt Romney at Bain. This turned out to be a marvelously successful deal with... a company making aluminum wheels which expanded very rapidly. We made about 16 times profit. The second deal we did, Mitt led that one – we did that deal at Blackstone and we invited him to be the minority partner and we made 24 times our money. In finance, that’s a way to make friends.”

Vivint added home automation and home solar power systems in certain states to its products being hawked door-to-door. Vivint Solar sells power to homeowners via so-called power purchase agreements. The company installs solar panels at no cost to the homeowner in exchange for customers agreeing to purchase the solar-produced electricity the panels produce at prices claimed to be lower than what their electric utility charges.

Brendon Merkley, COO of the solar division, is another BYU grad and had previously worked in the Bush White House as a director in the Office of Presidential Speechwriting.

Vivint’s Door-To-Door Roots *Serving God and Mammon*

In the 50’s and 60’s Rena-Ware recruited returned missionaries and prospective missionaries to sell its waterless cookware door-to-door in Utah. The Vivint’s recruiting concept is similar but more effective because of its proximity to BYU. So when the lineage of Vivint is traced to its roots it leads to a Utah County company called Eagle Marketing Corporation. It was founded in the 70s by Steven Shallenberger, a returned LDS missionary, BYU graduate, Harvard Business School graduate, Madrid Spain LDS mission president and motivational speaker.

After his own mission Shallenberger got a summer job selling Bible dictionaries door-to-door for Southwestern Publishing Company of Nashville, Tennessee.

Southwestern Publishing was founded by a Baptist minister in the 1850s. After the Civil War the company dropped its mail order sales model in exchange for door-to-door, direct sales by young men earning their way through college. The company continues today under the name Southwestern Advantage but sells educational books rather than Bibles. Some unhappy customers describe the latter-day Southwestern company as a cult and scam. One wrote, “Salespeople can earn tuition money by working hard, far from home, in a dishonest and deceptive manner.”



Steve Shallenberger

In the mid-70s Shallenberger adopted the Southwestern Publishing “summer sales” business model to target Mormon customers nationwide. College students, mostly returned Mormon missionaries, would sell LDS books and audio tapes door-to-door, nationwide. An independent printing company Shallenberger owned generated the sales products. Mormon Apostle Thomas Monson (now president of the church) was an advisor to the printing company.

The returned missionary/summer salesman model was so successful that new Utah companies copied the concept and competed with Eagle Marketing for their work forces. And the introduced products that could be sold to non-Mormons. Shallenberger says insulation and bug spray were popular products to hawk across the nation. He said the sales of bug spray transitioned to home alarm systems. Like Vivint. (Steve Evans, a Wisconsin attorney who served an LDS mission in Paris and met Mitt Romney there mentioned the similarity between selling Mormonism and bug spray. In a piece he wrote about missionary work for *The Washington Post* he wrote, “As I experienced through my own mission to France, it’s a mix between monastic life, a fraternity pledge and pest-control salesmanship.”)

The door-to-door companies often advertise and compete for employees using BYU’s *The Daily Universe* campus paper.

But while some of the later insulation and bug spray copycats targeted the population at large, Eagle Marketing stuck with selling to Mormons. Salesmen were encouraged to keep their hair short, like missionaries, and wear light-colored shirts (with ties) so the “garment lines” of their Mormon underwear would show through. Like missionaries they would memorize their sale pitches and use flip charts. Prayer was a prerequisite before beginning a day of sales. Motivational speeches were part of the training.

How would reps selling in Las Vegas, for example, know which doors to knock on? Church and Eagle Marketing policy forbade the use of local ward members’ rosters for sale purposes. But often LDS members could wittingly or unwittingly share their roster with a salesman enabling highly targeted sales pitches.

The Utah company Living Scriptures, Inc. was formed about the same time as Eagle Marketing but initially sold its products via telemarketing. Living Scriptures later adopted the door-to-door model and competed against Shallenberger for salesmen and customers. (Eagle Marketing later shuttered its doors. Not Living scriptures remains a going concern.) Living Scriptures went one step further: it sells via door-to-door and also deploys MLM.

The Ogden, Utah-based company garners the same sort of complaints. One Oregon Mormon family posted its opinion on the web: “Their sales people go out with unauthorized ward lists to target LDS people, then ask those LDS people for names of friends or relatives who may want to order Bible stories on DVD. They lie, deceive and misrepresent the company’s true intentions and practices.” “Living Scriptures has websites that quote

We have a summer job for you.
And one of the first things we'd like you to know is the high caliber of our company.

Each of the following people serve as officers or advisors to Eagle Systems. They know us well. And if you spoke to them about Eagle, each would give an enthusiastic endorsement of our summer jobs.

Stephen R. Covey,
International business consultant, lecturer, author, university professor.

Dr. Lael J. Woodbury,
Former dean of The College of Fine Arts & Communications, media specialist, lecturer in 16 foreign countries, widely published author.


Bill Jones,
Utah state senator, Chairman of Intermountain Health Care Corporation, Board member of Mountain Fuel, businessman.

Steven R. Shallenberger,
President of Provo Chamber of Commerce, Utah's Executive of the Year, President and owner of five major businesses.

Judge us by the company we keep.

Then join us for a 45-minute, get-acquainted meeting where we'll give you the specifics of one of the greatest summer jobs you could ever find.

Date: April 7th
Time: 6 pm
Place: 5600 North University Ave. in Provo



Eagle Systems International

LDS leaders and scriptures & their Facebook page does the same. It is pretty easy to see why a lot of people think they are affiliated with the LDS church, or even owned by the LDS church. **THEY ARE NEITHER!**"

Another Mormon wrote, "Tonight the Living Scriptures salesman showed up at our door. His car's GPS had every member of our ward plugged into it." (Mitt Romney also got caught using LDS lists for fund raising.

Utah's Pinnacle Security Inc. mirrored the Vivint concept: Market home security systems using mostly returned Mormon missionaries working summer jobs. The Better Business Bureau, however, had Pinnacle as the evil twin. The BBB once gave Vivint a C- rating but Pinnacle Security an F. (Vivint Solar which sell home solar systems got an A-)

Pinnacle responded, "In our case, the BBB's rating system simply does not reflect our actual customer satisfaction performance. Less than 1% of the over 300,000 customers we have secured in the past 4 years have ever even lodged a complaint to the BBB, and 98.7% of those complaints were resolved to the customer's and/or the BBB's satisfaction."

Typical complaints against Pinnacle often included high press sales tactics, misrepresentation and poor customer service. One wrote, "I am at a point now of filing for fraud since I do not believe that this is even a real company. They use diversion and scare tactics to get you to sign on to their security systems. They prey on innocent elderly and young mothers with small children. I sincerely hope they can sleep at night, because I surely don't feel secure."

The battle between Vivint and Pinnacle for customers and RM salesmen did not escape a satirist who posted a video on YouTube depicting Hitler as Vivint's CEO. The video mocked Vivint's close ties to Brigham Young University and Romney's endorsement of Vivint at the ribbon cutting three years ago.

In 2009 *The New York Times* published a feature story about Pinnacle: "The salesmen are mostly former Mormon missionaries from Utah who cut their teeth — and learned their people-skill chops — cold-calling for their faith" but were now doing "much the same thing, but as a job." "It's missionary work turned into a business," salesman Cameron Treu told the Times. Treu served his mission in Chile and was recruited into D2D-- door-to-door in sales lingo--by another former missionary, according to the story.

"Managers at Pinnacle Security, founded in 2001 by a student at Brigham Young University, the Mormon Church-owned school, say missionaries simply have the right stuff. Many speak foreign languages learned in the mission field. All have



YouTube Spoof: Hitler as Vivint CEO enraged by Pinnacle Security competition.

thick skins from dealing with the negative responses that a missionary armed with a Book of Mormon and a smile can receive.”

Earlier this year Protection 1, the largest full-service provider of business and home security in the U.S., announced the purchase of Pinnacle Security assets including the current Pinnacle facility in Orem, Utah. It wanted in the summer sales game, one of the reasons was to adopt a Vivint/Pinnacle-like door-to-door sales model. *Security Systems News* reported that Protection 1 President Timothy Whall said he has been impressed with the “work ethic and discipline” of those in Utah-based summer sales, using a “seasonal selling model, which Pinnacle uses, has proven to be successful for more than 10 years.”

Protection 1 now advertises it has an A+ Better Business Bureau (BBB) rating. We have a 95.6% customer satisfaction score with over one million customers.

Vivint gets a C+ but its website has an explanation:

Vivint’s current BBB grade is a C+. This grade is not based on the BBB’s evaluation of Vivint’s products or services. In fact, the BBB itself has said that the number of complaints against Vivint in the past three years—all of which have been resolved—do not affect Vivint’s grade negatively. Vivint’s grade is largely due to government actions. Here is some context:

- 1. The number of complaints that are listed for Vivint for the past 36 months is approximately 1,400. Considering that Vivint has more than 700,000 customers and interacts with more than 10 million consumers each year, the ratio of complaints to customer interactions is very small. Most importantly, we resolve 100% of complaints filed against us.**
- 2. A large part of our grade is based on government actions filed against the company. These actions vary in both scope and severity. For example, a minor government action (like the one filed against Vivint by the city of Kennewick, WA) can be the result of incomplete paperwork filed during the licensing process—the equivalent of a city giving a consumer a parking ticket.**

We take ownership of these government actions and have worked to resolve all of them with the states they were filed in. We have also made the appropriate internal changes in procedures and staffing to prevent them from happening in the future.

Vivint asks “that If you have a complaint with the company or would like to have a technician sent out to your home, please contact Nathan Wilcox at legal@vivint.com prior to filing a BBB complaint.”